



HCBS Settings Final Rule CAP milestone completion evidence

The Colorado Department of Health Care Policy & Financing (HCPF) submits the following evidence of completion of the identified Corrective Action Plan (CAP) milestones:

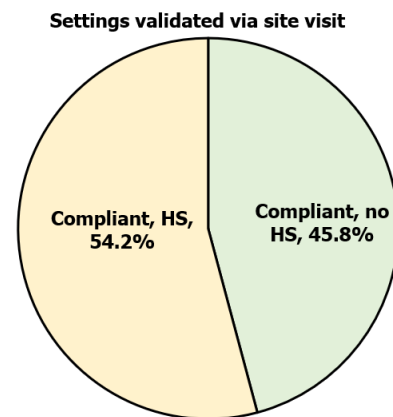
| Milestone | Completion date | CMS evidence requirement |
|---|--|---|
| Validate site-specific remediation via desk reviews and/or site visits. This step includes desk reviews of updated provider transition plans (PTPs) and supporting materials and/or site visits to confirm that all compliance issues have been resolved. | September 14, 2023 for adult residential settings; | Summary report describing outstanding settings that were validated via onsite review and include the compliant vs. not compliant list of verified settings. Include total providers and total settings numbers. |
| | October 13, 2023 for non-residential settings | Summary report describing outstanding settings that were validated via desk review and include the compliant vs. not compliant list of verified settings. Include total providers and total settings numbers. |

Note: For purposes of the evidence summarized below, we classified settings as being “validated via onsite review” if they received at least one site visit in 2023. Some such settings may have received more than one site visit in 2023. We classified settings as being “validated via desk review” if they did not receive at least one site visit in 2023, even though they may have received one or more site visits earlier in the transition period.

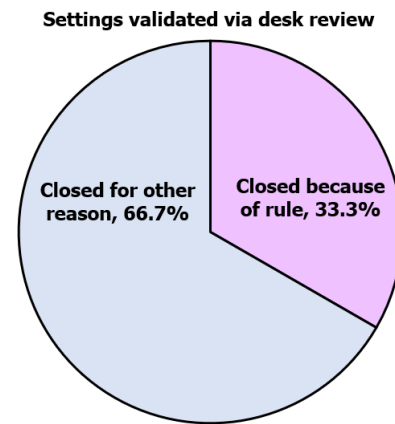
Evidence (adult residential)

A total of 27 adult residential settings, affiliated with a total of 12 providers, received CAP extensions. Of these settings:

- 24 settings, affiliated with 10 providers, were validated via onsite review (including one remote site visit). Of these settings, 100% have been verified as compliant, as demonstrated in the pie chart at right and the detailed Excel file attached to this report (“Adult res CAP extensions” tab). The settings designated as being subject to heightened scrutiny (HS) have all been put forward for public comment and submitted for CMS review.



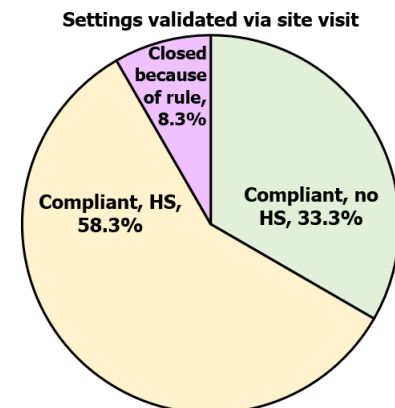
- 3 settings, affiliated with 3 providers, were validated via desk review. One of these providers also had a setting that was validated via onsite review (see details above), yielding a total of 12 rather than 13 unique providers. Of these settings, 100% are closed, as demonstrated in the pie chart at right and the Excel file attached to this report.



