

# Colorado Home- and Community-Based Services (HCBS) Statewide Transition Plan (STP)

## EXECUTIVE SUMMARY

### Background

In January 2014, the federal Centers for Medicare & Medicaid Services (CMS) published a [rule](#) requiring home- and community-based services (HCBS) to be provided in settings that meet certain criteria. The criteria ensure that HCBS participants have access to the benefits of community living and live and receive services in integrated, noninstitutional settings. They also ensure that residential settings are truly homelike.

The rule requires that all HCBS settings meet specific criteria, including that they:

- Be integrated in and support full access to the greater community;
- Be selected by the participant from among setting options;
- Ensure individual rights of privacy, dignity, and respect, and freedom from coercion and restraint;
- Optimize autonomy and independence in making life choices; and
- Facilitate choice regarding services and who provides them.

In addition, provider-owned or -controlled residential settings must meet additional criteria, including that they:

- Have a lease or other written agreement providing similar protections for the individual that address eviction and appeals processes;
- Ensure privacy in the individual's unit, including lockable doors, choice of roommates, and freedom to furnish and decorate the unit;
- Ensure that individuals have freedom and support to control their own schedules and activities, and have access to food at any time;
- Protect individuals' ability to have visitors of their choosing at any time; and
- Be physically accessible.

Some of these additional criteria are also relevant to settings that are not provider-owned or -controlled residential settings.

The HCBS Settings Final Rule went into effect in March 2014, and states originally had five years—until March 2019—to ensure that their HCBS settings were compliant with the rule. In May 2017, CMS issued an [Informational Bulletin](#) extending the transition period for compliance with the rule by three years, to March 2022. In July 2020, because of the COVID-19 pandemic, CMS issued a [State Medicaid Director Letter](#) extending the transition period by an additional year, to March 2023. Colorado has continued to work toward statewide compliance by that deadline according to the dates set out below. See also [Informational Memo 20-34](#) and [Milestone Update III](#) (Sept. 1, 2020).

For more information on the HCBS Settings Final Rule, please visit CMS's website, which includes [guidance](#) and [trainings materials](#).

### Affected Colorado Waivers and Settings

The HCBS Settings Final Rule affects the following Colorado HCBS waivers:

- 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);
- Children's Habilitation Residential Program (CHRP); and
- The following waivers, under which services are provided in children's homes, professional provider offices, and clinics, or on a 1:1 basis in the community, all of which are presumed to be compliant with the federal settings requirements during the transition period:
  - Children's Extensive Support (CES);
  - Children's HCBS (CHCBS); and
  - Children with Life Limiting Illness (CLLI).

Under the waivers identified above, the following settings are affected:

- 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;
- Child Residential Habilitation settings under the CHRP Waiver, including
  - Child Placement Agency (CPA)—Certified Foster Care Homes
  - Child Placement Agency (CPA)—Group Homes (Specialized Group Facilities)
  - Kinship Homes

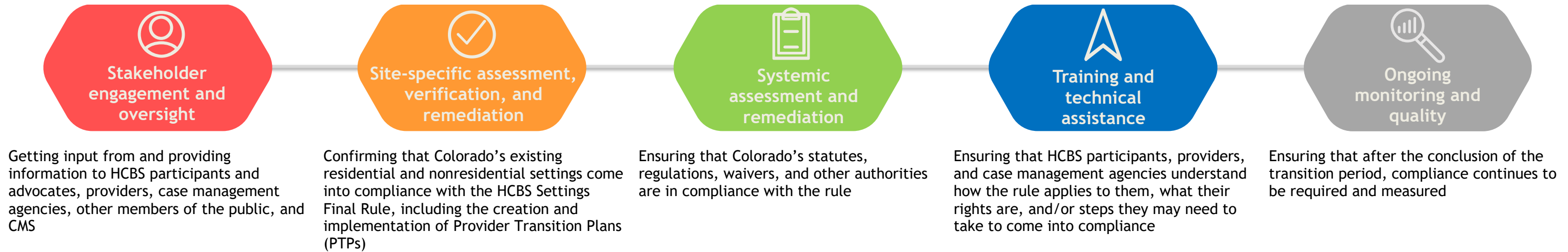
- Residential Child Care Facilities (RCCFs)—may include RCCFs that are also designated as Qualified Residential Treatment Programs (QRTPs);
- Medicaid Enrolled Providers—may include host homes;
- Day Habilitation settings for individuals with intellectual and developmental disabilities (IDD), including
  - 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;
- Individual Residential Services and Supports (IRSS) settings for up to 3 people under the DD Waiver, including
  - Host homes;
  - Homes owned or leased by agencies;
  - Family homes; and
  - Own homes;
- Private homes belonging to individuals or their families, professional provider offices, and clinics, which are presumed to be compliant with the federal settings requirements during the transition period, for any waiver;
- Supported Employment, including group and individual program locations, under the SLS and DD Waivers; individual supported employment is presumed to be compliant with the federal settings requirements during the transition period;
- Supported Living Program (SLP) facilities under the BI waiver; and
- Transitional Living Program (TLP) facilities under the BI waiver.

The following services are exempt from the HCBS Settings Final Rule, although they are still subject to other federal and state requirements:

- Respite services, unless these services are provided in a setting affected by the rule, as listed above. *See* 79 Fed. Reg. 2948, 3011 (Jan. 16, 2014).
- Palliative/Supportive Care services provided outside the child’s home under the CLLI Waiver, given these services’ similarity to respite services.
- Youth Day Services under the CES Waiver, given these services’ similarity to respite services.

Overview of Statewide Transition Plan (STP)

The Colorado Department of Health Care Policy & Financing (HCPF or “the Department”) has developed this Statewide Transition Plan (STP) for bringing HCBS throughout the State into compliance with the HCBS Settings Final Rule. This work has entailed concurrent progress on five major fronts, or Program Components:

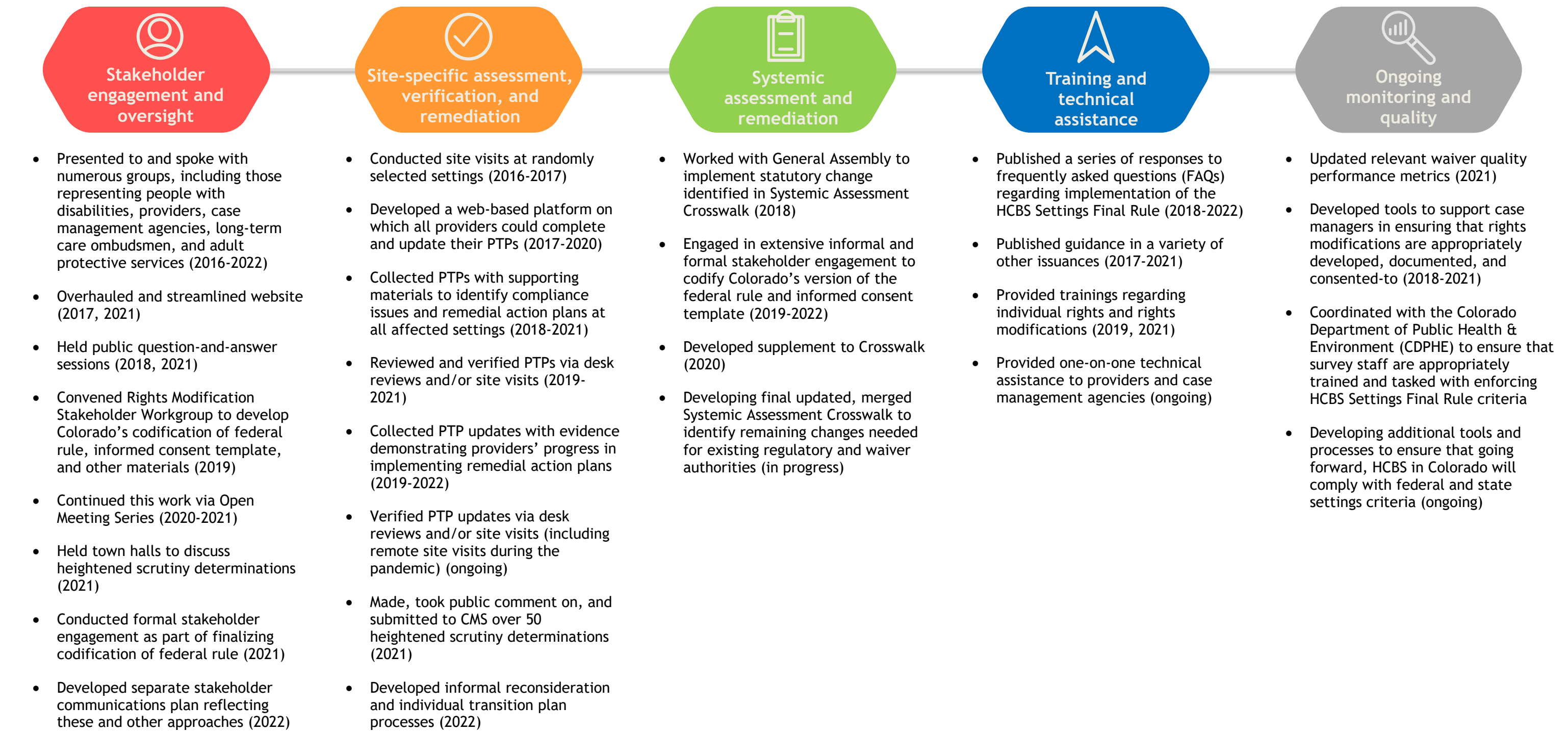


Work within and across these Program Components was iterative and interdependent. For example, early provider self-assessments (as reflected in the Provider Scorecards), site visits, and Individual/Family/Advocate (IFA) Survey responses helped inform the addition and clarification of language in the Provider Transition Plan (PTP) templates (e.g., new compliance issues). The information collected from PTP submissions and attachments, site visits and desk reviews, and ongoing IFA Survey responses helped identify issues on which guidance was needed in the form of trainings and written issuances, such as responses to Frequently Asked Questions (FAQs). All of these developments, as well as constant exchanges with advocates, providers, and case management agencies, in turn provided insights on the areas to be addressed in Colorado’s codification of the federal rule.

The STP addresses each of these Program Components in turn, from *top to bottom*. Within each Program Component, the STP lists from *top to bottom* various Action Steps—that is, the specific tasks Colorado has taken or will take to complete the larger Program Component. For each Action Step, the STP shows from *left to right* the dates on which work on each Action Step began and ended/is projected to end; the Department’s progress/status thus far on implementing each Action Step; and the Findings/Results/Outcomes of each Action Step.

Summary of Work Completed Since Last Submission of STP

Before the spring 2022 round of public comment, the [STP was last published and submitted to CMS](#) on December 16, 2016. CMS granted [initial approval](#) of that version of the STP on November 21, 2017. As described in more detail below, the Department has completed the following major tasks since it last submitted the STP:




For more information on Colorado’s path to compliance with the HCBS Settings Final Rule, please visit the Department’s [HCBS Settings Final Rule](#) website.

Subject to public comment, the Department proposes to submit the current version of the STP to CMS for final approval.


Please send questions and comments to: [HCPF\\_STP.PublicComment@state.co.us](mailto:HCPF_STP.PublicComment@state.co.us) or Statewide Transition Plan Team, Colorado Department of Health Care Policy & Financing, 1570 Grant St., Denver, CO 80203.


