

TRANSITION PLAN

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

FOR THE STATE OF RHODE ISLAND

The CMS-approved Rhode Island transition plan can be found at:

<https://www.medicaid.gov/sites/default/files/2023-05/ri-appvd-plan.pdf>

The CMS-approved Rhode Island Corrective Action Plan can be found at:

<https://www.medicaid.gov/sites/default/files/2023-09/ri-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.

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| Types of Settings/ Residents and Funding Authorities | <p>Rhode Island’s Medicaid-funded HCBS are authorized under the State’s Title XI, section 1115 demonstration waiver. The State Team consists of the Executive Office of Health and Human Services (EOHHS) and the Departments that are under the EOHHS umbrella: the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH); the Department of Health (RIDOH); the Department of Children, Youth and Families (DCYF); the Department of Human Services (DHS); and the Office of Healthy Aging (OHA), formerly known as the Department of Elderly Affairs.</p> <p>Residential Settings: 356 total</p> <ul style="list-style-type: none">• 275 Community Residences offering 24-hour supports for individuals with I/DD• 46 Semi-Independent Apartments for individuals with I/DD• 35 Assisted Living Residences <p>Non-Residential Settings total: 66</p> <ul style="list-style-type: none">• 36 Day Programs for individuals with I/DD• 1 Employment Program• 29 Adult Day Programs <p>Non-Family Shared Living Settings total: 46</p> <ul style="list-style-type: none">• Note: There are 385 Shared Living settings overseen by 18 community agencies. Settings in 339 family homes were not reviewed for compliance, because the State presumes those settings comply with the tenets of the HCBS Final Rule. Settings in 46 non-family homes were assessed through a self-assessment, consumer survey, and desk review of policies of the Shared Living provider. The 18 community agencies were also reviewed. |
| Compliant/Non-Compliant | <p><u>HCBS Final Rule Compliance by Setting, as of October 2016:</u></p> <p>Fully Compliant:</p> <ul style="list-style-type: none">• 0 settings <p>Partially Compliant, and can be brought into compliance:</p> <ul style="list-style-type: none">• Residential- Community Residences: 273 |

RHODE ISLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

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| | <ul style="list-style-type: none"> • Residential-Semi-Ind. Apartments: 46 • Residential-Assisted Living: 29 • Non-Residential- Adult Day: 29 • Non-Residential- Day Program: 36 • Non-Residential- Employment: 1 • Shared Living-Non-Family Homes: 46 <p>Requires Heightened Scrutiny:</p> <ul style="list-style-type: none"> • Residential- Assisted Living: 6 <p>Not compliant, and cannot be brought into compliance*:</p> <ul style="list-style-type: none"> • Residential- Community Residences: 2 <p>*: of the 275 I/DD Community Residences, 2 were not compliant and could not be brought into compliance. These settings were closed in 2018 and 2019 and residents were transitioned to other settings.</p> <p>NOTE: Rhode Island received approval of its corrective action plan (CAP) on September 25, 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 December 31, 2023 as the date for completion of compliance validation through licensing review. The state will complete heightened scrutiny activities, including addressing findings from CMS’ heightened scrutiny review, within six months of the date CMS issues findings to the state. According to the CAP, the state will achieve final compliance with the HCBS settings rule by the later of June 30, 2024 or 6 months after the date CMS issues heightened scrutiny findings.</p> |
| <p>Reasons for Non-Compliance</p> | <p>Areas identified as needing remediation include locks, privacy, and choice. Following a tragic nightclub fire in 2003, RI enacted stronger fire protection laws. This has resulted in issues related to locking doors in residences, particularly in sites converted from a previous use. The state is working with settings to identify ways to allow locking doors. For example, in some settings, residents will be allowed to provide their own locks. In the area of privacy, the state has identified a need for enhanced education to assure that staff in settings are more respectful of privacy and use practices, such as knocking before entering a room. Education is also identified as a key means to improve compliance in consumer choice.</p> |
| <p>Transition plans</p> | <p>Rhode Island developed two self-assessment tools and required participation from 100% of providers and 100% of setting that render Medicaid-funded HCBS. The State achieved its goal of a 100% response rate for provider self-surveys. To validate these self-assessments, the State employed consumer surveys, desk audits of provider policies, site visits, engagement of advocacy groups (including the state long term care ombudsman), and licensing reviews. These assessments were completed for all HCBS settings in 2016 and 2017. Assessments for those settings identified as not complying due to heightened scrutiny issues have been made available for public comment. Following completion of the provider surveys, desk reviews of setting policies</p> |

