

TRANSITION PLAN

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

FOR THE STATE OF KANSAS

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

<https://www.medicaid.gov/sites/default/files/2023-09/ks-transition-plan-hcbs.pdf>

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

<https://www.medicaid.gov/sites/default/files/2023-07/ks-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.

Types of Settings/ Residents and Funding Authorities	<p>The Kansas Department of Aging and Disability Services (KDADS) created the State Transition Plan and oversees seven HCBS waivers:</p> <ul style="list-style-type: none">• Autism Waiver (AU)• Intellectual/Developmental Disability Waiver (I/DD)• Physical Disability Waiver (PD)• Technology Assisted Waiver (TA)• Brain Injury Waiver (BI)• Frail Elderly Waiver (FE)• Serious Emotional Disturbance Waiver (SED) <p>Setting types:</p> <ul style="list-style-type: none">• Private home• Child Placing Agency/Licensed Family Foster Care Home/Host Homes• Children’s Residential Services/Professional Resources Family Care• Facility Based Employment• Prevocational Services• Day Habilitation• Supported Employment• Group Home 3-8 People• Independent Living 1-2 People• Shared Living/Host Home• Adult day care• Assisted Living Facility• Home Plus• Boarding Care Home
Compliant/Non-Compliant	<p>Assessment Compliance Results from October 2022:</p> <p>A significant achievement here is that Kansas believes these settings can overcome the presumptions of institutionalization and can</p>

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continue to provide supports and services to HCBS participants in the state. Please note that all settings except two under the category “will not/cannot” comply are those that have asked to be removed from the remediation process. These are settings that asked to “drop out” due to participants choosing to move to a new service location or a provider choosing to stop rendering HCBS.

Settings found to be fully compliant/ expected to meet criteria of HCBS Settings rule:

- Residential:
 - Assisted Living: 76
 - Home Plus: 27
 - Boarding Care Home: 0
 - Residential Health Care Facilities: 0
 - Shared Living/Extended Family Teaching Model/Host Home: 59
 - Group Home, 3-8 People: 644
 - Independent Living, 1-2 People: 1137
 - CPA: 15
 - Licensed Family Foster Care/Host Home: 93
 - Children’s Residential/Professional Resource Family Care Setting: 1
- Non-Residential:
 - Adult Day Care: 2
 - Pre-Vocational Services/Facility Based Employment: 54
 - Day Habilitation Services: 196
- Total fully compliant settings: 2304

Settings that met criteria/expected to meet criteria with modifications:

- Residential:
 - Assisted Living: 0
 - Home Plus: 0
 - Boarding Care Home: 0
 - Residential Health Care Facilities: 0
 - Shared Living/Extended Family Teaching Model/Host Home: 0
 - Group Home, 3-8 People: 0
 - Independent Living, 1-2 People: 0

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	<ul style="list-style-type: none">○ CPA: 0○ Licensed Family Foster Care/Host Home: 0○ Children’s Residential/Professional Resource Family Care Setting: 0● Non-Residential:<ul style="list-style-type: none">○ Adult Day Care: 0○ Pre-Vocational Services/Facility Based Employment: 0○ Day Habilitation Services: 0● Total settings that could be compliant with modifications: 0 <p>Settings that will not/cannot comply:</p> <ul style="list-style-type: none">● Residential:<ul style="list-style-type: none">○ Assisted Living: 8○ Home Plus: 4○ Boarding Care Home: 0○ Residential Health Care Facilities: 0○ Shared Living/Extended Family Teaching Model/Host Home: 6○ Group Home, 3-8 People: 90○ Independent Living, 1-2 People: 230○ CPA: 5○ Licensed Family Foster Care/Host Home: 0○ Children’s Residential/Professional Resource Family Care Setting: 0● Non-Residential:<ul style="list-style-type: none">○ Adult Day Care: 5○ Pre-Vocational Services/Facility Based Employment: 4○ Day Habilitation Services: 31● Total settings that could be compliant with modifications: 383 <p>Settings that will submit evidence for the application of Heightened Scrutiny:</p> <ul style="list-style-type: none">● Residential:<ul style="list-style-type: none">○ Assisted Living: 71○ Home Plus: 30○ Boarding Care Home: 0○ Residential Health Care Facilities: 0
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	<ul style="list-style-type: none"> ○ Shared Living/Extended Family Teaching Model/Host Home: 2 ○ Group Home, 3-8 People: 38 ○ Independent Living, 1-2 People: 81 ○ CPA: 0 ○ Licensed Family Foster Care/Host Home: 0 ○ Children’s Residential/Professional Resource Family Care Setting: 0 ● Non-Residential: <ul style="list-style-type: none"> ○ Adult Day Care: 2 ○ Pre-Vocational Services/Facility Based Employment: 21 ○ Day Habilitation Services: 2 ● Total settings that could be compliant with modifications: 247 <p>NOTE: Kansas received approval of its corrective action plan (CAP) on June 16, 2023. The CAP provides updated timeframes for completion of the heightened scrutiny review process. It is possible that setting classifications in the STP may be out of date. 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. By June 23, 2023, Kansas will provide a written response to CMS Heightened Scrutiny visit report describing how the state will remediate findings and apply feedback to the state’s HCBS delivery system. 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>See pages 21-27 of the report for detailed percentages on site compliances regarding specific site assessment questions.</p>
<p>Transition plans</p>	<p>For systemic assessment, Kansas will review statutes, regulations, contracts, policies, and manuals to assess compliance with the Final Rule. Specific site assessments were conducted and validation activities included additional desk-review of settings’ policies and procedures, training documentation, certification and licensure activities, or other evidence of compliance. For settings in partial compliance or not in compliance, remediation plans are created and technical assistance is provided. For settings presumed by CMS and/or the State not to comply with the Final Settings Rule, the state will request heightened scrutiny screenings for settings. An onsite visit is conducted for settings screened in to determine if there is sufficient evidence to present to CMS that the setting is in fact community based. For settings found out of compliance and unwilling to comply, the State will assist in the</p>