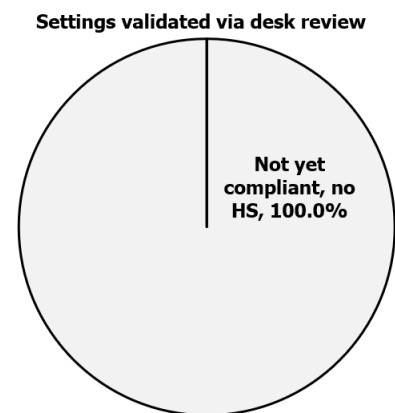
Evidence (nonresidential)

A total of 14 nonresidential settings, affiliated with a total of 11 providers, received CAP extensions. Of these settings:

- 12 settings, affiliated with 9 providers, were validated via onsite review. Of these settings, 100% have been verified as compliant or closed, as demonstrated in the pie chart at right and the detailed Excel file attached to this report (“Nonres CAP extensions” tab). Again, the settings designated as being subject to heightened scrutiny (HS) have all been put forward for public comment and submitted for CMS review.



- 2 settings, affiliated with 2 providers, have so far been validated in 2023 only via desk review. Of these settings, 100% have not yet been verified as compliant or closed, as demonstrated in the pie chart at right and the Excel file attached to this report. One of these settings has indicated that it plans to close, at least temporarily. (We will verify the closure and require compliance upon reopening.) The other is still preparing evidence of community integration. Should this suffice on desk review, a site visit will be arranged for further verification. Although these 2 settings are not yet compliant or closed, consistent with the approach to similar milestones taken during the transition period, we submit that the milestone was completed upon the sending of provisional notices to these settings, as discussed below.



| Milestone | Completion date | CMS evidence requirement |
|--|---|---|
| Provisionally notify providers that have settings (a) determined to be noncompliant or (b) put forward for heightened scrutiny and not yet approved as required, as well as individuals receiving services at these settings (as well as guardians and any other legally responsible parties) via case managers. | September 21, 2023 for adult residential settings; October 20, 2023 for non-residential settings | The number of providers that notification was sent to broken down as documented in the STP (e.g., by residential vs. non-residential) (and broken down by non-compliant or requiring heightened scrutiny) |

Evidence (adult residential)

On September 21, 2023, we sent a provisional notice for 1 adult residential setting, affiliated with a total of 1 provider. In the detailed Excel file attached to this report (“Adult res CAP extensions” tab), this setting appears in bold, italicized font and has a note in Column O indicating that it received the provisional notice. At the time of the provisional notice, the setting was not subject to heightened scrutiny and not yet compliant with the rule. On October 17, 2023, this setting was verified as compliant (and still not subject to heightened scrutiny).

Evidence (nonresidential)

On October 20, 2023, we sent provisional notices for 2 nonresidential settings, affiliated with a total of 2 providers. In the detailed Excel file attached to this report (“Nonres CAP extensions” tab), these settings appear in bold, italicized font and have a note in Column O indicating that they received the provisional notice. At the time of the provisional notice, these settings were not subject to heightened scrutiny and not yet compliant with the rule. As of today, both are still in the same status.

| Milestone | Completion date | CMS evidence requirement |
|--|--|--|
| Providers that disagree with the Department’s determination that their setting is (a) noncompliant or (b) still awaiting required heightened scrutiny approval may submit an informal request for reconsideration with the | October 5, 2023 for adult residential settings; November 3, 2023 for non-residential settings | The number of providers that notification was sent to <u>that requested informal reconsideration</u> , broken down as documented in the STP (e.g., by residential vs. non-residential) and broken down by non-compliant or requiring heightened scrutiny) <u>(The proposed redline adds evidence so that this requirement does not duplicate the one for the preceding milestone.)</u> |

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|--|--|--|
| Department. Individuals receiving services at such settings, as well as other interested parties, may submit evidence relevant to a provider's informal request for reconsideration. | | |
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Evidence (adult residential)

The adult residential provider noted above sent an email indicating that it planned to request informal reconsideration. Instead of arguing that evidence already submitted was sufficient, it submitted new evidence resolving all remaining compliance issues. Again, this setting was verified as compliant (and not subject to heightened scrutiny) on October 17, 2023.

We submit that with this verification, all remaining adult residential milestones are moot and should be closed out by CMS. At minimum, this would include "The Department will complete its reconsideration of any settings as to which providers have submitted timely and complete requests for reconsideration" (November 15, 2023).

Evidence (nonresidential)

Pending. The deadline for providers to submit informal reconsideration requests has not passed yet.