## STATEWIDE TRANSITION PLAN (STP)

### Program Component 1: Stakeholder engagement and oversight


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
1.	Convene an interagency group to manage the transition planning process.	5/21/2014	Completed 6/1/2014	An interagency team was convened in 2014 and has been meeting weekly since then. The team initially included representatives from the Department, the Colorado Department of Public Health & Environment (CDPHE), and the Colorado Department of Human Services (CDHS). When administration of the Children's Habilitation Residential Program (CHRP) Waiver moved to the Department, the CDHS representative transferred to the Department as well. The HCPF/CDPHE team expects to continue to meet until the end of the transition period (March 2023).	The team identifies tasks to be completed, develops approaches for providing technical assistance, and monitors and problem-solves issues relating to HCBS Settings Final Rule implementation. Much of its work is reflected elsewhere in this STP.
2.	Develop a communication strategy to manage the public notices and input required by the rule as well as ongoing communications regarding the implementation of the transition plan. Adapt the strategy to different audiences (e.g., case management agencies (CMAs), including Single Entry Points (SEPs) and Community Center Boards (CCBs); providers; waiver participants; advocates; and others).	6/30/2014	Completed 7/30/2014; updated 3/25/2022	<p>The Department developed its initial communication strategy shortly after HCBS Settings Final Rule was issued. This strategy included:</p> <ul style="list-style-type: none"> <li>• A written strategy for managing formal public notice and comment opportunities (see Row 6 in prior version of STP);</li> <li>• A written strategy for managing other forms of engagement with different audiences (see Rows 4, 5, 7, and 8 in prior version of STP); and</li> <li>• A written identification of key stakeholders for each Action Item in the STP (see Key Stakeholders column in prior version of the STP).</li> </ul> <p>Over time, the communication strategy evolved to provide more effective channels of communication with affected and interested parties. In addition, the Department (a) reorganized the Office of Community Living (OCL), which enhanced and streamlined communication channels and roles and (b) developed the Department-wide Memo Series to better align and communicate formal guidance.</p>	To summarize its current communication strategy, the Department developed a <a href="#">separate attached document</a> .
3.	Implement communications strategy and contact providers, CMAs, waiver participants and advocates, and other stakeholders to increase understanding of the rule and maintain open lines of communication.	6/30/2014	Ongoing through 3/17/2023	<p>Highlights of the Department's stakeholder engagement strategy implementation since the STP was last published include:</p> <ul style="list-style-type: none"> <li>• A public question-and-answer session for all stakeholders to clarify the application of the HCBS Settings Final Rule to various scenarios (April 2018) (for more information, see Row 67);</li> <li>• The Rights Modification Stakeholder Workgroup, which met five times to help develop Colorado's codification of federal rule, informed consent template, and other materials (December 2019 through June 2020) (for more information, see Rows 10 (sub-row with rights modification details), 28, and 67);</li> <li>• The Open Meeting Series, which continued this work among an even broader set of stakeholders (August 2020 through January 2021) (for more information, see Rows 10 (sub-row with rights modification details), 22, 29, and 67);</li> <li>• Three public town halls at which stakeholders provided comments on the Department's heightened scrutiny determinations (June 2021) (for more information, see Row 10 (sub-row with heightened scrutiny details));</li> <li>• Three question-and-answer sessions for different groups of stakeholders—individuals participating in waivers; their parents, friends, families, guardians, and advocates; and providers and case management agencies—to discuss individual rights and rights modifications under the HCBS Settings Final Rule (August 2021) (for more information, see Rows 65 and 67); and</li> </ul>	<p>Through these channels, the Department has been able to communicate important information about the HCBS Settings Final Rule. Written and recorded communications are available on the <a href="#">HCBS Settings Final Rule website</a> under various headers. Please visit this website and click on the header "Stakeholder Engagement" to see instructions for signing up to receive communications regarding implementation of the rule and identifying relevant stakeholder meetings in which you may wish to participate.</p> <p>The Department has received and continues to receive valuable questions, comments, and other feedback from providers, case management agencies, advocates, and other stakeholders. The Department carefully considers all the input it receives, as reflected in its formal written responses to public comments, its development of training and guidance materials responsive to real-life inquiries, its presentations at meetings, its codification of the federal rule, and more.</p> <p>These communication channels have created a robust, iterative process leading toward full understanding and implementation of the HCBS Settings Final Rule.</p>




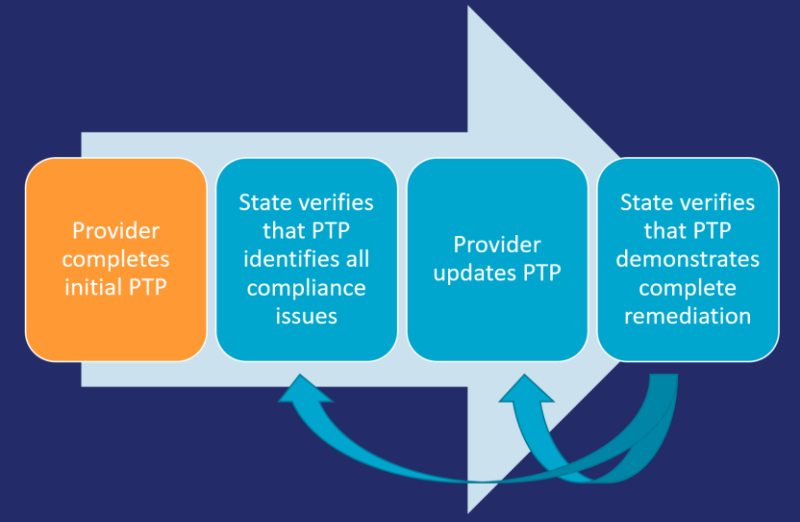
	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				<ul style="list-style-type: none"> <li>Formal stakeholder engagement as part of finalizing Colorado’s codification of the federal rule (September-November 2021) (for more information, see Rows 32-35).</li> </ul> <p>In addition, the Department has proactively reached out to providers and provider associations, CMAs and CMA associations, and waiver participants/advocates and their associations, through many channels, such as:</p> <ul style="list-style-type: none"> <li>Issuing formal written communications, such as Communication Briefs and items in the Memo Series, via Constant Contact;</li> <li>Sending messages via provider portals maintained by the Department, its contractors, and/or CDPHE;</li> <li>Contacting parties via letter, email (<a href="mailto:HCPF_STP.PublicComment@state.co.us">HCPF_STP.PublicComment@state.co.us</a>, <a href="mailto:HCPF_PTP@state.co.us">HCPF_PTP@state.co.us</a>, and individual staff email addresses), and telephone, as well as responding to inquiries received via these channels (the Department routinely exchanges emails with interested stakeholders via its shared accounts at <a href="mailto:HCPF_STP.PublicComment@state.co.us">HCPF_STP.PublicComment@state.co.us</a> and <a href="mailto:HCPF_PTP@state.co.us">HCPF_PTP@state.co.us</a>);</li> <li>Attending gatherings of relevant groups (for example, hosting/sending representatives as needed to relevant organizations’ meetings, conferences, and training sessions); and</li> <li>Meeting in-person and via telephone with smaller groups of interested providers/prospective providers, advocates, and others.</li> </ul> <p>The Department also receives questions, comments, and other input through these channels and through other means, such as:</p> <ul style="list-style-type: none"> <li>CDPHE’s work to help providers complete their Provider Transition Plans (PTPs)—including via in-person site visits, telephone calls, emails, and communications through the PTP system—which yields questions for discussion during the weekly intra-agency meeting (for more information, see Rows 1, 10, and 14); and</li> <li>The Individual/Family/Advocate (IFA) Survey (for more information, see Row 8).</li> </ul>	
4.	Create a space on an existing Department website to post materials related to settings requirements.	7/10/2014	Completed 7/10/2014; significant updates completed 3/16/17 and 10/19/21; additional updates ongoing	The Department overhauled its <a href="#">HCBS Settings Final Rule</a> website in March 2017 and has routinely updated the site since then. The Department completed a major updating and streamlining effort in October 2021 to mitigate the large volume of accumulated information and resources.	The site contains up-to-date information, categorized within easily navigated headers, for anyone interested in Colorado’s implementation of the HCBS Settings Final Rule. After the October 2021 streamlining, the front end of the website is easier to navigate for users looking for recent information; at the same time, on the back end, links to older materials still work (even though they are no longer displayed on the front end), to preserve access for users looking for older information. The Department has received positive feedback from stakeholders about the updated website.
5.	Develop and issue required public notices regarding the STP. Collect comments and summarize for consideration and, where applicable, incorporate changes in the transition plan and within communication tools (e.g., FAQs).	7/30/2014	Public notice of final STP issued 3/25/2022; response to public comments completed 6/8/2022	<p>The Department provided public notice of the current version of the STP—including methods of accessing/reviewing the full STP, methods of commenting, and the deadline for commenting—through the following means:</p> <ul style="list-style-type: none"> <li>Emailing an Informational Memo to the Intellectual and Developmental Disability Stakeholders and Long-Term Services &amp; Supports Stakeholders Constant Contact subscriber lists, as well as the list of stakeholders who participated in the Rights Modification Stakeholder Workgroup and/or the Open Meeting Series;</li> </ul>	The Department’s <a href="#">summary of and response to public comments</a> on the current version of the STP is available on its <a href="#">website</a> under the header “Stakeholder Engagement.”

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				<ul style="list-style-type: none"> <li>Publishing a notice on the Department’s website (<a href="#">HCBS Settings Final Rule page</a> and <a href="#">HCBS Public Comment Opportunities page</a>);</li> <li>Emailing a notice to Tribal Consultation recipients;</li> <li>Emailing a fact sheet to the Medicaid Advisory Committee (“Night MAC”);</li> <li>Publishing notices in the newspapers of widest circulation in each city in Colorado with a population of 50,000 or more (with these notices being re-run after two weeks); and</li> <li>Publishing a notice in the <a href="#">Colorado Register</a>.</li> </ul> <p>The full STP was available on the Department’s <a href="#">HCBS Settings Final Rule page</a> under the header “Colorado Statewide Transition Plan,” and individuals could request the full STP in electronic or hard copy format via email at <a href="mailto:HCPF_STP.PublicComment@state.co.us">HCPF_STP.PublicComment@state.co.us</a>, via phone at 303-866-6314 (Rebecca Spencer, HCBS Policy Analyst), via fax at 03-866-4411 (Attention: Statewide Transition Plan Team), or via U.S. mail at ATTN: Statewide Transition Plan Team, 1570 Grant Street, Denver, CO 80203.</p> <p>The public could provide comments via email at <a href="mailto:HCPF_STP.PublicComment@state.co.us">HCPF_STP.PublicComment@state.co.us</a>, via phone at 303-866-6314 (Rebecca Spencer, HCBS Policy Analyst), via fax at 303-866-4411 (Attention: Statewide Transition Plan Team), or via U.S. mail at ATTN: Statewide Transition Plan Team, 1570 Grant Street, Denver, CO 80203.</p> <p>The comment period was the 45-day period following public notice.</p>	
6.	Provide quarterly updates to CMS on status of systemic and site-specific assessment projects.	9/31/2016	Ongoing until these projects are completed or 3/17/2023	The Department has been providing quarterly updates by email to CMS Regional Office and Central Office staff.	The Department’s quarterly updates are available on its <a href="#">website</a> under the header “Correspondence between the Department and CMS.”

**Program Component 2: Site-specific assessment, verification, and remediation of existing HCBS residential and nonresidential settings**

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
7.	Create and implement an initial two-stage provider survey process to assess settings where HCBS participants live and/or receive services.	5/21/2014	Completed 1/21/2016	<p>As an initial step toward implementation of the HCBS Settings Final Rule, the Department created a two-stage survey process, beginning with a Stage 1 macro-level review of existing providers, and ending with a Stage 2 micro-level review of existing providers. The surveys asked providers to conduct self-assessments regarding various issues relevant to the rule. The surveys closed as of January 21, 2016.</p> <p>As of January 21, 2016, 613 unique providers completed the Initial and/or Secondary Provider Self-Assessment Surveys. Some providers offer multiple services and/or participate in multiple waivers, and hence completed multiple surveys, yielding 1,602 completed surveys. 145 known providers did not complete the self-assessment survey, or their response submissions could not be linked to a provider.</p> <p>This initial survey process was informational and not a substitute for the site-specific assessment and verification process (described in more detail below). Regardless of whether a provider completed any self-assessment surveys, it was required to complete a Provider Transition Plan (PTP) for each affected setting and could be selected for (or request) a site visit.</p>	<p>For several years, a set of provider scorecards summarizing the findings from this initial survey process was available for review on the Department’s <a href="#">website</a> under the header “Site-Specific Assessments,” subheader “Provider Self-Assessment Survey Results (Provider Scorecards).” Although the scorecards were taken down from the front end of the website as part of the October 2021 website update and streamlining effort, the materials are still available upon request.</p> <p>This process helped the Department identify common areas for improvement statewide. The scorecard information helped inform subsequent Action Items designed to support providers in coming into compliance, including the Provider Transition Plan (PTP) process, trainings, guidance, and technical assistance.</p>
8.	Develop and conduct survey for individuals and families to provide	10/1/2014	Development completed 6/30/2014. Revised survey	The Department developed a voluntary, anonymous Individual/Family/Advocate (IFA) Survey to collect input from waiver participants, their family and friends, and advocates regarding their lived experiences and their perceptions of the settings where they live and	<p>The following information about the survey is available on the Department’s <a href="#">website</a> under the header “Individual/Family/Advocate (IFA) Survey”:</p> <ul style="list-style-type: none"> <li>Links to the online version of the survey in English, Spanish, and Russian.</li> </ul>

