

# TRANSITION PLAN

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

### FOR THE STATE OF VIRGINIA

The CMS-approved Virginia transition plan can be found at:

<https://dbhds.virginia.gov/library/developmental%20services/dds%20virginia%20statewide%20transition%20plan.pdf>

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

<https://www.medicaid.gov/sites/default/files/2023-07/va-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 [done]</b>	<p>Virginia provides HCBS services through four 1915(c) waiver programs. The Department of Medical Assistance Services (DMAS) is the state Medicaid authority for each of the waivers.</p> <p>DMAS operates 1 waiver:</p> <ul style="list-style-type: none"><li>• Nursing Facility Level of Care (NF LOC) waiver<ul style="list-style-type: none"><li>○ Commonwealth Coordinated Care Plus Waiver</li></ul></li></ul> <p>Department of Behavioral Health and Developmental Services (DBHDS) is the operating agency for 3 waivers:</p> <ul style="list-style-type: none"><li>• Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID) Level of Care (LOC) waivers<ul style="list-style-type: none"><li>○ Community Living Waiver</li><li>○ Family and Individual Supports Waiver</li><li>○ Building Independence Waiver</li></ul></li></ul> <p>Types of settings: group home, sponsored residential, support living, adult day health care (ADHC) services and centers, group day and group supported employment settings.</p>
<b>Compliant/Non-Compliant</b>	<p>Based on the provider self-assessment and subsequent site visits, nearly all settings are in various stages of partial compliance and require remediation:</p> <p>Total number of settings compliant with HCBS Settings Rule:</p> <ul style="list-style-type: none"><li>• 54 ADHC</li><li>• 1 Group Day Service</li><li>• 6 Sponsored Residential</li><li>• 15 Group Home</li></ul>

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

	<p>Total number of settings partially compliant, or with changes will likely comply/ complied with HCBS requirements:</p> <ul style="list-style-type: none"> <li>• 2 NF LOC</li> <li>• 35 Group Day Service</li> <li>• 45 Supported Living</li> <li>• 1,321 Sponsored Residential</li> <li>• 1,242 Group Home</li> <li>• 47 Supported Employment</li> </ul> <p>Total number of settings that were presumed institutional:</p> <ul style="list-style-type: none"> <li>• 17 Group Day Service</li> <li>• 3 Supported Living</li> <li>• 46 Group Home</li> </ul> <p><b>NOTE:</b> Virginia received approval of its corrective action plan (CAP) on June 20, 2023. The CAP provides updated timeframes and milestones for completion of site-specific remediation and validation activities, heightened scrutiny activities, and statewide compliance. Compliance determinations in the STP may be out of date, as the STP received final approval in August 2019. According to the CAP, on-site validation of compliance determinations and desk audits will be completed by March 31, 2024 for non-residential settings and March 31, 2025 for residential settings.</p>
<p><b>Reasons for Non-Compliance</b></p>	<p>ADHC Areas of Non-Compliance:</p> <ul style="list-style-type: none"> <li>• Providers/settings did not have a rights policy that specifically detailed the HCBS rights afforded to individuals receiving Medicaid HCBS</li> <li>• Providers did not have a policy requiring the annual disclosure of HCBS rights to individuals/families</li> <li>• Providers did not have a policy requiring annual staff training on HCBS rights and expectations</li> </ul> <p>Areas of noncompliance in other settings:</p> <ul style="list-style-type: none"> <li>• Individuals/families not included in self-assessment process</li> <li>• Narrative and evidence submitted reflects outdated terminology</li> <li>• Response narrative and evidence does not reflect person centered principles</li> <li>• Narrative responses do not address the question and describe how community participation supported</li> </ul>

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<p><b>Transition plans</b></p>	<p>The State reviewed day-to-day operational practices and requirements of ADHC services and ADCCs. The assessment included discussions with Virginia Department of Social Services (VDSS) licensing staff, DMAS Quality Management Review (QMR) staff, ADHC providers. Then, DMAS conducted a web-based provider self-assessment of all ADHC settings. A self- assessment review team consisting of DMAS and DBHDS staff had a review rubric with indicators of compliance and non-compliance to support their review and compliance status determinations. Validation activities include a desk review of self-assessment responses and evidence, education and technical assistance calls with providers, on-site visits to each setting by Office of Human Rights staff to validate compliance.</p> <p>Settings identified as presumed institutional will undertake needed remediation activities and modification of practices to demonstrate and assure full compliance. The process will be completed by March 2024. Regional Quality Councils (RQCs) will support the state’s transition to full compliance by advising on the status of setting(s) compliance regionally and opportunities for improvement. For the settings that non-compliant, support coordinators facilitate the completion of the person-centered service plan (PCSP) with individuals and families, assure choice of providers and settings, and monitor implementation of the PCSP.</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>Not known</p>
<p><b>Type of Setting/Residents</b></p>	<ul style="list-style-type: none"> <li>• 46 Group Home settings</li> <li>• 3 Supported Living settings</li> <li>• 17 Group Day Service settings</li> </ul>
<p><b>Reason for Presumption <del>[done]</del></b></p>	<p>Specific reasons for each setting were not presented. See more general reasons listed under box “reasons for non-compliance” on page 2.</p>