RHODE ISLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

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| | <p>and on-site visits were used to validate provider self-assessment responses. Additionally, the State conducted voluntary consumer surveys to further assess compliance with the Final Rule and to evaluate participants' experiences within the setting. To ensure validity, reliability, and neutrality, surveys were administered by either state personnel, contracted entities, or independent stakeholders under state staff supervision. When a provider self-identifies non-compliance, and/or when consumer survey responses differ from the provider's survey response, the provider is required to develop an action plan for remediating the non-compliance. If a provider's plan for compliance is found to be inadequate, the State will work with the provider to identify necessary steps to bring its settings into compliance. The State will provide ongoing technical assistance and guidance to ensure smooth transition and full compliance with the HCBS Final Rule. To determine which settings are moved to CMS for heightened scrutiny review, the state will assess findings from its on-site visits and policy reviews and will utilize online tools and guidance from CMS. Prior to submitting the evidence summary package to CMS for heightened scrutiny, the State will notify affected individuals and advocacy groups and publish the package for a 30-day public comment period. Should the setting not come into compliance, residents and participants will be transitioned to a setting in compliance with the HCBS Rule.</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.*

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| % Presumed Institutional (No. of Residents Affected) | 6/468= 1.28% of all settings are presumed institutional and require heightened scrutiny. |
| Type of Setting/Residents | Six Assisted Living facilities were presumed institutional. |
| Reason for Presumption | Category 1: The six locations were in a building that provides inpatient institutional treatment. |
| Heightened Scrutiny Process | <p>1) The State will notify each provider individually by January 31, 2016, if they must go through the Heightened Scrutiny Review process. Each setting will post the letter in the setting so consumers are aware of the issue.</p> <p>2) The State identified six settings that were co-located with institutional settings and therefore subject to heightened scrutiny. The State posted the addresses of these settings by adding Attachment E to the Updated Statewide Transition Plan. Information was posted for public comment electronically on the EOHHS HCBS website and non-electronically in the Providence Journal for 30 days, from January 21, 2020, through February 21, 2020.</p> |

RHODE ISLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

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| | <p>3) The State recorded comments and made necessary changes to the updated transition plan.</p> <p>4) The State will work with each designated setting to create a rebuttal portfolio to demonstrate why the settings overcome the institutional presumption and are considered home and community based.</p> <p>5) Upon notification from CMS, the State will notify facilities of CMS determination. Those facilities deemed compliant by CMS will be removed from the Heightened Scrutiny list. The State will work with those facilities that are still considered non-compliant to create a remediation plan or create a transition plan for individuals receiving services within that setting. The State Team will work with all Heightened Scrutiny settings to develop and implement action plans by a date determined after CMS reviews. The State will allow 60 days for a plan to be submitted to the State for further review. The State will review and approve plans for remediation 90 days after receiving the plan. Providers will submit periodic updates to the state team on their progress to assure compliance on a schedule determined by CMS reviews.</p> <p>6) If any setting remains out of compliance, the State will work with individuals in these setting to transition to a new setting that is integrated and is of the participant’s choice. This process will begin after a final determination by CMS.</p> <p>NOTE: Rhode Island received approval of its corrective action plan (CAP) on September 25, 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 will complete heightened scrutiny activities, including addressing findings from CMS’ heightened scrutiny review, within six months of the date CMS issues findings to the state.</p> |
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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.