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
	input on settings by type and location.		development completed 8/30/2017. Survey data collection is ongoing.	<p>receive HCBS. The survey was developed in English and Spanish (with Russian added later) and can be taken online or on paper.</p> <p>The initial version of the survey ran from July 2015 through August 2017.</p> <p>As announced in an August 30, 2017 Communication Brief, the Department rolled out a revised version of the IFA Survey in late August 2017. The revisions took into account public comments on the initial version of the survey, additional criteria of the HCBS Settings Final Rule, and components of the HCBS Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey published by CMS in October 2016, among other things. The revised survey was translated into Russian, as well as the originally available English and Spanish, in order to enhance its accessibility to stakeholders.</p> <p>In late August - early September 2017, the Department issued an instruction to case management agencies serving Medicaid waiver participants, including Community Centered Boards (CCBs), Single Entry Points (SEPs), and counties involved in the Children’s Habilitation Residential Program (CHRP) Waiver. The instruction read: “Once per quarter until March 2020, please remind the individuals with whom you work, as well as any of their family members and friends with whom you have contact, that the IFA Survey is available to them and that they may take this voluntary survey as often as they wish. Please make a note of each reminder in the Log Notes field of the Benefits Utilization System (BUS), for CCBs and SEPs, or the Trails system, for CHRP case workers.”</p> <p>To ensure access among individuals without access to a computer, the Department instructed CCBs and SEPs in January 2018 to mail their clients information about the IFA Survey, including a way to request that the CCB/SEP mail a hard copy of the survey to the client upon request. In addition, in March 2018, to make it more affordable for these individuals to return their completed hard copies to the Department, the Department reformatted the pdf files available on its website so that in most cases, only one postage stamp would be required. Individuals and their families, CCBs, and SEPs have mailed numerous completed hard copy surveys to the Department.</p> <p>In addition, the Department asked providers to circulate the IFA Survey to their clients and family members when they began working on the PTP for a given setting. In these cases, the completed survey was submitted to the Department or CDPHE directly by the person who completed the survey. Site visit teams also directly interviewed willing individuals and family members at settings selected for a site visit, as discussed elsewhere in the STP.</p> <p>The Department will keep the IFA Survey open for individuals and their families/advocates to take as often as they like, through at least the end of the transition period.</p>	<ul style="list-style-type: none"> <li>• Links to the paper version of the survey in each language, and for each different group of respondents (individuals, family/friends, and advocates).</li> <li>• Instructions for requesting that a hard copy of the survey be mailed to you, and for returning it.</li> </ul> <p>As announced in an August 30, 2017 Communication Brief, a report on the first two years’ worth of data from the IFA Survey was available on the Department’s <a href="#">website</a> under the header “Individual/Family/Advocate (IFA) Survey.” Although the report was taken down from the front end of the website as part of the October 2021 website update and streamlining effort, the report is still available upon request. Publication of an updated report on survey responses from more recent years was disrupted by the need for state staff to devote significant time and effort to addressing the COVID-19 pandemic and later unwinding efforts. Nevertheless, the Department has continued to receive and monitor survey responses, as described below.</p> <p>The Department has used information received via the IFA Survey to identify issues to be addressed in trainings, guidance, and technical assistance. The Department shared this information with CDPHE to ensure that staff reviewing PTPs and conducting site visits were aware of commonly cited issues. While respondents’ perceptions were not dispositive on compliance questions, they did help the Department gauge stakeholder satisfaction and identify areas for improvement.</p> <p>Where respondents elected to identify their providers and/or settings (with these and all other response items being optional), the Department and/or CDPHE used this information to inform the selection of extra (not randomly selected) settings for site visits, to flag issues for follow-up during PTP desk reviews and site visits, and/or to conduct further outreach outside of the HCBS Settings Final Rule process (depending on the issues raised by the respondent). Hence, the IFA Survey helped inform but was not a substitute for the site-specific assessment and verification process (described in more detail below).</p> <p>Additionally, the Department checked IFA Survey responses to identify any information potentially relevant to its heightened scrutiny determinations. The results of this check were included in the heightened scrutiny summary sheets. See Row 10 (sub-row with heightened scrutiny details).</p> <p>In Colorado’s <a href="#">American Rescue Plan Act (ARPA) Spending Plan</a>, the Waiver Quality Expansion category includes an initiative to evaluate and expand member experience surveys. As part of this initiative, the Department will evaluate whether to retain and/or modify any components of the IFA Survey after the end of the transition period.</p>

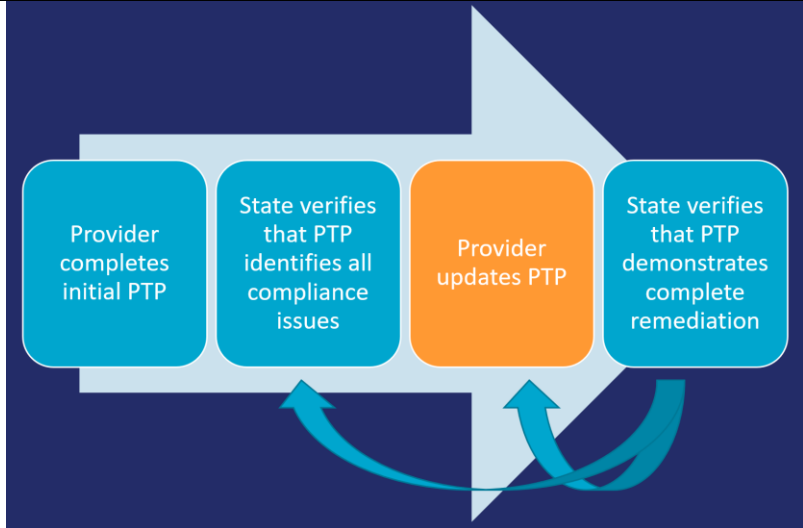
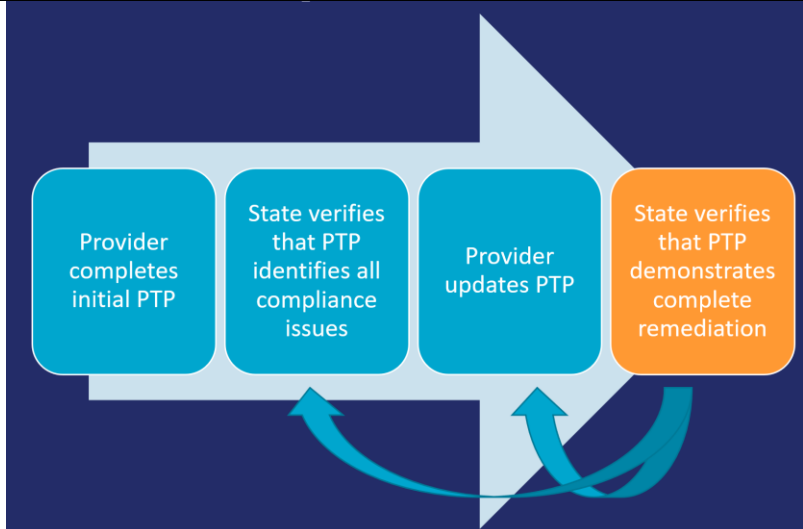
	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
9.	Implement site-specific assessments of all settings via the Provider Transition Plan (PTP) process. This step includes provisionally identifying compliance issues, corresponding remedial action plans, and the potential application of heightened scrutiny.	3/1/2015	<p>Initial PTPs were completed by providers for substantially all affected settings by:</p> <ul style="list-style-type: none"> <li>• Adult Residential - 9/30/19</li> <li>• Children's Residential - 12/16/20</li> <li>• Nonresidential - 4/15/21</li> </ul>	 <p>The Department developed Provider Transition Plan (PTP) templates allowing providers to provisionally identify each affected setting's compliance issues under the HCBS Settings Final Rule; develop remedial action plans for these compliance issues; assess the potential application of heightened scrutiny; and where applicable, assess whether the setting should be put forward to the public and/or CMS for heightened scrutiny. Please see the Department's description of its <a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a> for details regarding:</p> <ul style="list-style-type: none"> <li>• Identification of covered settings (pp. 1-2);</li> <li>• Introduction to the PTP (pp. 2-3); and</li> <li>• The PTP process, specifically with respect to step 1, provider self-assessment (pp. 3-4).</li> </ul> <p>The steps in the PTP process are shown in the diagram above. As suggested by the back-arrows, the process was iterative (for example, state verification of a provider update could indicate that additional compliance issues needed to be addressed, requiring further updates and verification).</p> <p>As noted in the Executive Summary for the STP, the following settings were presumed to be compliant with the HCBS Settings Final Rule criteria during the transition period:</p> <ul style="list-style-type: none"> <li>• Community Connector services, which are provided one-on-one, under the CES and CHRP Waivers;</li> <li>• Private homes belonging to individuals or their families, professional provider offices, and clinics, for any waiver; and</li> <li>• Supported Employment provided on an individualized basis under SLS and DD Waivers.</li> </ul> <p>As stated in the <a href="#">Statewide Transition Plan Quarterly Update to CMS - Quarter ending March 31, 2020</a>, the Department determined, pursuant to CMS's <a href="#">March 2019 State Medicaid Director Letter</a>, not to test the presumption of compliance at private homes owned or rented by individuals or their family members. Anyone could seek to rebut the presumption of compliance at any setting where the presumption applied by providing information about a particular setting to the Department. To date, the Department has not received any objections regarding the presumption of compliance at any particular setting. See Rows 71-75 for information regarding the ongoing (post-transition-period) monitoring of such settings.</p>	<p>The following materials are available for review on the Department's <a href="#">website</a> under the header "Site-Specific Assessments," subheader "Provider Transition Plans (PTPs)":</p> <ul style="list-style-type: none"> <li>• <a href="#">Nonresidential PTP - Google Cloud Platform (GCP) template</a> - July 2020</li> <li>• <a href="#">Children's Residential PTP - GCP Template</a> - July 2020</li> <li>• <a href="#">HCBS Settings Final Rule - PTP User Manual for GCP</a> - June 2020</li> <li>• <a href="#">Adult Residential PTP - GCP Template</a> - December 2018</li> <li>• <a href="#">HCBS Settings Final Rule - PTP User Manual</a> - November 2018</li> </ul> <p>As shown in the links, PTPs comprehensively addressed all HCBS Settings Final Rule criteria. This included reiterating for providers, as already conveyed in departmental guidance (see <a href="#">FAQ Part I</a>, Item 2), that "[s]o-called reverse integration (bringing individuals without disabilities into the setting) is important, but is not by itself sufficient to comply with the community integration requirement." (In connection with one or more compliance issues on the Community Integration screen of each PTP—see templates linked above.)</p> <p>The platform prevented incomplete PTPs (e.g., those with compliance issues not addressed or required materials not attached) from being submitted. A link to the current User Manual is available to providers on the PTP platform, and a link was included in their Welcome Emails for the platform as well in certain Informational Memos regarding the platform.</p> <p>Although older PTP templates were taken down from the front end of the website as part of the October 2021 website update and streamlining effort, they are still available upon request.</p> <p>Announcements regarding various stages of the PTP platform roll-out, trainings for providers on how to use the platform, reminders, and additional instructions are/were available for review on the Department's <a href="#">website</a> under the header "Additional Departmental Guidance." These include:</p> <ul style="list-style-type: none"> <li>• <a href="#">Informational Memo 20-025 - HCBS Settings Final Rule - PTP Training Announcement #3</a> - June 16, 2020; and</li> <li>• Numerous older memos that were taken down from the front end of the website as part of the October 2021 website update and streamlining effort, but are still available upon request.</li> </ul> <p>The PTP platform allows each PTP to be assigned one of the following PTP Status options:</p> <ul style="list-style-type: none"> <li>• Draft;</li> <li>• Needs CDPHE Review;</li> <li>• Needs Provider Review;</li> <li>• Accepted for Implementation;</li> <li>• Has Finally Determined Compliance Status;</li> <li>• Retired; and</li> <li>• Locked.</li> </ul> <p>PTPs move through different PTP Statuses based on relevant developments within the PTP platform. For example, a submitted PTP automatically moves from Draft to Needs CDPHE Review. After CDPHE completes its initial review and adds any relevant notes for the provider's consideration and follow-up, the PTP moves into Needs Provider Review. PTPs commonly move back and forth between the two Needs Review statuses several times.</p> <p>As of 4/15/21, initial PTPs were completed for substantially all affected settings still in operation. The Department measured substantial completion of this milestone by determining that 95% or more of PTPs had moved into a PTP Status other than Draft.</p>