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<p><b>Heightened Scrutiny Process</b></p>	<p>The Commonwealth used a multi-pronged strategy to identify settings presumed to have the characteristics of an institutional setting and therefore require heightened scrutiny:</p> <ul style="list-style-type: none"> <li>• Using self-assessment data, state staff identified settings that were classified as one that may have presumed institutional characteristics</li> <li>• State staff cross-referenced provider self-assessment data with the list of providers identified in the 2016 self-assessment as 1) presumed institutional and 2) needing targeted remediation</li> <li>• DBHDS worked with its Provider Development team to review the list of settings to confirm that the categorization was appropriate and to identify any settings that were not captured and in need of further assessment</li> <li>• DMAS and DBHDS collaborated with Office of Licensing to further assess a setting’s presumed institutional status and to identify any settings that were not captured and in need of further assessment</li> <li>• DBHDS and DMAS analysis results found X settings presumed to have the quality of an institution and require heightened scrutiny</li> </ul>
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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.*

<p><b>% Cannot/Will Not Comply (No. of Residents Affected)</b></p>	<p>According to the CAP, the date of notification of transition for individuals in non-compliant heightened scrutiny settings is to be determined. By March 31, 2024, the state will have identified if any of the 66 settings for identified for heightened scrutiny review are unable to come into full compliance with the HCBS Settings Rule, the State will transition those individuals into a setting that meets requirements.</p>
<p><b>Type of Setting/Residents</b></p>	<p>Not known</p>
<p><b>Reason for Determination</b></p>	<p>Not known</p>

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<p><b>Communication Strategy</b></p>	<p>According to the CAP, by March 31, 2024, any provider operating a setting that is not in full compliance will be notified that participants receiving services in the setting will be transitioned to another setting. According to the CAP, relocations or provider participation agreement suspensions for settings not requiring heightened scrutiny review must be complete by December 31, 2025. Settings undergoing heightened scrutiny review may be subject to relocations or agreement suspensions once CMS has reviewed the state’s assessment findings. CMS has not yet issued any findings; however, there is a deadline of 12 months from that date for remediation and ultimately removal should compliance not be met.</p> <p>DMAS will notify the individual, family members, caregivers, and other applicable parties with a formal notification letter and DBHDS will follow-up with a call at least 120 days in advance of relocation. The letter will include the specific reasons for the needed relocation, explanation of the transition procedure, expected timeline and assurance that supports will continue uninterrupted during the transition process. The provider will receive a formal notification letter from DMAS at least 120 days in advance. The letter will include the indication of the intent to relocate the individual, the guidance to participate in activities related to the transition process and expected timeline for relocation.</p>
<p><b>Assistance to Residents?</b></p>	<p>DMAS and DBHDS, in conjunction with the Community Services Boards’ (CSBs’) Support Coordinators, will oversee all transitions from non-compliant to compliant settings by:</p> <ul style="list-style-type: none"> <li>• Providing timely notification of relocation to the participant and provider;</li> <li>• Providing informed choice of different setting options in a face-to-face person-centered planning meeting(s);</li> <li>• Developing a transition plan;</li> <li>• Presenting alternative services, providers, and settings;</li> <li>• Ensuring continuity of services in setting of choice; and</li> <li>• Ensuring seamless coordination between service settings</li> </ul> <p>Post relocation, the Support Coordinator will:</p> <ul style="list-style-type: none"> <li>• Visit individual in the new setting and document satisfaction</li> <li>• Verify satisfaction with applicable parties</li> <li>• Converse with provider/staff to ensure all needs are being met</li> <li>• Conduct face-to-face visits with the individual every 30 days for the first quarter</li> <li>• After the first quarter, face-to-face visits will continue to be conducted at least quarterly</li> </ul>

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**ONGOING MONITORING**

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

<p><b>Monitoring Procedures</b></p>	<p>The DBHDS Office of Licensing, DMAS Quality Management, and Office of Human Rights are responsible for ongoing monitoring</p> <p>Strategies to ensure ongoing compliance will include:</p> <ul style="list-style-type: none"> <li>• Developing an HCBS Toolkit that can be used by providers and monitoring entities</li> <li>• Incorporate HCBS training, discussion topics, and Q&amp;A into Provider and SC quarterly round table meetings</li> <li>• Provide DBHDS CRC/Provider development with needed tools/resources for provider technical assistance and training</li> </ul>
<p><b>Quality Assurance Measures</b></p>	<p>DMAS and DBHDS conducts Quality Service Review (QSRs) which are intended to evaluate the quality of services and supports individuals receive through the person-centered planning process and the outcomes of services provided to individuals. Other ongoing quality assurance processes will be established to ensure all settings providing HCBS continue to remain fully compliant with the rule in the future.</p>