

# TRANSITION PLAN

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

### FOR THE STATE OF NEVADA

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

<https://www.medicaid.gov/medicaid/home-community-based-services/downloads/nv-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>Nevada provides HCBS through 1915(c) and 1915(i) federal authorities.</p> <p>1915(c) Waivers settings:</p> <ul style="list-style-type: none"><li>• Individuals with Intellectual and Developmental Disabilities (ID Waiver)<ul style="list-style-type: none"><li>○ 24-Hour SLA</li><li>○ Shared Living SLA</li><li>○ Jobs and Day Training (JDT) Centers</li><li>○ Supported Employment Center</li></ul></li><li>• Frail Elderly (FE Waiver)<ul style="list-style-type: none"><li>○ Residential Facility for Groups</li><li>○ Assisted Living Facility</li><li>○ Adult Day Care Center</li></ul></li><li>• Persons with Physical Disabilities (PD Waiver)<ul style="list-style-type: none"><li>○ Assisted Living Facility</li></ul></li></ul> <p>1915(i) Program and Habilitation Service:</p> <ul style="list-style-type: none"><li>○ Adult Day Health Care (ADHC)</li><li>○ Day Habilitation</li><li>○ Residential Habilitation</li></ul>
<b>Compliant/Non-Compliant</b>	<p><u>1915(c) FE and PD Waivers:</u></p> <p>Residential Settings:</p> <p>Residential Facilities for Groups (RFG): 151 settings</p> <ul style="list-style-type: none"><li>• Number of sites fully compliant: 101</li><li>• Number of sites that could come into full compliance: 11</li><li>• Number of sites that cannot comply with final rule: 1</li><li>• Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 1</li><li>• Inactive or closed: 37</li></ul> <p>Assisted Living Facility: 2 settings</p>

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		<ul style="list-style-type: none"> <li>● Number of settings that are compliant: 2</li> <li>● Number of settings that are not yet compliant: 0</li> <li>● Number of settings that cannot comply: 0</li> <li>● Number of settings that are presumptively institutional in nature (i.e., Heightened Scrutiny): 0</li> </ul> <p>Non-Residential Settings:</p> <p>Adult Day Center: 11 settings</p> <ul style="list-style-type: none"> <li>● Number of settings that are compliant: 11</li> <li>● Number of settings that are not yet compliant: 0</li> <li>● Number of settings that cannot comply: 0</li> <li>● Number of settings that are presumptively institutional in nature (i.e., Heightened Scrutiny): 0</li> </ul> <p><u>1915(i) ADHC and Residential Habilitation</u></p> <p>Residential Settings:</p> <p>Residential Habilitation: 2 settings</p> <ul style="list-style-type: none"> <li>● Number of sites fully compliant: 2</li> <li>● Number of sites that could come into full compliance: 0</li> <li>● Number of sites that cannot comply with final rule: 0</li> <li>● Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 0</li> <li>● Inactive or closed: 0</li> </ul> <p>Non-Residential Settings:</p> <p>Adult Day Health Care Center: 17 settings</p> <ul style="list-style-type: none"> <li>● Number of sites fully compliant: 17</li> <li>● Number of sites that could come into full compliance: 0</li> <li>● Number of sites that cannot comply with final rule: 0</li> <li>● Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 0</li> <li>● Inactive or closed: 0</li> </ul> <p>Day Habilitation: 3 settings</p> <ul style="list-style-type: none"> <li>● Number of sites fully compliant: 3</li> <li>● Number of sites that could come into full compliance: 0</li> <li>● Number of sites that cannot comply with final rule: 0</li> <li>● Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 0</li> <li>● Inactive or closed: 0</li> </ul>
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		<p><u>1915(c) ID Waiver:</u></p> <p>Residential Settings:</p> <p>24-Hour SLAs and Shared Living SLAs: 378 settings</p> <ul style="list-style-type: none"><li>● Number of sites fully compliant: 337</li><li>● Number of sites that could come into full compliance: 41</li><li>● Number of sites that cannot comply with final rule: 0</li><li>● Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 0</li><li>● Inactive or closed: 0</li></ul> <p>Non-Residential Settings:</p> <p>Job and Day Training Centers: 54 settings</p> <ul style="list-style-type: none"><li>● Number of sites fully compliant: 53</li><li>● Number of sites that could come into full compliance: 0</li><li>● Number of sites that cannot comply with final rule: 0</li><li>● Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 1</li><li>● Inactive or closed: 0</li></ul> <p>Supported Employment Center: 23 settings</p> <ul style="list-style-type: none"><li>● Number of sites fully compliant: 53</li><li>● Number of sites that could come into full compliance: 0</li><li>● Number of sites that cannot comply with final rule: 0</li><li>● Number of sites that are presumptively institutional in nature (i.e., Heightened Scrutiny): 1</li><li>● Inactive or closed: 0</li></ul> <p><b>NOTE:</b> Nevada 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 will address heightened scrutiny findings related to CMS' heightened scrutiny review including, as applicable, remediation of all similarly situated settings that utilize a similar service delivery model and, as applicable, any overall assessment processes of all providers of HCBS in the state to ensure that all providers are being assessed appropriately against the regulatory settings criteria by 3 months post the date CMS issues findings to the state. Final compliance statewide with HCBS settings rule will take place no later</p>
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		than 3 months post the date CMS issues heightened scrutiny findings to the state.
	<b>Reasons for Non-Compliance</b>	<p>Reasons for non-compliance in settings include:</p> <ul style="list-style-type: none"> <li>● Freedom to control schedules and activities</li> <li>● Allowing visitors at any time</li> <li>● Physical accessibility</li> <li>● Autonomy and independence in daily activities and physical environment</li> <li>● Freedom to furnish and decorate living units</li> <li>● Bedroom doors lacking locks</li> <li>● Privacy within the sleeping unit</li> <li>● Choice of roommate</li> </ul>
	<b>Transition plans</b>	<p>For systemic assessment, Nevada conducted specific site assessments and validation activities including 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. To make the determination for Heightened Scrutiny, staff will review virtual site assessments, conduct on-site validation assessments, provide ongoing technical assistance and submit a Corrective Action Plan. For settings found out of compliance and unwilling to comply, the State will assist in the relocation of participants. Ongoing monitoring and quality assurance activities will be conducted moving forward to ensure compliance with HCBS settings requirements including new Provider enrollment.</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.*