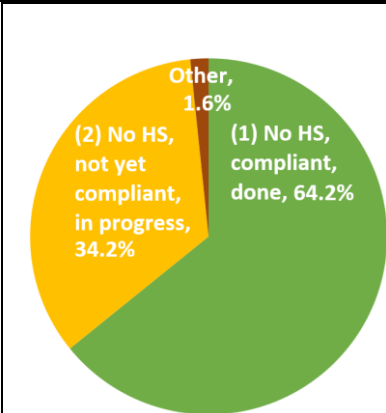
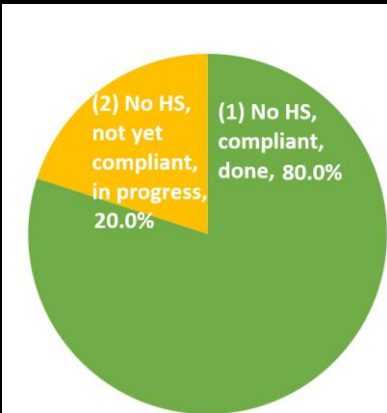
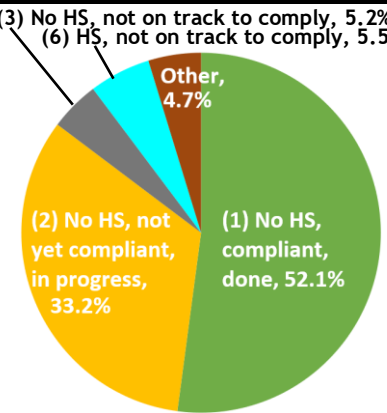
✓	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				<p>The following respite and respite-like services were determined to be exempt from the HCBS Settings Final Rule, although they are still subject to other federal and state requirements:</p> <ul style="list-style-type: none"> <li>• Respite services, unless provided in a setting covered by the rule (such as an alternative care facility (ACF));</li> <li>• Palliative/Supportive Care services provided outside the child's home under the CLLI Waiver; and</li> <li>• Youth Day Services under the CES Waiver.</li> </ul>	
10.	<p>Validate site-specific assessments of all settings (PTPs) via desk reviews and/or site visits. This step includes desk reviews of PTPs and supporting materials and/or site visits to confirm that all compliance issues and corresponding remedial action plans have been identified and to confirm the potential application of heightened scrutiny.</p>	3/1/2015	<p>Verification of initial PTPs was substantially completed by CDPHE by:</p> <ul style="list-style-type: none"> <li>• Adult Residential - 3/1/20</li> <li>• Children's Residential - 2/1/21</li> <li>• Nonresidential - 12/31/20</li> </ul>	<div data-bbox="1028 491 1768 995"> </div> <p>All PTPs and attached materials were subject to review and validation by desk review, and many were subject to additional validation by site visit(s). In addition, as detailed in Row 8, the Department was able to use IFA Survey results to inform validation of some site-specific assessments.</p> <p>Please see the Department's description of its <a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a> for details regarding the PTP process, specifically with respect to step 2, initial verification (pp. 4-9).</p> <ul style="list-style-type: none"> <li>• As explained in this section (at pp. 4-7), the initial verification process included desk reviews of all PTPs and attached materials. Verification also included site visits for hundreds of randomly selected settings across all affected setting types (and associated waivers), and at additional settings. Site visits, in turn, included preparatory work, the actual visit (or remote visit during the COVID-19 pandemic)—including helping providers complete/update their PTPs and related materials, privately obtaining input from individuals about their lived experiences at the setting, observing and verifying additional compliance issues, and providing technical assistance—and finally, follow-up work.</li> <li>• This section also details the process for initially verifying the application of any factor that might trigger heightened scrutiny (at pp. 7-8).</li> </ul> <p>During site visits, where individuals were willing to privately meet with state staff to discuss their experiences, state staff used a template to guide the conversations and garner relevant information. (<a href="#">Residential template</a>; <a href="#">nonresidential template</a>.) In the event of discrepancies between individual experiences (as covered in these conversations or reported in IFA Survey responses) and provider self-assessments, state staff were able to</p>	<p>The results of each site visit (if applicable) and desk review are reflected directly in the PTP for the given setting. State staff could record their findings from desk reviews and/or site visits by changing the assessment of a specific compliance issue or factor triggering the institutional presumption/potential heightened scrutiny (e.g., marking a compliance issue as present, even if the provider had overlooked it), by adding comments to the screen in the PTP containing that issue/factor, by saving notes to the screen devoted to desk reviews and site visits, by adjusting the setting's Compliance Status, and/or by adding explanatory notes on the screen reflecting the setting's Compliance Status. Where a given compliance issue was common to multiple settings for a provider (e.g., because it was driven by a provider-level policy or procedure), much of this information may have been compiled in a single main PTP, with the compliance issue not being marked as resolved in the other PTPs until marked as resolved in the main PTP. (Other PTPs could also reflect site-specific compliance issues and potential heightened scrutiny triggers that were not necessarily driven by provider-level policies/procedures.)</p> <p>The PTP allows each setting to be assigned one of the following Compliance Status options:</p> <ol style="list-style-type: none"> <li>(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed;</li> <li>(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress;</li> <li>(3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition individuals;</li> <li>(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;</li> <li>(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;</li> <li>(6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition individuals;</li> <li>(7) Not yet known (default) or blank;</li> <li>(8) Setting has closed because of rule; and</li> <li>(9) Setting has closed for another reason.</li> </ol> <p>Only state staff, not providers, can assign or change a Compliance Status within a PTP. State staff assigned each setting a Compliance Status based on information reviewed in connection with the desk review and/or site visit, as described above and at left. Because the PTP templates comprehensively addressed all HCBS Settings Final Rule criteria, and because desk reviews and site visits were broadly informed by, and used to fill out and verify, the PTP, this validation stage and subsequent stages ensured that all requirements of the rule were assessed for compliance and, if needed, verified remediation. The results of all desk reviews and/or site visits to date, as reflected in Compliance Statuses, are summarized on a statewide basis in Row 14.</p> <p>As of 2/1/21, substantially all initial PTPs for settings still in operation were validated. The Department measured substantial completion of this milestone by determining that 95% or more of PTPs had a Compliance Status other than (7) (the default status of "Not yet known") or a blank Compliance Status. This means that the Department had verified, through CDPHE's desk reviews and/or site visits, that the setting was compliant, had a valid remedial action plan in place to ensure it was making timely progress toward compliance, was closed, or was unable to comply. (PTPs for settings no longer in operation may not have been validated before they were deleted or retired from the platform.)</p> <p>As of 6/1/22, approximately 420 settings have received at least one site visit for initial verification, for verification of updates/remediation (see Row 14), and/or for both purposes. Some of these settings received multiple site visits. Some settings that received a site visit may have since closed.</p>

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				<p>follow up by collecting more information and determining whether compliance issues were present.</p> <p>Through this iterative process, providers were supported in reviewing their relevant policies/procedures, leases/residential agreements, and other materials; fully identifying compliance issues and corresponding remedies (including matters they may have overlooked); and assessing the potential application of heightened scrutiny.</p>	
	<p><b>Rights modification details:</b> Under the HCBS Settings Final Rule, modifications to individual rights must be based on an individualized assessed need and comply with various federal requirements for documentation and due process, including obtaining the individual’s informed consent. The Department issued extensive guidance, provided training and materials, and updated the Benefits Utilization System (BUS) (a component of the case management system) to support implementation of these requirements, including:</p> <ul style="list-style-type: none"> <li>• <a href="#">FAQ Part I: General Questions</a> - January 2018</li> <li>• <a href="#">FAQ Part II: Follow-Up on General Questions</a> - June 2018</li> <li>• Rights Modification Training - January 2019 (<a href="#">slide deck</a>, <a href="#">recording</a>, <a href="#">transcript</a>)</li> <li>• <a href="#">Operational Memo 20-103 - Rights Modifications Documentation</a> - December 21, 2020 (<a href="#">BUS Screenshots and Data Entry for Rights Modification Screens</a>, <a href="#">BUS Screenshots for Log Notes</a>, <a href="#">Informed Consent Template</a>)</li> <li>• Rights Modification Documentation TA Call - <a href="#">Webinar Recording</a> - January 13, 2021</li> <li>• <a href="#">Operational Memo 21-032 - Informed Consent Template for Rights Modifications</a> - March 17, 2021 (<a href="#">Informed Consent Template</a> - March 2021)</li> <li>• Individual Rights &amp; Rights Modification Training - June 2021 <ul style="list-style-type: none"> <li>○ For members (<a href="#">slide deck</a>, <a href="#">recording</a>)</li> <li>○ For parents, families, guardians, and advocates (<a href="#">slide deck</a>, <a href="#">recording</a>)</li> <li>○ For providers and case management agencies (<a href="#">slide deck</a>, <a href="#">recording</a>)</li> </ul> </li> </ul> <p>The built-in guidance in the informed consent template is intended to be reviewed by staff and deleted before any proposed filled-in form is shared with an individual. The initial informed consent template (2020) and updated version (2021) linked above reflect extensive stakeholder input. The Department shared a draft template with the Rights Modification Stakeholder Workgroup in June 2020. To continue gathering feedback on the template, the Department shared it for discussion during the Open Meeting series announced in <a href="#">Informational Memo 20-034 - HCBS Settings Final Rule - Meetings to Develop Rule and Related Materials</a> - August 3, 2020. Public comments from stakeholders on the template are noted, along with the Department’s response, in the <a href="#">minutes</a> of the June 2020 Rights Modification Stakeholder Workgroup, during the October 2020 and January 2021 Open Meetings, and the Listening Log provided to stakeholders and ultimately the Medical Services Board (MSB) in connection with the Department’s codification of the federal rule.</p> <p>The Department verified provider and case management agency compliance with the rights modification requirements through the PTP process, as follows:</p> <ul style="list-style-type: none"> <li>• When providers initially submitted their PTPs, they were required to include policies and procedures, house rules, and other evidence demonstrating that rights modifications were used, if at all, on an individualized, not across-the-board, basis.</li> <li>• As part of its initial review and verification process, CDPHE often identified changes needed to these policies and procedures, house rules, etc. to avoid broad-based imposition of rights modifications. In addition, CDPHE asked some providers for examples of completed informed consent forms, as maintained on file for one or more individuals served at a given setting. CDPHE sometimes identified changes needed to the provider’s examples. To avoid possible inadvertent disclosure of personal health information (PHI), providers were instructed not to upload individualized evidence of specific rights modifications to the PTP platform unless and until asked by CDPHE, in which case they were to do so promptly and with redactions of PHI.</li> <li>• When providers submitted/submit their updated PTPs demonstrating remediation, they were/are required to submit evidence demonstrating that all rights modifications were/are fully compliant with the federal criteria. This included/includes updated policies and procedures, house rules, and the like, as well as (if required by CDPHE) updated informed consent forms for specific individuals.</li> <li>• As part of its final review and verification process, CDPHE reviewed/is reviewing such updated evidence to confirm that all rights modifications are fully compliant with the federal criteria.</li> </ul>				
	<p><b>Heightened scrutiny details:</b> Under the HCBS Settings Final Rule, a setting is presumed to be institutional if it (i) is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; (ii) is in a building located on the grounds of, or immediately adjacent to, a public institution; or (iii) has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS. Settings with any of these factors may submit evidence that despite the institutional presumption, they are fully compliant with the rule and not institutional after all.</p> <p>To determine whether a setting was in fact subject to heightened scrutiny, the Department:</p> <ul style="list-style-type: none"> <li>• Required providers to self-assess the application of the three potentially institutional factors to their settings as part of their PTPs (on the Institutional Characteristics screen), with reference to the <a href="#">User Manual</a>’s summary of CMS guidance regarding each factor;</li> <li>• Initially verified providers’ self-assessments as part of the PTP desk review/site visit process—please see pp. 7-8 of the Department’s description of its <a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a> for details;</li> <li>• Required providers to submit updates demonstrating compliance with the HCBS Settings Final Rule (on various PTP screens, with relevant materials uploaded);</li> <li>• 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</li> <li>• 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).</li> </ul> <p>The Department determined that 52 settings had a factor triggering the institutional presumption and were compliant/on track to comply with the HCBS Settings Final Rule. Following the process set out in the Department’s description of its <a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a> (pp. 10-12), the Department provided public notice of its heightened scrutiny determinations and related materials for these settings on June 10, 2021 (see table at left below). We also instructed both case management agencies (CMAs) and providers to reach out to individuals living or receiving services at affected settings (or if authorized, their guardians/other legal representatives) to ensure that they were aware of the opportunities to comment. We hosted virtual public town hall meetings on June 28, 29, and 30, 2021 to take comments on our heightened scrutiny determinations. The meetings had between 36 and 55 participants (including some state agency and contractor staff). We also received written comments via email and regular mail regarding our determinations through roughly a week after the soft close of the comment period on July 10, 2021. After reviewing and addressing all input from the town halls and the written comments and taking into account some provider updates received after the summary sheets were originally prepared, the Department posted 51 updated determinations on its website and submitted them to CMS on August 20, 2021 (see table at right below).</p>				

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
	<div> <div> <p>The Department published the following materials for public comment on June 10, 2021:</p> <ul style="list-style-type: none"> <li><a href="#">Informational Memo</a></li> <li><a href="#">HCBS Settings Final Rule Heightened Scrutiny Determinations Fact Sheet</a></li> <li><a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a></li> <li>Notices in the <a href="#">Colorado Register</a>, tribal consultation document, and newspapers. The newspaper notices repeated on June 24.</li> <li><a href="#">List of Settings</a></li> <li>Summary Sheets: <ul style="list-style-type: none"> <li><a href="#">HS-001</a></li> <li><a href="#">HS-002</a></li> <li><a href="#">HS-003</a></li> <li><a href="#">HS-004</a></li> <li><a href="#">HS-005</a></li> <li><a href="#">HS-006</a></li> <li><a href="#">HS-007</a></li> <li><a href="#">HS-008</a></li> <li><a href="#">HS-009</a></li> <li><a href="#">HS-010</a></li> <li><a href="#">HS-011</a></li> <li><a href="#">HS-012</a></li> <li><a href="#">HS-013</a></li> <li><a href="#">HS-014</a></li> <li><a href="#">HS-015</a></li> <li><a href="#">HS-016</a></li> <li><a href="#">HS-017</a></li> </ul> </li> </ul> </div> <div> <p>The Department submitted the following materials to CMS on August 20, 2021:</p> <ul style="list-style-type: none"> <li><a href="#">Heightened Scrutiny Submission</a> - August 2021</li> <li>Summary Sheets: <ul style="list-style-type: none"> <li><a href="#">HS-018</a></li> <li><a href="#">HS-019</a></li> <li><a href="#">HS-020</a></li> <li><a href="#">HS-021</a></li> <li><a href="#">HS-022</a></li> <li><a href="#">HS-023</a></li> <li><a href="#">HS-024</a></li> <li><a href="#">HS-025</a></li> <li><a href="#">HS-026</a></li> <li><a href="#">HS-027</a></li> <li><a href="#">HS-028</a></li> <li><a href="#">HS-029</a></li> <li><a href="#">HS-030</a></li> <li><a href="#">HS-031</a></li> <li><a href="#">HS-032</a></li> <li><a href="#">HS-033</a></li> <li><a href="#">HS-034</a></li> <li><a href="#">HS-035</a></li> </ul> </li> </ul> </div> </div>				
11.	Provide public notice of final STP.	3/25/2022	Completed 5/9/2022	The STP was published on 3/25/2022 for public comment. The Department's process for publicly noticing the STP is described in Row 5.	<p>As summarized in Row 14, the final STP contains outcomes of all site-specific assessments with at least initial (if not final) verification by CDPHE.</p> <p>At this point, all affected settings have been placed in compliance/heightened scrutiny categories. Some validation of provider updates demonstrating remediation is still underway, as described in Row 14. Settings may be moved into different categories after this point if/as warranted by evidence submitted with PTP updates, stakeholder comment, and the informal reconsideration process, as described in Row 16-17.</p>
12.	Submit final STP to CMS.	5/10/2022	Completed 6/8/2022	The Department has <a href="#">reviewed and addressed public comments</a> before submitting the final STP to CMS.	<p>The final STP submitted to CMS contains outcomes of all site-specific assessments with at least initial (if not final) verification by CDPHE, as summarized in Row 14 and with any material updates that have had to be made after the final STP went out for public comment.</p> <p>At this point, all affected settings will have been placed in compliance/heightened scrutiny categories. Some validation of provider updates demonstrating remediation may still be underway, as described in Row 14 below. Settings may be moved into different categories after this point if/as warranted by evidence submitted with PTP updates, stakeholder comment, and the informal reconsideration process, as described in Rows 16-17.</p>