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	relocation of participants. Ongoing monitoring and quality assurance activities will be conducted moving forward.
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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.*

Number Presumed Institutional (No. of Residents Affected)	Kansas has submitted an initial list of 69 Category 1 and 2 packages for CMS' review.
Type of Setting/Residents	Specific setting type was not given.
Reason for Presumption	Specific reason(s) for presumption was not given.
Heightened Scrutiny Process	<p>For settings that have the qualities as described as Category 1 and 2:</p> <ul style="list-style-type: none"> • The KDADS heightened scrutiny team was constructed to verify all the settings that have institutional characteristics and/or are isolating, as identified through the desk review of answers and evidence submitted by providers during the provider self-assessment phase. • The team was responsible for validating status of the settings, scheduling an on-site assessment, collecting evidence as needed, and completing evidentiary packets for each setting assessed. • In person assessments or virtual onsite assessments were conducted. • All assessed settings have an evidentiary packet that indicate the following: category of heightened scrutiny of the setting, the state's determination of the site's capability or inability to remediate, a setting-based remediation plan for the setting, picture-evidence of the setting, interviews from service recipients and setting staff, and summarized public comments posted for the setting. • KDADS will post all evidentiary packets for public comment. • Packages will be submitted for CMS' review after the public comment period has closed.

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	<p>For settings that have the qualities as described as Category 3:</p> <ul style="list-style-type: none"> • A set of questions from the provider self-assessment is used to guide the qualifications for the Category 3 of Heightened Scrutiny. • A remediation process was put in place and required settings to meet a deadline of July 1, 2021 to come into compliance. • KDADS required each setting to submit evidence once it was determined the setting could remediate through policies, procedures, manuals, handbooks and other documentation. • KDADS partnered with its contracted entity to complete the validation of evidence of compliance submitted through the self-assessment or after settings remediated Category 3 non-compliance. • For those unable to come into compliance, an evidence packet will be submitted to CMS and contain the provider’s name and information, reasons for non-compliance, evidence and the determination of the state. • Evidentiary packets for these settings will be posted for public comments; comments received will be integrated into the evidentiary packets and sent to CMS.
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NON-COMPLIANCE COMMUNICATION

% Cannot/Will Not Comply (No. of Residents Affected)	The two settings that truly cannot comply with final rule began the transition process in September of 2022.
Type of Setting/Residents	The two settings consist of one assisted living (11 participants) and one IDD day habilitation program (3 participants) which will affect a total of 14 participants.
Reason for Determination	The reason for determination was not listed.
Communication Strategy	Public notices were shared in October and November 2022 of the provider’s names. Direct notifications were sent to the MCOs, Ombudsman and CDDOs to begin notifications/transition planning for waiver participants. Transition Plans are due to KDADS by December 15, 2022, to describe relocation activities and/or other funding sources identified. KDADS will also be sending a 90-day, 60-day and 30-day transition notification directly to waiver participants/guardians.
Assistance to Residents?	<p>The role of the Managed Care Organization (MCO):</p> <p>The Managed Care Organization (MCO) will facilitate the transition of HCBS participants from provider-settings that are unable to comply or</p>

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choosing not to remediate to become compliant with the settings final rule.

