

TRANSITION PLAN

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

FOR THE STATE OF COLORADO

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

https://www.medicaid.gov/sites/default/files/2023-09/co-transition-plan-hcbs_0.pdf

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

<https://www.medicaid.gov/sites/default/files/2023-04/co-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.

<p>Types of Settings/ Residents and Funding Authorities</p>	<p>The Colorado Department of Health Care Policy and Financing (HCDF) developed the Statewide Transition Plan.</p> <p>Colorado Waivers:</p> <ul style="list-style-type: none"> • Elderly, Blind, and Disabled (EBD); • Persons with Brain Injury (BI); • Persons with Spinal Cord Injury (SCI); • Community Mental Health Supports (CMHS); • Persons with Developmental Disabilities (DD); • Supported Living Services (SLS); <p>Under the waivers identified above, the following settings are affected:</p> <ul style="list-style-type: none"> • Adult day services, including basic and specialized adult day services centers, under the BI, EBD, SCI, and CMHS Waivers; • Alternative care facilities (ACFs) under the EBD and CMHS Waivers; • Residential Child Care Facilities (RCCFs)—may include RCCFs that are also designated as Qualified Residential Treatment Programs (QRTPs); • Medicaid Enrolled Providers—may include host homes; • Day Habilitation settings for individuals with intellectual and developmental disabilities (IDD), including Specialized Habilitation under the SLS and DD Waivers; • Supported Community Connections (SCC) under the SLS and DD Waivers; Community Connector services under the CES and CHRP Waivers are provided one-on-one and presumed to be compliant with the federal settings requirements during the transition period; and • Prevocational Services under the SLS and DD Waivers; • Day treatment facilities under the BI Waiver; • Group Residential Services and Supports (GRSS) Community Residential Homes, also called group homes, for four to eight people under the DD Waiver;
<p>Compliant/Non-Compliant</p>	<p><u>Adult Residential Settings:</u></p> <p>Alternative care facility (ACF):</p> <ul style="list-style-type: none"> • Number of settings: 270

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

	<ul style="list-style-type: none">• Number of settings as % of grand total: 11.99%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 141, 52.22%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 109, 40.37%• Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients: 1, 0.37%• Setting IS subject to heightened scrutiny and IS able to overcome: 12, 4.44%• Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption: 4, 1.48%• Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare to transition clients: 3, 1.1% <p>Group Residential Services and Supports (GRSS) group home:</p> <ul style="list-style-type: none">• Number of settings: 97• Number of settings as % of grand total: 4.31%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 34, 35.05%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 47, 48.45%• Setting IS subject to heightened scrutiny and IS able to overcome: 1, 1.03%• Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption: 15, 15.46% <p>Individual Residential Services and Supports (IRSS) host home:</p> <ul style="list-style-type: none">• Number of settings: 1452• Number of settings as % of grand total: 64.48%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 990, 68.18%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 462, 31.82% <p>Individual Residential Services and Supports (IRSS) other:</p> <ul style="list-style-type: none">• Number of settings: 422• Number of settings as % of grand total: 18.74%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 271, 64.22%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 150, 35.55%
--	--

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

	<ul style="list-style-type: none">• Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress: 1, 0.24% <p>Supported Living Program (SLP) facility and/or Transitional Living Program (TLP) facility:</p> <ul style="list-style-type: none">• Number of settings: 11• Number of settings as % of grand total: 0.49%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 9, 81.82%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 2, 18.18% <p><u>Children’s residential settings:</u></p> <p>Child Placement Agency (CPA) Certified Foster Care Home:</p> <ul style="list-style-type: none">• Number of settings: 13• Number of settings as % of grand total: 86.67%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 10, 76.92%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 3, 23.08% <p>Child Placement Agency (CPA) Group Home:</p> <ul style="list-style-type: none">• Number of settings: 2• Number of settings as % of grand total: 13.33%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 2, 100.00% <p><u>Nonresidential settings:</u></p> <p>Adult Day Services (not IDD specific) Basic:</p> <ul style="list-style-type: none">• Number of settings: 25• Number of settings as % of grand total: 6.58%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 8, 32%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 13, 52%• Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients: 2, 8%• Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress: 2, 8% <p>Adult Day Services (not IDD specific) Specialized:</p> <ul style="list-style-type: none">• Number of settings: 23
--	---