<div><div></div></div>	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes									
13.	Complete site-specific remediation pursuant to PTPs. This step includes submitting PTP updates with evidence showing that compliance issues have been resolved.	4/8/2016	<div>Updated PTPs demonstrating remediation were/will be completed for all affected settings by:</div> <div><div><div>• Adult Residential</div><div><div>○ 25% - completed 9/30/19</div><div>○ 50% - completed 12/31/19</div><div>○ 75% - 7/1/22</div><div>○ 100% - 8/1/22</div></div></div><div><div>• Children’s Residential</div><div><div>○ 25% - completed 4/29/21</div><div>○ 50% - completed 7/2/21</div><div>○ 75% - 7/1/22</div><div>○ 100% - 8/1/22</div></div></div><div><div>• Nonresidential</div><div><div>○ 25% - completed 4/29/21</div><div>○ 50% - completed 7/2/21</div><div>○ 75% - 7/1/22</div><div>○ 100% - 8/1/22</div></div></div></div>	<div></div> <div>The Department required providers to update their PTPs to demonstrate remedial work completed until the Department or CDPHE informed them that updates were no longer necessary (e.g., because the setting had been brought into full compliance or determined unable to meet the federal requirements, in which case it must prepare to transition its HCBS participants to other settings). Providers were required to submit evidence showing that compliance issues had been resolved (e.g., revised policies and procedures, updated house rules and leases/residential agreements, photographs and/or receipts demonstrating the installation of bedroom door locks) with their updates.</div> <div>Please see the Department’s description of its <a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a> for details regarding the PTP process, specifically with respect to step 3, provider updates (pp. 9-10).</div>	<div>As of 6/1/22, updated PTPs have been completed for approximately 65% of active settings.</div> <div>The Department is measuring completion of the milestones at left by reference to CDPHE’s estimates of the percentage of providers in each category that have submitted PTP updates, without regard to whether the updates have been verified. Specifically, CDPHE has been working with providers to update their overall policies and procedures, leases/residential agreements, handouts, and other materials applicable across numerous settings, with this work being recorded in a single main PTP for that provider. CDPHE will estimate how many providers in each category have submitted updates in an effort to demonstrate changes made to achieve provider-level compliance. (Although the PTP system tracks updates, it does not automatically differentiate between updates that are complete/close to complete and those that fall significantly short. CDPHE must make this determination on a more manual basis.) These updates and all setting-specific materials will be verified as stated in Row 14.</div> <div>Provider work to implement remedial action plans and upload corresponding evidentiary updates to the PTP platform has been hampered by the COVID-19 pandemic and the direct care workforce crisis. In particular, community integration has been difficult to support safely in real-world, non-virtual community settings (particularly but not exclusively for individuals who may be immunocompromised or otherwise hesitant to be exposed to others). This difficulty has been exacerbated by staffing shortages, which may be due to COVID-19 exposure (requiring isolation) or other illness, noncompliance with any applicable vaccination requirements, the general tightness of the labor market, or other pressures. The Department expects that by Spring/Summer 2022, it will be easier and safer to engage in outdoor community activities, and that its financial support for providers and direct care workers will have had its intended effect, allowing providers to finish any remaining work to demonstrate community integration. In the meantime, providers may continue to work with CDPHE to request as-needed, case-by-case extensions for their PTP updates. Not all providers have needed or requested extensions, and to ensure that CDPHE is able to complete its verification workload, not all will be permitted to take until the final dates at left to finish providing their updates.</div>									
14.	Validate site-specific remediation via desk reviews and/or site visits. This step includes desk reviews of updated PTPs and supporting materials and/or site visits to confirm that all compliance issues have been resolved.	4/8/2016	Verification of updated PTPs demonstrating remediation will be completed by CDPHE by 9/14/2022 (Adult Residential and Children’s Residential) and 10/14/2022 (Nonresidential)	<div></div>	<div>As of 6/1/22, updated PTPs have been validated for approximately 62.4% of active settings, with validation of updates still pending for the remaining 37.6%. (This refers to final validation of complete, final updates. As noted above, initial validation was completed by 2/1/21.)</div> <div>The current Compliance Status of all PTPs for settings still in operation can be summarized as follows (see Row 10 for listing/explanation of Compliance Statuses):</div> <table><tr><th>Adult Residential PTPs</th><th>Children’s Residential PTPs</th><th>Nonresidential PTPs</th></tr><tr><td>361 providers</td><td>10 providers</td><td>209 providers</td></tr><tr><td>2252 settings/PTPs to be completed</td><td>15 settings/PTPs to be completed</td><td>380 settings/PTPs to be completed</td></tr></table>	Adult Residential PTPs	Children’s Residential PTPs	Nonresidential PTPs	361 providers	10 providers	209 providers	2252 settings/PTPs to be completed	15 settings/PTPs to be completed	380 settings/PTPs to be completed
Adult Residential PTPs	Children’s Residential PTPs	Nonresidential PTPs												
361 providers	10 providers	209 providers												
2252 settings/PTPs to be completed	15 settings/PTPs to be completed	380 settings/PTPs to be completed												




	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes							
				<p>Subject to input and oversight by the Department, CDPHE is verifying remediation at each setting by conducting a desk review of the provider’s updated documents and other evidence, and/or by conducting site visits (including remote site visits during the COVID-19 pandemic) to observe the updates and how they were experienced by individuals. This process allows the State to determine whether providers have made all required changes to resolve compliance issues and attain full compliance (including any changes necessary to withstand heightened scrutiny) or need to begin the process of transitioning individuals to another setting or funding source.</p> <p>If CDPHE determines that a provider update is incomplete, it requires the provider to submit evidence demonstrating that it has addressed the remaining compliance issues. If CDPHE determines that an update raises new compliance issues, it requires the provider to address those as well. (See back-arrows in diagram above.) This process may entail written exchanges within a PTP or via email, phone calls, and more.</p> <p>Please see the Department’s description of its <a href="#">HCBS Settings Final Rule Site-Specific Assessment and Heightened Scrutiny Process</a> for details regarding the PTP process, specifically with respect to step 4, final verification (p. 10).</p>							<p>(3) No HS, not on track to comply, 5.2% (6) HS, not on track to comply, 5.5%</p>	
					<p>The Department is confident that the great majority of settings still in category (2) (making progress toward compliance) ultimately will be able to demonstrate compliance, particularly as the pandemic and workforce shortages ease in the coming months. (See Row 13.)</p> <p>Additional detail for each PTP category/pie chart is provided in the sub-row below.</p> <p>Settings may be moved into different “buckets” after the milestone completion dates at left if warranted by the timely submission of new evidence (e.g., with informal requests for reconsideration, stakeholder comment). The Department will evaluate this evidence under the same standards by which it and CDPHE initially verified PTPs.</p> <p>The Department will measure substantial completion of the milestones at left by determining that 95% or more of PTPs have a Compliance Status of (1), (3), (4), (6), (8), or (9). This means that the Department will have verified, through CDPHE’s desk reviews and/or site visits, that each setting is compliant (including, if applicable, approved by CMS after heightened scrutiny), is closed, or is unable to comply. (Correspondingly, 95% or more of PTPs should have a PTP Status of Has Finally Determined Compliance Status, Retired, or Locked.)</p> <p>As of the milestone completion dates at left, settings that still have a Compliance Status of (2) or (5), meaning they are not yet compliant, or a Compliance Status of (7), meaning not yet known/blank, will not have demonstrated timely compliance with the rule. <b>After this date, they will be handled like settings with a Compliance Status of (3) or (6), meaning noncompliant.</b> (Correspondingly, PTP Statuses of Draft, Needs CDPHE Review, Needs Provider Review, or Accepted for Implementation will be treated as though the PTP Has a Finally Determined Compliance Status.)</p> <p>By the end dates noted at left, if any settings submitted for heightened scrutiny are still awaiting CMS’s approval, the Department will reach out to CMS. The Department’s goal is to avoid unnecessarily requiring individuals receiving services at these settings to change settings/funding sources (where CMS’s approval is forthcoming), while also giving individuals as much time as possible to transition if that is required. The Department requests that CMS review residential settings before nonresidential settings, as people generally need more time to move homes than to change their nonresidential supports.</p>							
Adult residential settings—breakdown by setting type		Number of settings (totals are in bold)	Number of settings as a % of grand total (in bold) or % of setting type (not bold)	Children’s residential settings—breakdown by setting type		Number of settings (totals are in bold)	Number of settings as a % of grand total (in bold) or % of setting type (not bold)	Nonresidential settings—breakdown by setting type		Number of settings (totals are in bold)	Number of settings as a % of grand total (in bold) or % of setting type (not bold)	
Alternative care facility (ACF)		270	11.99%	Child Placement Agency (CPA) Certified Foster Care Home		13	86.67%	Adult Day Services (Not IDD Specific) Basic		25	6.58%	
(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed		141	52.22%	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed		10	76.92%	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed		8	32.00%	
(2) 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%	(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	23.08%	(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress		13	52.00%	
(3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients		1	0.37%	Child Placement Agency (CPA) Group Home		2	13.33%	(3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients		2	8.00%	
(4) Setting IS subject to heightened scrutiny and IS able to overcome		12	4.44%	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed		2	100.00%	(5) Setting IS subject to heightened scrutiny and NOT YET able to overcome		2	8.00%	

✓	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
	institutional presumption; evidence should be put forward to CMS			Grand Total	institutional presumption; file updated PTP in three months with evidence showing progress
	(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	4	1.48%	15	100.00%
	(6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients	3	1.11%		Adult Day Services (Not IDD Specific) Specialized (includes various combinations with or without Basic and/or Brain Injury Waiver day services)
	Group Residential Services and Supports (GRSS) group home	97	4.31%		(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed
	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed	34	35.05%		(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress
	(2) 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%		(6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; 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 CMS	1	1.03%		Day Habilitation for Individuals with IDD Prevocational Services and/or Specialized Habilitation (includes various combinations with or without SCC)
	(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	15	15.46%		(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed
	Individual Residential Services and Supports (IRSS) host home	1452	64.48%		(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress
	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed	990	68.18%		(4) Setting IS subject to heightened scrutiny and IS able to overcome institutional presumption; evidence should be put forward to CMS
	(2) 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%		(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
	Individual Residential Services and Supports (IRSS) other	422	18.74%		(6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients
	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed	271	64.22%		Day Habilitation for Individuals with IDD Supported Community Connections (SCC)
	(2) 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%		(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed
	(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	1	0.24%		(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress
	Supported Living Program (SLP) facility and/or Transitional Living Program (TLP) facility (includes ACF-SLP and/or ACF-TLP)	11	0.49%		(3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients
	(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed	9	81.82%		(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
					Supported Employment Group Supported Employment


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
	<div> <div>(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress</div> <div>218.18%</div> </div> <div>Grand Total2252100.00%</div>				<div> <div>(1) Setting is NOT subject to heightened scrutiny and IS compliant with rule; no further action needed5247.27%</div> <div>(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress2522.73%</div> <div>(3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule; prepare now to transition clients1311.82%</div> <div>(5) Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption; file updated PTP in three months with evidence showing progress32.73%</div> <div>(6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients1715.45%</div> <div>Grand Total380100.00%</div> </div>
15.	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.	9/1/2022	Completed on a rolling basis through 9/21/2022 (Adult Residential and Children's Residential) and 10/21/2022 (Nonresidential)	<p>In the web-based PTP system, providers can see the compliance status (including heightened scrutiny status) of their settings.</p> <p>In addition, the Department intends to provide more formal communication to affected providers, informing them that their setting (a) has been determined to be noncompliant or (b) has been put forward for heightened scrutiny and has not yet been approved as required by CMS; and that by the date of the final notice in Row 18, they will need to begin the process of transitioning individuals to another setting or funding source. This provisional notification will also advise providers that (a) as of the date of the final notice, new individuals may not begin receiving services at settings that are noncompliant/still awaiting necessary heightened scrutiny approval; and (b) after 3/17/23, the Department will not pay for Medicaid HCBS provided at settings that are not compliant or, if subject to heightened scrutiny review by CMS, have not received CMS approval by that date. This notification will also inform the provider of how to pursue the informal request for reconsideration process described below.</p> <p>The Department intends to provisionally inform affected individuals that their setting (a) has been determined to be noncompliant or (b) has been put forward for heightened scrutiny and has not yet been approved as required by CMS; and that they <i>may</i> need to begin the process of transitioning from the noncompliant setting to another setting or funding source. This notification will also inform the individual of how to participate in the informal request for reconsideration process described below.</p> <p>The Department expects to conduct this process on a rolling basis as PTP updates are completed and verified, and to focus first on residential settings, given that affected individuals may need to find a new home, followed by nonresidential settings.</p>	Provisional notices will be sent directly to providers, and indirectly to affected individuals (and/or their guardians or other legally responsible parties) via their case managers.
16.	<p>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 Department.</p> <p>Individuals receiving services at such settings, as well as other</p>	9/14/2022	10/5/2022 (Adult Residential and Children's Residential) and 11/4/2022 (Nonresidential)	Once the Department notifies affected providers, individuals, and others on a rolling basis of its heightened scrutiny and noncompliance determinations, providers may file an informal request for reconsideration with the Department within 14 days. The request may be filed via email (at <a href="mailto:HCPF_PTP@hcpf.state.co.us">HCPF_PTP@hcpf.state.co.us</a> ). The request need not follow a prescribed format; it should simply explain the reason(s) why the provider believes the Department should change its determination. The request must contain or attach relevant evidence and explanations in support of the provider's position. The request must also contain a certification that the provider has informed individuals receiving services at the setting, as well as their	Requests for reconsideration will be resolved as described below.