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| % Cannot/Will Not Comply (No. of Residents Affected) | <p>The State identified two settings that were noncompliant and unable to achieve compliance with the HCBS Final Rule. The State worked with the two settings to relocate individuals. One setting closed in 2018 and the other in 2019.</p> <p>2/468: .43% of settings were noncompliant and unable to achieve compliance.</p> |
| Type of Setting/Residents | <p>These settings were licensed as community residences but were like intermediate care facilities for individuals with intellectual disabilities. The individuals residing in the settings typically had more significant medical needs and the settings were more institutional.</p> |

RHODE ISLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

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| Reason for Determination | The settings were unable to meet the criteria outlined in the HCBS Final Rule due to the size, structure, day to day operations, and isolating nature of their design. |
| Communication Strategy | If needed, the State notified individuals and case managers of the closure date and the need to choose a new residential setting, at least 60 days prior to the closure of the setting. |
| Assistance to Residents? | <p>The following steps were taken to ensure that individuals were afforded choice in the relocation process:</p> <ul style="list-style-type: none"> • Established closure date with the setting; • Notified individuals and case managers of the closure date and the need to choose a new residential setting, at least 60 days prior to the closure of the setting; • Required case managers to coordinate individual person-centered planning meetings to identify alternative residential setting options; and • Provided individuals an opportunity to visit setting options before choosing a new residential setting. |

ONGOING MONITORING

States must describe their planned process for ensuring ongoing compliance with the rule.

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| Monitoring Procedures | <ul style="list-style-type: none"> • The State will review any new setting that seeks to provide HCBS services. A new setting will be required to be fully compliant with the HCBS Final Rule prior to the provision of services to Medicaid beneficiaries. This guideline includes private residences where a non-relative contracted party or individual is paid to provide Medicaid HCBS services. • The State will provide training to providers and other agencies that work with individuals receiving services in their private homes to support the ability of staff to identify and report any compliance concerns. • Certification standards will be updated for all HCBS programs. The new certification standards will reflect the HCBS requirements and will inform expectations of performance by providers. • Quality review teams have developed enhanced review processes for each setting reviewed for heightened scrutiny as well as for individual, private homes. The review processes determine whether HCBS requirements have been incorporated and put into practice in each of the settings. • Participants will be surveyed for their consumer experience through OHA oversight of the Assisted Living Program. A consumer experience survey will be offered to all participants to monitor the setting’s compliance with the Final Rule on an annual basis. • OHA Staff/Case managers will be trained on the HCBS Final Rule and how to monitor the Assisted Living sites for compliance. |
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RHODE ISLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

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| | <ul style="list-style-type: none"> • EOHHS staff will also be trained and program standards will reflect HCBS Final Rule expectations. • EOHHS staff will monitor Adult Day settings for compliance and assist in administration of consumer experience surveys. • Gainwell Technologies, the State’s contracted provider for the Medicaid payment system, has processes that inform all new providers (Assisted Living and Adult Day) that they must meet HCBS standards prior to Medicaid provider enrollment. • During their monthly unannounced visits, the State’s Long-Term Care Ombudsman will administer HCBS survey questions to individuals residing in Assisted Living. • Neighborhood Health Plan of RI (NHPRI), the State’s MCO serving dual eligible individuals, will be required to provide HCBS reviews and monitoring as part of their credentialing system. In addition, NHPRI will amend contracts to incorporate the HCBS Final Rule guidelines into their oversight and monitoring. • In the future, should HCBS services be provided by any other MCO, additional oversight will be incorporated in that MCO’s credentialing and review process. The MCO will amend contracts to include the HCBS Final Rule into their oversight and monitoring. • BHDDH staff and advocates will be provided ongoing training on the HCBS Final Rule and how to administer the surveys to participants receiving HCBS services. • As part of the training on administering the survey, there will be topic specific information on the use of appropriate communication tools and advocates to ensure that individuals can fully express their experiences and feelings. • A new BHDDH computerized case management system will have components of the HCBS Final Rule built into the system. This will allow BHDDH to enhance the tracking utilization and quality of services. |
| <p>Quality Assurance Measures</p> | <p>Quality Assurance monitoring methodologies will incorporate the addition of monitoring performance measures that ensure compliance with HCBS Settings Rule. Specific quality assurance information can be found in Rhode Island’s January 1 submission here.</p> |