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	<b>% Presumed Institutional (No. of Residents Affected)</b>	<p>Three settings were presumed institutional. 1 Residential Facility for Groups, 1 Job and Day Training Center, and 1 Supported Employment Center.</p> <p>The state determined two settings overcame presumptive institutional characteristics: Residential Facility for Groups for Category 2 and the JDT Center for Prong 3. The category determination for the Supported Employment Center was not given.</p>
	<b>Type of Setting/Residents</b>	1 Residential Facility for Groups, 1 Job and Day Training Center, and 1 Supported Employment Center
	<b>Reason for Presumption</b>	The Residential Facility for Groups was classified under Category 2 while the Job and Day Training Center under Category 3. The category determination for the Supported Employment Center was not given.
	<b>Heightened Scrutiny Process</b>	The State developed a Heightened Scrutiny tool for submission to CMS. The State completed an assessment using this tool for each setting that is questionable and requires review by CMS. Further Heightened Scrutiny process specific details were not provided.
<b>NON-COMPLIANCE COMMUNICATION</b>		
	<b>% Cannot/Will Not Comply (No. of Residents Affected)</b>	No settings were identified as being non-compliant with the Final Rule.
	<b>Type of Setting/Residents</b>	N/A
	<b>Reason for Determination</b>	N/A
	<b>Communication Strategy</b>	The state will create a notification letter to individuals who will be relocated if the setting is non-compliant.
	<b>Assistance to Residents?</b>	<p>If transition of individuals is required, the State will work in collaboration across agencies to ensure that recipients are transitioned to settings meeting HCBS Settings requirements.</p> <p>Notice and due process will be given to each individual affected within 45 days the State becomes aware of a transition being required. Individuals will be offered a choice of alternative settings through a person-centered planning process. This includes the individual's case manager working directly with the recipient to ensure they are making an informed decision. The Case Manager will have a current listing of</p>

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		possible places for this recipient to review and assist with the transition. The Case Manager will have the responsibility to ensure all critical supports/services are in place prior to the individual's transition.
<b>ONGOING MONITORING</b>		
	<b>Monitoring Procedures</b>	<p>Once the Transition process is complete, the State will work with providers during recertification and/or re-validation to ensure complete compliance with the New Rule Regulations has been met.</p> <p>The monitoring of all settings criteria will be incorporated into the ongoing provider reviews performed by DHCFP and ADSD Quality Assurance units, which on an annual basis, conducting 100% review of all HCBS providers. Additionally, to assure providers remain compliant with the settings requirements, including private settings that are presumed compliant where HCBS are received is through case managers contact with the recipients, which using the person-centered approach, the recipient is given the option on the frequency and method of the contact. Additionally, case managers conduct face-to-face visit with recipients on an annual basis for re-evaluation of the services. Contact form will be updated to reflect relevant questions referencing settings requirements such as "do you have access to food at any time", are you able to participate in outside activities (what are those)", "are you allowed to have visitors at any time". For new Medicaid provider enrollees, prior to enrollment, DHCFP will be conducting on-site visits to ensure new providers comply with the settings rule prior to rendering services to HCBS recipients.</p> <p>As part of the HCBS Waivers and 1915i Health and Welfare assurance requirements, that providers must meet the standards of any state licensure or certification, provider reviews are conducted annually and if deficiencies are found, the providers are given the opportunity to rebuttal and respond within 30 days of the notification. The settings requirements will be added to the existing provider review and there will be no change in the process in terms of the HCBS assurance that providers must comply with provider requirements and Nevada Medicaid Services Manual.</p>
	<b>Quality Assurance Measures</b>	Specific quality assurance measures were not separated from the ongoing monitoring procedures. See above.