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes										
	interested parties, may submit evidence relevant to a provider’s informal request for reconsideration.			guardians/other legally responsible parties, that (a) the provider is pursuing the request for reconsideration; and (b) individuals and other interested parties may submit to <a href="mailto:HCPF_PTP@hcpf.state.co.us">HCPF_PTP@hcpf.state.co.us</a> arguments or evidence for, against, or otherwise relevant to a provider’s request for reconsideration within 14 days after the due date for the provider’s submission.											
17.	The Department will complete its reconsideration of any settings as to which providers have submitted timely and complete requests for reconsideration.	9/28/2022	11/17/2022 (Adult Residential and Children’s Residential) and 12/16/2022 (Nonresidential)	The Department has identified the team that will resolve reconsideration requests. The team will include staff that have been extensively involved in implementing the HCBS Settings Final Rule over the past several years and at least one representative each from the Office of Community Living’s Benefits & Services Management and Case Management & Quality Performance Divisions. The team will meet weekly when reconsideration requests are pending to discuss each request. The team will resolve timely and complete requests for reconsideration under existing standards, as set forth in, e.g., the federal rule and the state’s codification of the federal rule, associated guidance issued by CMS and the Department, and the relevant PTP template. Requests that are not timely and/or are incomplete will be denied, subject to a very brief remediation opportunity if feasible in the circumstances.	<p>The Department will inform providers of its final determinations after informal reconsideration (if requested), and for noncompliant settings, it will reiterate that providers cannot accept new enrollees, must inform affected individuals of the need to transition, and will not be reimbursed by Medicaid after 3/17/23.</p> <p>Results will also be conveyed to individuals as follows:</p> <ul style="list-style-type: none"><li>• If the Department determines that the setting is in fact compliant, it will ask case managers to inform affected individuals (and/or their guardians or other legally responsible parties) that there is no need to arrange to receive services at a different setting or via a different funding source.</li><li>• If the Department’s original determination stands, it will initiate the individual transition process, as described in more detail below.</li></ul>										
<b>The Department expects the individual transition process to include the following steps:</b>															
18.	Reach out to individuals and their case managers (as well as guardians and any other identified responsible parties) to confirm they need to begin the process of transitioning from the affected setting to another setting or funding source.	10/1/2022	<p>Percentage of outreach completed:</p> <ul style="list-style-type: none"><li>• Adult Residential and Children’s Residential<ul style="list-style-type: none"><li>○ 25% - 10/27/22</li><li>○ 50% - 11/3/22</li><li>○ 75% - 11/10/22</li><li>○ 100% - 11/17/22</li></ul></li><li>• Nonresidential<ul style="list-style-type: none"><li>○ 25% - 11/25/22</li><li>○ 50% - 2/2/22</li><li>○ 75% - 12/9/22</li><li>○ 100% - 12/16/22</li></ul></li></ul>	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 source. This notification will also inform the individual of the Individual Transition Plan (ITP) process, described below.	<p>Final notices will be provided indirectly to affected individuals (and/or their guardians or other legally responsible parties) via their case managers.</p> <p>From the date that the Department conveys its final determinations, individuals will have at least four months to transition for residential settings, and at least three months to transition for nonresidential settings. This timeframe is shorter than that laid out in earlier versions of the STP and associated milestones. The principal reason for this compression is the need to allow providers more time to finish updating their PTPs, given their struggles to complete this work while dealing with the COVID-19 pandemic and the direct care workforce crisis. The Department’s expectation is that maximizing the time available to providers to complete their updates will minimize the number of settings ultimately determined to be noncompliant and the number of individuals who will need to transition. Therefore, this approach should reduce unnecessary burdens on everyone. For individuals who do need to transition, the Department expects that case management support will be improved if fewer individuals are affected, making the shorter timeframe feasible for affected individuals.</p> <p>As of 6/1/22, approximately 167 individuals may need to transition, principally from nonresidential settings:</p> <table><tr><th colspan="2">Approximate number of individuals that may have to transition (based on providers’ self-reported number of waiver members served at settings in Compliance Statuses 3 or 6)</th></tr><tr><td>Adult residential</td><td>8</td></tr><tr><td>Children’s residential</td><td>0</td></tr><tr><td>Nonresidential</td><td>159</td></tr><tr><td><b>TOTAL</b></td><td><b>167</b></td></tr></table>	Approximate number of individuals that may have to transition (based on providers’ self-reported number of waiver members served at settings in Compliance Statuses 3 or 6)		Adult residential	8	Children’s residential	0	Nonresidential	159	<b>TOTAL</b>	<b>167</b>
Approximate number of individuals that may have to transition (based on providers’ self-reported number of waiver members served at settings in Compliance Statuses 3 or 6)															
Adult residential	8														
Children’s residential	0														
Nonresidential	159														
<b>TOTAL</b>	<b>167</b>														
19.	Case managers will prepare an Individual Transition Plan (ITP) with each individual that resides in or receives services at a setting that has been finally determined noncompliant/not able to timely comply/not approved if CMS’s approval under heightened scrutiny is required.	11/1/2022	<p>Percentage of ITPs prepared:</p> <ul style="list-style-type: none"><li>• Adult Residential and Children’s Residential<ul style="list-style-type: none"><li>○ 25% - 11/28/22</li><li>○ 50% - 12/5/22</li><li>○ 75% - 12/12/22</li><li>○ 100% - 12/19/22</li></ul></li></ul>	The Department will require case managers to prepare an Individual Transition Plan (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 (see Row 18). 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).	<p>The Department will develop an ITP template with input from stakeholders. The ITP will include assurances that the individual received reasonable notice and due process in their transition; that they were given the opportunity, information, and supports to make an informed choice of an alternate setting; and that critical services/supports are in place in advance of their transition. Through the ITP process, for which the case manager will be responsible, individuals will be provided sufficient communication and support (including options among compliant settings), critical services and supports will be in place for the individual prior to transition, and there will be no disruption of services during the transition period.</p> <p>Depending on the circumstances of the move, Transition Support Services (including wraparound planning and monitoring/follow-up) may be available for CHRP participants.</p>										





	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
			<ul style="list-style-type: none"> <li>• Nonresidential               <ul style="list-style-type: none"> <li>○ 25% - 12/27/22</li> <li>○ 50% - 1/3/23</li> <li>○ 75% - 1/10/23</li> <li>○ 100% - 1/17/23</li> </ul> </li> </ul>		
20.	ITPs will be implemented, such that individuals no longer receive Medicaid-funded services at settings that are (a) noncompliant or (b) still awaiting required heightened scrutiny approval.	12/1/2022	Percentage of ITPs that have been implemented: <ul style="list-style-type: none"> <li>• Adult Residential and Children's Residential               <ul style="list-style-type: none"> <li>○ 25% - 2/1/22</li> <li>○ 50% - 2/17/23</li> <li>○ 75% - 3/1/23</li> <li>○ 100% - 3/17/23</li> </ul> </li> <li>• Nonresidential               <ul style="list-style-type: none"> <li>○ 25% - 2/1/23</li> <li>○ 50% - 2/17/23</li> <li>○ 75% - 3/1/23</li> <li>○ 100% - 3/17/23</li> </ul> </li> </ul>	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. See Row 15, above.	Through this process, waiver participants will be supported in stable, well-planned transitions to settings that comply with the federal requirements. All individual transitions to other settings or funding sources, if needed, will be completed by 3/17/2023.
21.	Transition assistance and weekly check-ins by case manager continue for 30 days after individual's transition to ensure a stable relocation.	12/1/2022	4/17/2023	The Department will ask case managers to check in with affected individuals weekly throughout the first month post-transition, subject to requests by individuals for more or less support.	Through this process, waiver participants will be supported in stable, well-planned transitions to settings that comply with the federal requirements.

**Program Component 3: Systemic assessment and remediation of existing Colorado statutes, regulations, waivers, and other authorities**


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
<b>Systemic assessment of legal authorities and processes to identify necessary changes</b>					
22.	Review 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; prepare crosswalk summarizing this analysis and recommending any changes necessary to achieve compliance.	5/21/2014; further review and updates have been ongoing	Completed 4/15/2016; updated 12/16/16; supplement completed 11/12/20; final updated and merged version	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 results of this analysis have been presented for public comment and CMS review in earlier versions of the systemic assessment crosswalk.  As part of the Open Meeting Series (see Rows 10 (sub-row with rights modification details), 29, and 67), the Department shared with stakeholders a supplemental crosswalk addressing questions raised by stakeholders about provisions in existing rule relating to measures such as restraints, restrictive procedures, and rights suspensions. The supplemental	The most <a href="#">recent published version of the crosswalk</a> , dated 12/16/16, is available on the Department's <a href="#">website</a> under the header "Systemic Assessment Crosswalk."  Statutory changes identified in that version of the crosswalk have been made, as discussed further below.  Colorado's codification of the federal rule has been adopted, as discussed further below.


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
			expected 7/1/2022	<p>crosswalk lays out the text of relevant statutory and regulatory provisions, along with the Department's thinking on language to be retained, modified, or deleted.</p> <p>The Department plans to update both the original and supplemental crosswalks and merge them into a single document. Principal changes from prior versions will include:</p> <ul style="list-style-type: none"> <li>• Updates to reflect codification of Colorado's version of the federal rule;</li> <li>• Updates to reflect other changes made to Colorado's statutes, regulations, and waivers over the past several years, including (a) statutory and regulatory changes identified in the previously published version of the crosswalk, (b) rewriting and renumbering of various existing rules, and (c) updates to waivers;</li> <li>• Revisions to take into account feedback from the public and CMS;</li> <li>• Renaming and consolidation of existing processes for restrictive procedures and rights suspensions into the federal rights modification terminology and process; and</li> <li>• Other refinements to the regulatory changes needed to conform Colorado's rules to the HCBS Settings Final Rule, in light of CMS guidance provided over the past several years and lessons learned from the site-specific assessment process, the development of Frequently Asked Question (FAQ) issuances, and more.</li> </ul>	
23.	Provide public notice of crosswalk.	4/15/2016; further public comment periods have occurred, with the next and final expected to start 2/13/23	Completed 5/5/2016; updated 12/30/16; next and final informal public comment period expected to end 3/14/2023	The Department's process for publicly noticing the final updated, merged version of the crosswalk is described in Row 40.	<p>Pursuant to CMS instructions (emailed 12/17/21), the final updated, merged systemic assessment crosswalk will be put out for public comment and submitted to CMS after this final STP is put out for public comment and submitted to CMS.</p> <p>As explained below (above Rows 39 and 51), the Department plans to make a handful of critical changes to existing rules and waivers before the end of the transition period. As these changes are small in number and relatively straightforward, and were mostly identified in previously published versions of the crosswalk, an updated crosswalk is not needed to understand them.</p> <p>Additional, noncritical changes will be made as part of a larger rule/waiver overhaul process and will go into effect after the end of the transition period. The final updated, merged crosswalk will be used as a roadmap for making these remaining changes. The Department plans to put out the updated crosswalk and the proposed noncritical regulatory changes for informal public comment at the same time, as the documents complement each other. Proposed rule and waiver changes will then go through formal public comment processes, as detailed below.</p>
24.	Submit amended crosswalk to CMS.	5/5/2016; further submissions have been made	Completed 6/30/2016; updated 12/16/16; next and final submission expected to be made 6/13/2023	The final updated, merged systemic assessment crosswalk will be submitted to CMS after the conclusion of the public comment period described in the preceding row.	The Department plans to summarize and respond to public comments on the final updated, merged systemic assessment crosswalk before it submits it to CMS.
<b>Implementing change(s) to statute</b>					
25.	Implement statutory change(s) as identified in crosswalk	1/12/2018	Completed 4/23/2018	The previous version of the systemic assessment crosswalk identified one statute, C.R.S. 13-21-117.5, for which changes regarding individuals' rights under landlord-tenant law and rights to person-centered planning prior to moves would be warranted. <a href="#">SB 18-174</a> , enacting these changes, was signed by the Governor on 4/23/18. The Department has not identified any other changes required to bring Colorado's statutes into compliance with the rule.	With this statutory change and the codification of Colorado's version of the HCBS Settings Final Rule, the only changes that remain to be made to ensure systemic compliance are to regulations and waivers, as provisionally identified in the previous version of the crosswalk and as will be finally identified in the updated, merged version of the crosswalk (forthcoming).


