HCBS Settings Final Rule
Quarterly Update for Quarter Ending 3/31/20

Since its last quarterly update, the Department has taken the following steps to promote systemic compliance with the HCBS Settings Final Rule:

- On February 4, 2020, held the second meeting of the rights modification stakeholder workgroup. The workgroup provided feedback on the Department's draft rule incorporating the requirements of the HCBS Settings Final Rule into state regulations, based on language such as that set forth in new Rules AAA and BBB in the Systemic Assessment Crosswalk, with updates. (The draft rule contains new regulatory language and does not yet set out all the changes to existing regulations detailed in the Crosswalk's tables.)

- The third meeting of the workgroup, at which participants were to continue discussing the draft rule, was originally scheduled for March 16. The Department canceled this meeting to allow participants to focus on the emerging COVID-19 pandemic. The third meeting will now be held in a remote-only format on April 21. In the interim, some participants have submitted written comments and questions regarding the draft rule.

- On February 6, submitted an updated schedule of rule implementation milestones to the Centers for Medicare & Medicaid Services (CMS).

Since its last quarterly update, the Department has taken the following steps to complete site-specific assessment, remediation, and verification:

- Sent follow-up emails to providers with Provider Transition Plans (PTPs) for adult residential settings that were still in Draft (unsubmitted) status as of the end of February.

- Sent follow-up emails to some providers that had submitted adult residential PTPs and were significantly overdue on submitting updates demonstrating that all required changes were made. These emails were beginning to yield results when the COVID-19 pandemic took over providers' time and attention. On April 7, the Department resumed sending emails to additional providers in this category.

- Continued to work with the Colorado Department of Public Health & Environment (CDPHE) to complete reviews of adult residential PTPs and PTP updates. CDPHE has now completed:
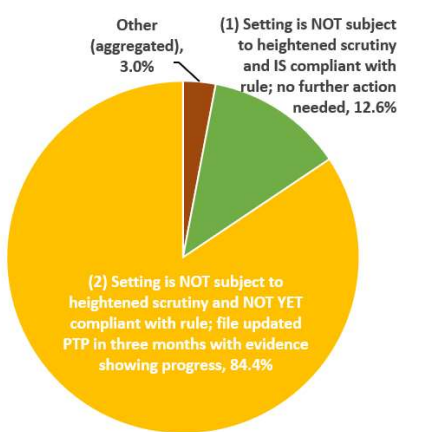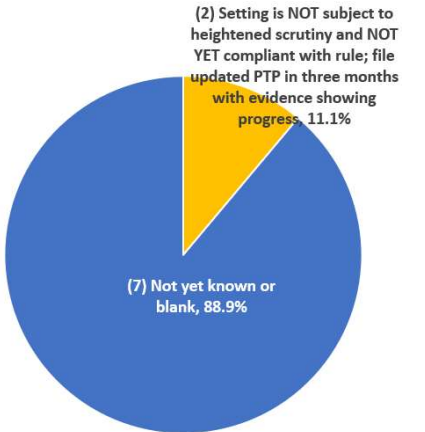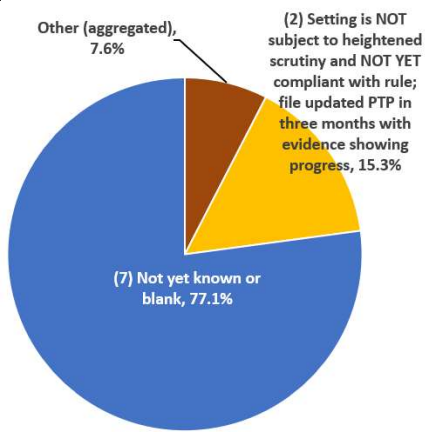
- o Initial desk reviews and/or site visits for 100% of adult residential PTPs. With this verification effort, providers know all the changes that they must make at each setting to come into compliance. (This eliminates the blue wedge for unknown compliance statuses in the adult residential PTP pie chart below.)

- o Final review of provider updates and verification of compliance for 12.6% of adult residential settings. (This nearly doubles the green wedge.)

- Identified the set of adult residential settings for which heightened scrutiny will likely be sought, subject to the completion of evidentiary packets and the solicitation of stakeholder/public input. The 37 settings, representing 1.25% of the 2949 total adult residential settings for which PTPs are being completed, are equally divided as to:

  - o Population served (half focus on serving individuals with intellectual and developmental disabilities (IDD), and half do not); and

  - o Reason for heightened scrutiny (half are flagged because of their location (categories i and/or ii), and half because of their potential to otherwise isolate individuals (category iii)).

- Determined, pursuant to CMS's March 2019 State Medicaid Director Letter, not to test the presumption of compliance at private homes owned or rented by individuals or their family members. This change, along with the Department's plan for ongoing monitoring of compliance at these settings after the transition period, will be reflected in the next version of the Crosswalk and Statewide Transition Plan.

- Continued to work with the Governor's Office of Information Technology (OIT) to complete the extension of the Google Cloud Platform to support nonresidential and children's residential PTPs.

  - o The Department executed an amendment to its Interagency Agreement with OIT to provide additional funding for developer resources.

  - o The Department and CDPHE have been conducting user acceptance testing (UAT) on the children's residential part of the platform.

  - o OIT expects that the nonresidential part of the platform will be ready for UAT during the week of April 20.

- Updated the children's residential and nonresidential provider and setting data in SharePoint to take account of changes that have occurred and, pursuant to prior exchanges with CMS, to remove Youth Day providers and PTPs. The Children's Extensive Supports (CES) Waiver amendment supporting this approach to Youth Day has been submitted to CMS.

- As of March 31, 2020, site-specific status could be summarized as follows:

	Adult Residential PTPs (on Google Cloud Platform)	Children's Residential PTPs (on SharePoint platform)	Nonresidential PTPs (on SharePoint platform)
Number of providers	381	10	233
Number of settings = number of PTPs to be completed	2949	18	516
Compliance status of settings			

Adult Residential pie chart labels: Other (aggregated), 3.0%; (1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed, 12.6%; (2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress, 84.4%

Children's Residential pie chart labels: (2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress, 11.1%; (7) Not yet known or blank, 88.9%

Nonresidential pie chart labels: Other (aggregated), 7.6%; (2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress, 15.3%; (7) Not yet known or blank, 77.1%

Compliance status options
(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed
(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress
(3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients
(4) Setting IS subject to heightened scrutiny and IS able to overcome institutional presumption; evidence should be put forward to the public and/or CMS
(5) Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress
(6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients
(7) Not yet known (default) or blank
(8) Setting has closed because of rule
(9) Setting has closed for another reason

All data in table is as of April 1, 2020. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.