- KDADS shall provide the MCOs with a database comprising of providers that have been determined as in compliance with the settings rule.
 - The MCOs shall engage the providers that are not on the database, but that render HCBS services in provider-owned/provider-controlled settings.
 - The MCOs shall notify such providers of their status and begin transition procedures of the HCBS participants served by such providers Page 45 of 663
 - Transition shall be conducted in accordance with the current/approved HCBS Institutional Transition Policy.
- The MCO will follow up with all affected HCBS participants post-transition to assure the individual is satisfied and has adjusted to the change in setting.

The role of the non-compliant HCBS provider:

Providers that believe their setting cannot comply or the provider who chooses not to come into compliance shall be required to participate in transitioning their HCBS participants to compliant settings.

- KDADS will work with the providers, the MCOs and all other applicable supports to ensure persons served actively participate in the process or are represented fairly by their guardians/support network and that the process goes quickly and smoothly as to avoid gaps in service.
- Providers choosing not to remediate shall ensure that an individual or guardian receives a minimum of 180 days' notice of its decision to terminate participation as a waiver provider.
- Providers choosing not to remediate will work with their MCOs to develop a Transition Plan for those individuals affected.
 - The Transition Plan shall inform the individual or guardian of the cost of services for which the individual or guardian will be responsible, should the individual or guardian choose to continue services with the current provider.
 - The Transition Plan shall be provided with adequate time for the individual or guardian to convene a care planning team, make an informed choice, and to select an alternate provider compliant with the Rule.

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	<ul style="list-style-type: none"> ○ The Transition Plan must provide the individual a minimum of thirty (30) days’ notice to make the change. ● Transition plans will be the cumulative effort of the provider, the MCOs, the person served, both natural and professional supports and KDADS. This can include feedback from Targeted Case Managers (TCM) (where applicable), Community Developmental Disability Organizations (CDDOs), the KanCare Ombudsman, the MCO Care Coordinator and State Licensing and or Quality Review staff, family, community members and all other forms of natural support. ● The transition plan must reflect the preferences and needs of each participant affected. Choice of all setting types in compliance with the Rule must be offered to individuals as required for the waiver type. If the participant or guardian is willing to be relocated, such choice shall also include compliant setting types in other parts of the state. The choice of settings provided to the individual must be documented and designate the individual’s choice of setting in the person-centered service plan. ● An updated person-centered service plan must be in place when the individual transitions to the new setting. <ul style="list-style-type: none"> ○ The current provider, the new provider, the TCM (if applicable), and the Care Coordinator will work together to ensure the person-centered service plan is in place prior to the transition. ○ The MCO will follow up with all affected HCBS participants within 60 days of the transition to ensure the individual is satisfied and has adjusted to the change in setting.
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ONGOING MONITORING

<p>Monitoring Procedures</p>	<p>The state will continue ongoing monitoring of all HCBS providers already fully in compliance using a multi-tiered approach that will be covered by the following entities and processes:</p> <ul style="list-style-type: none"> ● The HCBS Program Integrity and Compliance Team will: <ul style="list-style-type: none"> ○ Conduct Annual Provider Certifications ○ Assist non-compliant providers to remediate issue areas ○ Initiate decertification of non-compliant providers ○ Monitor transition process of non-compliant providers ○ Conduct random setting checks monthly ○ Review survey data from persons-served ● KDADS will focus on policy and procedures for ongoing monitoring by:
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	<ul style="list-style-type: none"> ○ Creating a new regulation that requires HCBS settings to comply with the HCBS Final Rule or transition their participants to a compliant setting. ○ Creating policies that will be backed by the regulatory changes and the HCBS waivers. ○ Creating policies that will expand on the regulations to describe the requirements for compliance. ○ Creating a policy that lays out the procedure for certification of compliance. ● KDADS will provide monthly, quarterly, and annual training opportunities on the essential characteristics of HCBS beyond the Settings Final Rule project implementation in Kansas. KDADS will offer ongoing training in general and to specific targeted groups of state staff, providers, participants, case managers, managed care organizations, advocacy groups and others. ● Community Developmental Disability Organizations complete quality enhancement and quality assurance checks of all contracted providers (affiliates) in their catchment areas to ensure the choices, rights and safety of individuals are person-centered and protected. It also tracks complaints and submits a report to KDADS quarterly. KDADS completes CDDO Performance Reviews of each entity once every two years to monitor for assurances of their defined roles of state policies, statues and regulations in relation to the oversight of affiliates. ● KDADS continue systemwide training adapting to the training needs of different groups based on the types of services they render and persons they serve.
<p>Quality Assurance Measures</p>	<p>More information about ongoing monitoring and quality assurance measures can be found in Kansas’s January 1 submission here.</p>