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes																								
Identifying and responding to cost impacts																													
26.	Provide sample PTPs to CMS and the federal Administration for Community Living (ACL)	5/15/2016	Completed 4/25/2017	The Department sent sample PTPs to CMS and ACL to ensure they were compliant with the federal rule. CMS had previously stated that it would review providers’ proposed remedial action plans to ensure that they were compliant with the federal rule.	The Department used this process to ensure that remedial action plans without cost impacts can be sufficient in some cases, and to better understand the need in CMS’s and ACL’s mind for any changes that may have significant cost impacts.																								
27.	Determine the potential cost impacts of implementing the HCBS Settings Final Rule; determine (a) whether a budget action is necessary and (b) whether any waiver amendments relating to cost impacts are necessary.	1/1/2017	Completed 3/25/2022	<p>The Department received some relevant information on potential provider cost impacts from the randomly selected site visits conducted by Telligen and CDPHE, public comments on prior versions of the STP and crosswalk, public comments submitted to the Medicaid Provider Rate Review Advisory Committee (MPRRAC), CMS’s and ACL’s feedback on PTPs, and stakeholder/provider/case manager meetings. This information was not sufficiently comprehensive or detailed to allow the Department to make a decision about whether a budget action and/or waiver amendment might be necessary.</p> <p>To obtain more comprehensive and detailed information about the potential cost impacts of the rule, the Department added more targeted fields to the PTP template. The fields allowed providers to specify, for each setting, their expected one-time and recurring costs of implementing their remedial action plans. The Department also pulled information from the BUS regarding rights modifications documented by case managers.</p>	<p>The Department has analyzed the cost-impact information reported by providers in their PTPs. To summarize:</p> <ul style="list-style-type: none"><li>As reported by providers, the great majority of settings (across PTP categories, setting types, and services provided) are encountering no costs to implement changes required by the HCBS Settings Final Rule. Specifically, for active PTPs as of 6/1/2022:</li></ul> <table><tr><th colspan="4">Percentage of settings in each PTP category for which providers reported no costs (\$0) to implement their remedial action plans</th></tr><tr><th>Remedial action plan/cost category</th><th>Adult residential</th><th>Children’s residential</th><th>Nonresidential</th></tr><tr><td>Rights and autonomy</td><td>78.27%</td><td>100.00%</td><td>91.47%</td></tr><tr><td>Informed choice</td><td>98.67%</td><td>100.00%</td><td>98.93%</td></tr><tr><td>Community integration</td><td>98.58%</td><td>100.00%</td><td>94.40%</td></tr><tr><td>Institutional characteristics</td><td>99.73%</td><td>100.00%</td><td>99.20%</td></tr></table> <ul style="list-style-type: none"><li>Where providers did identify costs in their PTPs, which was rare (as shown above), the reported costs are often unreliable or inappropriate (e.g., costs for the same expenditure being reported multiple times within the same PTP; costs for modest tasks being inflated by orders of magnitude; costs for unallowable items such as room and board; costs not directly attributable to the HCBS Settings Final Rule).</li><li>However, some reported expenditures may be directly related to implementing the rule and appropriate for reimbursement (e.g., actual incurred costs of installing and operating egress alert/restricted egress systems that are more individualized than previously required).</li></ul> <p>In light of the information received and verified to date, the Department has not seen any basis for an ongoing rate increase or one-time reimbursement process for any broad category of providers, settings, or services. Accordingly, the Department has not put forward a budget request or waiver amendment to provide for reimbursement of provider costs of implementing the HCBS Settings Final Rule.</p> <p>That said, the Department will consider more targeted options for supporting individual providers with appropriately identified and documented cost impacts, as verified through the PTP process. For example, the Department has observed that some states included HCBS Settings Final Rule-related provider expenses in their American Rescue Plan Act (ARPA) spending plans. Without making any commitments at this point, the Department will consider whether an update to Colorado’s ARPA spending plan may be warranted. The spending plan is subject to a stakeholder engagement, Joint Budget Committee approval, and CMS approval process.</p> <p>The Department is also monitoring cost impacts for case management agencies (CMAs), particularly in connection with rights modifications. To date, no significant cost impacts have been identified. Specifically, case managers at Single Entry Points (SEPs) have not yet been documenting in the BUS a significant number of rights modifications. Case managers at Community Centered Boards (CCBs) have, although perhaps not to the expected degree. These case managers were already required to spend time discussing, documenting, and working with Human Rights Committees (HRCs) regarding rights suspensions, restrictive procedures, and safety control procedures. That existing work, for which CCBs were already compensated, is being rolled up into—and appears to form the bulk of—work required for the newer rights modification process. Although some measures that previously did not require HRC review now require attention as rights modifications, the amount of new work is not well established. The Department will monitor all of this work as part of its ongoing, longer-term project to effect case management redesign and correspondingly update rates as needed.</p>	Percentage of settings in each PTP category for which providers reported no costs (\$0) to implement their remedial action plans				Remedial action plan/cost category	Adult residential	Children’s residential	Nonresidential	Rights and autonomy	78.27%	100.00%	91.47%	Informed choice	98.67%	100.00%	98.93%	Community integration	98.58%	100.00%	94.40%	Institutional characteristics	99.73%	100.00%	99.20%
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Institutional characteristics	99.73%	100.00%	99.20%																										
Codifying the HCBS Settings Final Rule in Colorado																													
28.	Conduct informal stakeholder engagement regarding HCBS Settings Final Rule codification (round 1)	8/27/19	Completed 6/10/20	In August 2019, the Department issued an <a href="#">Informational Memo</a> 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. In addition to	The workgroup met five times. Workgroup meeting minutes are available on the Department’s <a href="#">website</a> under the header “Stakeholder Engagement,” subheader “Rights Modification Stakeholder Workgroup Meetings.” These minutes and the Department’s Listening Log (which was periodically updated and shared with stakeholders and ultimately with the Medical Services Board (MSB)) reflect input received from workgroup participants (and eventually others), along with the Department’s responses.																								


	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				<p>circulating the Informational Memo via Constant Contact, the Department reached out to members of various stakeholder categories (e.g., advocates for people with IDD, advocates for other populations) in an effort to ensure broad-based participation and a diversity of viewpoints.</p> <p>At the kickoff meeting in December 2019, stakeholders identified their initial and main priority as developing rule language. The Department prepared an initial draft of Colorado’s codification of the HCBS Settings Final Rule, drawing on the systemic assessment crosswalk’s notes about provisions to be included in what were then identified as Rules AAA and BBB, CMS guidance provided after the crosswalk was last published, and learning from the site-specific assessment process and other developments about issues needing clarification in rule. The Department shared this Draft Rule with Rights Modification Stakeholder Workgroup members in January 2020.</p> <p>Throughout several subsequent meetings of the workgroup, stakeholders asked questions about and provided feedback on each section of the Draft Rule. In June 2020, the Department circulated to workgroup members an updated Draft Rule, reflecting input from the group, along with an in-progress Listening Log and a draft informed consent template with built-in guidance for providers and case managers.</p>	In addition to the Draft Rule, the workgroup identified and worked on other priorities, such as the informed consent template (see Rows 3, 10 (sub-row with rights modification details), and 67) and topics for additional trainings (see Rows 65 and 67).
29.	Conduct informal stakeholder engagement regarding HCBS Settings Final Rule codification (round 2)	6/11/20	Completed 1/13/21	In August 2020, the Department issued an <a href="#">Informational Memo</a> inviting interested stakeholders to participate in an Open Meeting series to continue developing the Draft Rule and informed consent template. The Informational Memo noted that “[a]lthough the Rights Modification Stakeholder Workgroup has concluded, the Department wants to continue hearing from a diverse group of stakeholders about these materials. . . . All are welcome!”	<p>There were five Open Meetings, held from August 2020 through January 2021. The Department’s Listening Log reflects input received from Open Meeting series participants (and others), along with the Department’s responses.</p> <p>By the end of this extensive, informal stakeholder engagement process, the Department’s Draft Rule was in relatively final form. It provided clarifications and details on a wide range of issues, based on stakeholder questions and comments.</p>
30.	Submit Rule Work Order and Executive Order 05 Worksheet (regarding impact on local government) to MSB Coordinator	1/14/21	Completed 2/16/21	MSB Coordinator provided a correctly formatted Word document in which the Draft Rule text could be placed. The MSB Coordinator also made available the remaining rule packet documents (e.g., notice of proposed rulemaking) and consulted with local governments and the Office of State Planning and Budgeting (OSPB).	The materials were completed, cleared, and/or circulated as required.
31.	Prepare and clear final rule, MSB Rule Packet, and response to public comments; submit cleared materials to MSB Coordinator	2/17/21	Completed 9/1/21	Once the packet was cleared by the Office of Community Living’s (OCL’s) Office Director, it was sent to Budget and Program Integrity for their review and approval. After all appropriate reviewers had approved, the rule packet was sent to OCL’s Office Director for final approval, then forwarded to the MSB Coordinator. The MSB Coordinator submitted the notice of proposed rulemaking to the Secretary of State’s Office by the last working day of the month.	The materials were completed, cleared, and/or circulated as required.
32.	Notice of proposed rulemaking issued to public; draft of proposed rule submitted to Department of Regulatory Agencies (DORA)	9/2/21	Completed 9/19/21	The notice of proposed rulemaking was published in the Colorado Register. The Department also engaged in a Tribal Consultation process.	<p>The materials were completed, cleared, and/or circulated as required.</p> <p>The MSB Coordinator also reached out to the Attorney General’s office for confirmation of the constitutionality and legality of the rule and later submitted the rule with this feedback to the Office of Legislative Counsel.</p>
33.	Public Rule Review Meeting (PRRM)	9/20/21	Completed 9/20/21	The PRRM was another opportunity for stakeholder engagement, after the two rounds of informal stakeholder engagement noted above and before the formal Medical Services Board (MSB) meetings described below. Because of the COVID-19 pandemic, the PRRM was conducted via email only.	<p>The Department’s proposed codification of the HCBS Settings Final Rule was posted for public comment.</p> <p>Public Rule Review Meeting - September 20, 2021</p> <ul style="list-style-type: none"> <li>• <a href="#">Agenda</a></li> <li>• <a href="#">Draft Rule</a></li> <li>• <a href="#">Rule author contact information</a></li> </ul>
34.	MSB Initial Approval	10/8/21	Completed 10/8/21	Before the meeting, the Department made available to the MSB and the public the proposed rule, together with a proposed statement of basis, specific statutory authority, purpose, and any requested regulatory analysis. During the meeting, the Department provided the MSB with an overview of the federal rule and the state’s codification of the rule.	<p>MSB Initial Adoption - October 8, 2021</p> <ul style="list-style-type: none"> <li>• <a href="#">Agenda</a></li> <li>• <a href="#">Proposed Rule</a></li> <li>• <a href="#">Presentation</a></li> </ul>