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

	<ul style="list-style-type: none">• Number of settings as % of grand total: 6.05%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 13, 56.52%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 9, 39.13%• Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients: 1, 4.35% <p>Day Habilitation for Individuals with IID Prevocational Services and/or Specialized Habilitation:</p> <ul style="list-style-type: none">• Number of settings: 126• Number of settings as % of grand total: 33.16%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 62, 49.21%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 49, 38.89%• Setting IS subject to heightened scrutiny and IS able to overcome institutional presumption; evidence should be put forward to CMS: 1, 0.79%• Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress: 11, 8.73%• Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients: 3, 2.38% <p>Day Habilitation for Individuals with IDD Supported Community Connections (SCC):</p> <ul style="list-style-type: none">• Number of settings: 96• Number of settings as % of grand total: 25.26%• Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 63, 65.63%• Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 30, 31.25%• Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients: 2, 2.08%• Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress: 1, 1.04% <p>Supported Employment Group Supported Employment:</p> <ul style="list-style-type: none">• Number of settings: 110
--	---

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

	<ul style="list-style-type: none"> • Number of settings as % of grand total: 28.95% • Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed: 52, 47.27% • Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress: 25, 22.73% • Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients: 13, 11.82% • Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress: 3, 2.73% • Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients: 17, 15.45% <p>NOTE: Colorado received approval of its corrective action plan (CAP) on March 14, 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 set September 14, 2023 and October 13, 2023, as the date to validate site-specific remediation via desk reviews and/or site visits for adult residential settings and non-residential settings, respectively. According to the CAP, teams will address heightened scrutiny findings related to CMS' heightened scrutiny review by 12 months post the date CMS issues a determination and findings to the state. Final compliance statewide with HCBS settings rule will take place 12 months post the date CMS issues a heightened scrutiny determination and findings to the state.</p>
<p>Reasons for Non-Compliance</p>	<p>Reasons for setting non-compliance were not specifically listed; however, after a review and analysis in November 2017, the Department and CDPHE identified a number of changes that they could make to ensure HCBS Settings Final Rule compliance, including:</p> <ul style="list-style-type: none"> • Issuance of guidance for new/potential providers; • Changes to both agencies' websites and materials sent to providers and prospective providers seeking to add/expand their HCBS offerings; and • Changes to the tools CDPHE uses to conduct routine provider enrollment and quality assurance surveys (beyond the HCBS Settings Final Rule site-specific assessment process).
<p>Transition plans</p>	<p>The Department has reviewed Colorado's statutes, regulations, and waivers to determine whether these authorities are compliant with, silent on, or in conflict with the HCBS Settings Final Rule requirements. The Department worked with CDPHE and its own staff to complete this review and analysis in November 2017. The departments reviewed the nonregulatory/subregulatory materials and processes used for provider enrollment/re-enrollment, validation, survey, quality assurance, licensure, and certification.</p>

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

	<p>In August 2019, the Department issued an Informational Memo inviting interested stakeholders to participate in a workgroup to develop materials supporting implementation of the HCBS Settings Final Rule. The Department suggested several kinds of materials that might be helpful, including best practices, additional FAQs, proposals for updating regulations and waivers, forms to use in documenting the rights modification criteria (including informed consent), and additional trainings. Other stakeholder engagement included holding public question-and-answer sessions and speaking to numerous groups including those representing people with disabilities, providers, case management agencies, long-term care ombudsmen, and adult protective services.</p> <p>Site-specific assessments were conducted randomly at selected settings. Provider Transition Plans (PTP) were collected with supporting materials to identify compliance issues and remedial action plans. Desk reviews and/or site visits verified PTPs and determined the reconsideration of transition plan processes and which settings would be submitted for heightened scrutiny.</p> <p>Training and technical assistance were provided by publishing a series of responses to frequently asked questions regarding the implementation of the Final Rule, trainings on individual rights and rights modifications, and one-on-one technical assistance to providers and case management agencies. For quality assurance and ongoing monitoring, the relevant waiver quality performance metrics were updated. The state coordinated with the Colorado Department of Public Health and Environment to ensure survey staff are appropriately trained and tasked with enforcing HCBS Settings Final Rule criteria.</p> <p>Once providers are compliant with all applicable requirements in the HCBS Waiver Rule, the state will continue to engage in ongoing monitoring of the settings.</p>
--	---

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>Number Presumed Institutional (No. of Residents Affected)</p>	<p>52 settings were determined to have isolating characteristics and considered presumptively institutional including all three categories.</p>
<p>Type of Setting/Residents</p>	<p>The Department is withholding the address of some settings in the list to protect the personal health information (PHI) of individuals receiving services at these settings. These settings are all subject to heightened scrutiny based on their potential to isolate and are mostly group homes, the nature of which is presumably not known to the public.</p>

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

<p>Reason for Presumption</p>	<p>There are 16 settings subject to heightened scrutiny based on their location (i) in a building where inpatient institutional treatment is provided or (ii) in a building located on the grounds of, or immediately adjacent to, a public institution.</p> <p>There are 36 settings subject to heightened scrutiny based on (iii) their potential effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS.</p>
<p>Heightened Scrutiny Process</p>	<p>To determine whether a setting was in fact subject to heightened scrutiny, the Department:</p> <ul style="list-style-type: none"> • Required providers to self-assess the application of the three potentially institutional factors to their settings as part of their PTPs • Initially verified providers’ self-assessments as part of the PTP desk review/site visit process • Required providers to submit updates demonstrating compliance with the HCBS Settings Final Rule (on various PTP screens, with relevant materials uploaded); • Verified providers’ updates to determine whether each setting with an institutional factor was in fact compliant with the rule (or on track to comply) and not institutional after all (on various PTP screens and summarized on the Heightened Scrutiny screen); and • Categorized each affected setting as either subject to heightened scrutiny (if compliant/on track to comply) or not (if not on track to comply, and thus subject to the eventual process for supporting individuals to transition to other settings/funding sources). The Department’s heightened scrutiny determinations were informed by each setting’s PTP and the documents and other materials attached to the PTPs.

NON-COMPLIANCE COMMUNICATION

<p>% Cannot/Will Not Comply (No. of Residents Affected)</p>	<p>As of 6/1/2022, approximately 167 individuals may need to transition, principally from nonresidential settings.</p>
<p>Type of Setting/Residents</p>	<p>Adult residential: 8 Children’s residential: 0 Nonresidential: 159 Total: 167</p>
<p>Reason for Determination</p>	<p>Reasons for determination were not explicitly listed.</p>
<p>Communication Strategy</p>	<p>The Department expects the individual transition process to include the following steps:</p> <ul style="list-style-type: none"> • The Department will inform affected individuals, as well as their guardians and other responsible parties, via their case managers of its final determinations that they will need to transition from the noncompliant/unapproved setting to another setting or funding

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

	<p>source. This notification will also inform the individual of the Individual Transition Plan (ITP) process.</p>
<p>Assistance to Residents?</p>	<ul style="list-style-type: none"> • The Department will require case managers to prepare an ITP to support individuals if their current HCBS setting is not going to timely come into compliance/be approved by CMS and the individual needs to transition to a new setting or funding source. ITPs are to be prepared within 30 days of the Department’s notice of its final determination. The individual will lead the development of the ITP through a person-centered planning process facilitated and documented by their case manager. Once the individual and their case manager have finished developing the ITP, the details will be documented via updates to the individual’s existing person-centered service plan in the BUS or, if available, the new care and case management (CCM) system (including log notes and attachments/addenda as needed). • This schedule allows sufficient time for individuals to complete their transitions, from formal notification through transition planning through implementation of the ITP by March 2023. Specifically, as noted above, individuals will have at least four months to transition for residential settings, and at least three months to transition for nonresidential settings, from the date that the Department conveys its final determinations. Individuals who do not object to a provisional determination that they may need to transition can begin this process with their case managers as early as September 1, 2022. • Case managers will check in with affected individuals weekly throughout the first month post-transition, subject to requests by individuals for more or less support.

ONGOING MONITORING

<p>Monitoring Procedures</p>	<p>The Department and CDPHE implemented a number of changes to ensure ongoing HCBS Settings Final Rule compliance, including:</p> <ul style="list-style-type: none"> • Adoption of Colorado’s codification of the federal rule (with additional regulatory and waiver changes still to come); • Updates to the performance review measures in certain waivers to better capture the requirements for rights modifications; • Changes to both agencies’ websites and materials sent to providers and prospective providers seeking to add/expand their HCBS offerings; and • Changes to the tools CDPHE uses to conduct routine provider enrollment and quality assurance surveys (beyond the HCBS Settings Final Rule site-specific assessment process). • Case managers have access to several tools to support ongoing monitoring of HCBS Settings Final Rule compliance. Most of these tools relate to ensuring that rights modifications are appropriately developed, documented, and consented-to. <p>More information on monitoring procedures can be found in Colorado’s Jan 1st submission found here.</p>
-------------------------------------	---

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

<p>Quality Assurance Measures</p>	<ul style="list-style-type: none">• As part of the Spring 2021 waiver amendment cycle, the Department worked with CMS to update certain Quality Improvement Strategy (QIS) performance measures relating to the HCBS Settings Final Rule. Additional quality assurance monitoring methodologies will incorporate the addition of monitoring performance measures that ensure compliance with HCBS Settings Rule.• As a result of an analysis in November 17 with CDPHE, changes were made to the tools CDPHE uses to conduct routine provider enrollment and quality assurance surveys.
--	--