	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
					<ul style="list-style-type: none"> <li><a href="#">Minutes</a></li> </ul> <p>In connection with this presentation, the Department received two public comments (one during the meeting and one via email). The Department responded to the public comments during the meeting and via email. The Department also added these comments and its responses to the Listening Log.</p> <p>The MSB expressed appreciation for the Department’s extensive stakeholder engagement process, as reflected in the lengthy Listening Log shared with the MSB, and it initially adopted the rule.</p>
35.	MSB Final Adoption	11/12/21	Completed 11/12/21	Before the meeting, the Department made an updated rule available to the MSB. Updates reflected suggested clarifications from the Attorney General’s office along with some other corrections/adjustments. During the meeting, the Department provided the MSB with a brief summary of the rule and changes made since the initial adoption.	<p>MSB Final Approval - November 12, 2021</p> <ul style="list-style-type: none"> <li><a href="#">Agenda</a></li> <li><a href="#">Proposed Rule</a></li> <li><a href="#">Minutes</a></li> </ul> <p>In connection with this presentation, the Department received one public comment (via email). The Department responded to this comment during the meeting and via email. The Department also added this comment and its response to the Listening Log.</p> <p>The MSB adopted the rule.</p>
36.	Rule filed with Secretary of State	11/30/21	Completed 11/30/21	The MSB Coordinator filed the Attorney General’s opinion with the Secretary of State’s Office by the last working day of the month.	The materials were completed, cleared, and/or circulated as required.
37.	Rule published in Colorado Register	12/10/21	Completed 12/10/21	The adopted rule was published in the Colorado Register on the 10th of the month.	<p>Colorado Register - Volume 44 , No. 23 - December 10, 2021</p> <ul style="list-style-type: none"> <li><a href="#">Table of Contents</a></li> <li><a href="#">Rule</a></li> </ul>
38.	Rule becomes effective	1/10/22	Completed 1/10/22	The rule went into effect 30 days after its publication in the Colorado Register.	<p>Code of Colorado Regulations - January 10, 2022</p> <ul style="list-style-type: none"> <li><a href="#">New 10 CCR 2505-10 section 8.484</a></li> <li><a href="#">Excerpt containing just the new rule language</a></li> </ul>
<p><b>Implementing changes to other, existing Department/Medical Services Board (MSB) regulations</b></p> <p>This section details two timelines. The first is for implementing a handful of critical changes required to eliminate actual or apparent conflicts with the HCBS Settings Final Rule (for example, eliminating regulatory language that provides for certain services to be provided in “non-integrated” or “segregated” settings). To ensure statewide compliance with the federal rule, these rule changes will go into effect before the end of the transition period (and some already have gone into effect).</p> <p>The second timeline relates to noncritical changes that will eliminate duplication of regulatory language and streamline processes and procedures (for example, rolling up existing terminology and processes for restrictive procedures and rights suspensions into the federal rights modification terminology and process). The Department plans to make these changes as part of a larger overhaul of many rules administered by the Office of Community Living (OCL). The larger overhaul is expected to include a number of de-duplication, streamlining, and other changes, such as changes related to <a href="#">case management redesign (CMRD)</a>, that are not necessarily driven by the HCBS Settings Final Rule. Although the noncritical changes are expected to make compliance with the federal rule easier for affected providers and case management agencies, they are not essential for compliance and therefore do not need to be made before the end of the transition period. To avoid making serial major changes to its rules, OCL will defer the HCBS Settings Final Rule-related noncritical changes until the larger overhaul occurs.</p>					
39.	Prepare and clear initial draft of rule changes	4/1/2022 for critical changes; 7/1/2022 for noncritical changes	7/14/2022 for critical changes; 9/1/2022 for noncritical changes	The Department will prepare its initial draft of amended rules using the final updated, merged systemic assessment crosswalk (forthcoming; see Rows 22-24) as a roadmap and drawing on feedback from CMS and the public.	The draft rule changes will reflect the redlines (changes) identified in the final updated, merged systemic assessment crosswalk. These changes will be directed first toward resolving actual or apparent conflicts with the federal rule or with the state’s codification of the rule (critical changes); and later toward eliminating redundancies and streamlining the regulatory environment for waiver participants, providers, and CMAs (noncritical changes).
40.	Release draft rule changes for informal public comment period	7/15/2022 for critical changes; 2/13/2023 for noncritical changes	8/14/2022 for critical changes; 3/14/2023 for noncritical changes	By the Start Date at left, the Department will initiate an informal stakeholder engagement period by emailing an Informational Memo to the Intellectual and Developmental Disability Stakeholders list and the Long-Term Services & Supports Stakeholders list (via Constant Contact) and to the stakeholders who participated in the Rights Modification Stakeholder Workgroup and/or the Open Meeting Series. The Informational Memo will explain to stakeholders how they can comment on the proposed rule changes and, in connection with the noncritical changes, on the final updated, merged systemic assessment crosswalk. The Department will also make announcements about the draft rule changes on its website and at stakeholder meetings. The Department will receive and address informal public input through the End Date at left.	<p>As noted above (see Row 23), the Department plans to put out the updated crosswalk and the proposed noncritical regulatory changes for informal public comment at the same time, as the documents complement each other.</p> <p>The Department has already received informal stakeholder input on potential changes to existing regulations, beyond those addressed in the Systemic Assessment Crosswalk. For example, as noted above (see Row 22), conversations during the Open Meeting Series led the Department to create and share a supplemental crosswalk. By the end of the additional informal stakeholder engagement process described at left, the Department expects to be able to put its proposed rule changes into relatively final form. Proposed rule changes will then go through formal public comment and the MSB process, as described below.</p>
41.	Submit Rule Work Order and Executive Order 05 Worksheet	8/15/2022 for critical changes; 3/15/2023 for	8/30/2022 for critical changes; 3/31/2023 for	The MSB Coordinator will provide a correctly formatted Word version of the current official rule text and make available the remaining rule packet	The materials will be completed, cleared, and/or circulated as required.

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
	(regarding impact on local government) to MSB Coordinator	noncritical changes	noncritical changes	documents (e.g., notice of proposed rulemaking). The Word version will be edited in track changes.  The MSB Coordinator's office will consult with local governments about impact on local governments and get written notice of compliance from OSPB.	
42.	Prepare and clear final rule changes, MSB Rule Packet, and response to public comments; submit cleared materials to MSB Coordinator	8/31/2022 for critical changes; 4/1/2022 for critical changes	10/31/2022 for critical changes; 5/31/2023 for noncritical changes	Once the packet has been cleared through OCL's Office Director, it is sent to Budget and Program Integrity for their review and approval. After all appropriate reviewers have approved, a rule packet is sent to OCL's Office Director for final approval, then forwarded to the MSB Coordinator. The MSB Coordinator submits the notice of proposed rulemaking to the Secretary of State's Office by the last working day of the month.	The materials will be completed, cleared, and/or circulated as required.
43.	Notice of proposed rulemaking issued to public; draft of proposed rule changes submitted to DORA	11/10/2022 for critical changes; 6/10/2023 for noncritical changes	11/10/2022 for critical changes; 6/10/2023 for noncritical changes	Notice of proposed rulemaking will be published in Colorado Register on the 10th of the month. The Department will also engage in a Tribal Consultation process.	The materials will be completed, cleared, and/or circulated as required.
44.	Public Rule Review Meeting (PRRM)	11/14/2022 for critical changes; 6/19/2023 for noncritical changes	11/14/2022 for critical changes; 6/19/2023 for noncritical changes	The PRRM is another opportunity for stakeholder engagement, after the informal stakeholder engagement noted above and before the formal Medical Services Board (MSB) meetings described below. Because of the COVID-19 pandemic, the PRRM may be conducted via email only.	The Department will review and respond to comments received in connection with the PRRM.
45.	Final version of rule changes prior to Medical Services Board (MSB) hearing made available	12/2/2022 for critical changes; 7/7/2014 for noncritical changes	12/2/2022 for critical changes; 7/7/2014 for noncritical changes	The Department will make available to the MSB and the public the actual proposed rule changes, together with a proposed statement of basis, specific statutory authority, purpose, and any requested regulatory analysis.  The MSB Coordinator will obtain the Attorney General's confirmation of the constitutionality and legality of the rule changes and will submit the rule with this feedback to the Office of Legislative Counsel.	The materials will be completed, cleared, and/or circulated as required.
46.	MSB Initial Approval	12/9/2022 for critical changes; 7/14/2023 for noncritical changes	12/9/2022 for critical changes; 7/14/2023 for noncritical changes	MSB hearings are held on the second Friday of the month, except as adjusted for holidays.	The Department will review and respond to comments received in connection with the initial approval.
47.	MSB Final Adoption	1/13/2023 for critical changes; 8/11/2023 for noncritical changes	1/13/2023 for critical changes; 8/11/2023 for noncritical changes	MSB hearings are held on the second Friday of the month, except as adjusted for holidays.	The Department will review and respond to comments received in connection with the final adoption.
48.	Rule filed with Secretary of State	1/13/2023 for critical changes; 8/31/2023 for noncritical changes	1/31/2023 for critical changes; 8/31/2023 for noncritical changes	The MSB Coordinator will file the rule changes and Attorney General's opinion with the Secretary of State's Office by the last working day of the month.	The materials will be completed, cleared, and/or circulated as required.
49.	Rule published in Colorado Register	2/10/2023 for critical changes; 9/10/2023 for noncritical changes	2/10/2023 for critical changes; 9/10/2023 for noncritical changes	The adopted rule will be published in the Colorado Register on the 10th of the month.	The materials will be completed, cleared, and/or circulated as required.
50.	Rule becomes effective	3/10/2023 for critical changes; 10/10/2023 for noncritical changes	3/10/2023 for critical changes; 10/10/2023 for noncritical changes	The rule will become effective 30 days after its publication in the Colorado Register.	The result will be a regulatory environment that is clear, consistent, and in compliance with the HCBS Settings Final Rule.

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
<b>Amending waivers</b>  This section details two timelines, along the lines of those discussed above Row 39. The first is for implementing a handful of critical changes required to eliminate actual or apparent conflicts with the HCBS Settings Final Rule (for example, eliminating waiver language that provides for certain services to be provided in “non-integrated” settings or “enclaves”). To ensure statewide compliance with the federal rule, these waiver changes will go into effect before the end of the transition period.  The second timeline relates to noncritical changes that will update and conform each waiver to the updated regulations resulting from OCL’s planned rule overhaul. These waiver updates are not essential for compliance with the HCBS Settings Final Rule and therefore do not need to be made before the end of the transition period. To avoid making serial major changes to its waivers, OCL will defer the HCBS Settings Final Rule-related noncritical changes until the larger overhaul occurs.					
51.	Draft and clear public notice and waiver amendment(s) and submit for internal clearance	5/1/2022 for critical changes; 10/13/2023 for noncritical changes	7/28/2022 for critical changes; 1/11/2024 for noncritical changes	Possible waiver amendments may include: <ul style="list-style-type: none"> <li>Changes to service descriptions and other language as identified in the final updated, merged systemic assessment crosswalk (forthcoming); and</li> <li>Additional changes to Quality Improvement Strategy (QIS) performance measures, if needed and identified in the final updated, merged systemic assessment crosswalk (forthcoming). Some such changes, relating to restrictive interventions, were made as part of the Spring 2021 waiver amendment cycle (see Row 71).</li> </ul>	The draft waiver amendments will reflect the redlines (changes) identified in the final updated, merged systemic assessment crosswalk. These changes will be directed first toward resolving actual or apparent conflicts with the federal rule or with the state’s codification of the rule (critical changes); and later toward eliminating redundancies and streamlining the waiver environment for waiver participants, providers, and CMAs (noncritical changes).
52.	Email cleared public notice and waiver amendment(s) to MSB Coordinator	7/29/2022 for critical changes; 1/12/2024 for noncritical changes	7/29/2022 for critical changes; 1/12/2024 for noncritical changes	Within OCL, the Waiver Administration and Compliance unit manages a twice-yearly (spring and fall) waiver amendment cycle. The dates for critical waiver amendments at left are for the Fall 2022 cycle; the dates for the noncritical waiver amendments are for the Spring 2024 cycle. Other waiver amendments, unrelated to the HCBS Settings Final Rule, may be put forward at the same time. The MSB Coordinator also helps with this process.	The materials will be completed, cleared, and/or circulated as required.
53.	MSB Coordinator submits public notice to Colorado Register (1st and 15th of each month); Department staff submit notice to newspapers; Department staff post notice on Department website and email it to various stakeholder lists	7/30/2022 for critical changes; 1/15/2024 for noncritical changes	8/1/2022 for critical changes; 1/15/2024 for noncritical changes	OCL’s Waiver Administration and Compliance unit and the MSB Coordinator will assist with this effort.	The materials will be completed, cleared, and/or circulated as required.
54.	Colorado Register publishes notice (posts on the 10th and 25th of each month); newspapers publish notice	8/10/2022 for critical changes; 1/25/2024 for noncritical changes	8/10/2022 for critical changes; 1/25/2024 for noncritical changes	OCL’s Waiver Administration and Compliance unit and the MSB Coordinator will assist with this effort.	The materials will be completed, cleared, and/or circulated as required.
55.	Tribal Consultation process and public comment period	8/10/2022 for critical changes; 1/25/2024 for noncritical changes	9/10/2022 for critical changes; 2/25/2024 for noncritical changes	OCL’s Waiver Administration and Compliance unit and the MSB Coordinator will assist with this effort.	The Department will review and respond to comments received in connection with the Tribal Consultation process.
56.	Review and respond to public and tribal comments; revise waiver amendment(s) as appropriate	9/11/2022 for critical changes; 2/26/2025 for noncritical changes	9/16/2022 for critical changes; 3/5/2025 for noncritical changes	OCL’s Waiver Administration and Compliance unit and the MSB Coordinator will assist with this effort.	The Department will review and respond to comments received in connection with the public comment process.
57.	Submit proposed waiver amendment(s) to CMS	9/16/2022 for critical changes; 3/6/2024 for noncritical changes	9/16/2022 for critical changes; 3/15/2024 for noncritical changes	OCL’s Waiver Administration and Compliance unit and the MSB Coordinator will assist with this effort.	After the Department submits the proposed waiver amendment(s) to CMS, it will work with CMS to resolve any Informal Requests for Additional Information (IRAls).
58.	Amended waiver(s) effective with CMS approval	1/1/2023 for critical changes; 7/1/2024 for noncritical changes	N/A	The Department will request an effective date of January 1, 2023 for any critical waiver amendments. The effective date may be delayed in the event of formal Requests for Additional Information (RAIs).	The result will be a waiver environment that is clear, consistent, and in compliance with the HCBS Settings Final Rule.

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
<b>Systemic updating of authorities, policies, and procedures other than statutes, regulations, and waivers</b>					
59.	To the extent not already addressed in systemic assessment crosswalk, work with other agencies as appropriate to analyze existing provider enrollment/re-enrollment, validation, survey, quality assurance, licensure, and certification standards, processes, and frequency; to determine where changes could be made to promote and monitor ongoing compliance with HCBS Settings Final Rule requirements, both for current providers and new/potential providers; and to implement such changes.	10/1/2017	Completed 3/1/2018	<p>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. 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"> <li>• Issuance of guidance for new/potential providers;</li> <li>• Changes to both agencies' websites and materials sent to providers and prospective providers seeking to add/expand their HCBS offerings; and</li> <li>• 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).</li> </ul>	<p>To ensure that new providers, which were not part of the transition period, were compliant with the HCBS Settings Final Rule from the outset, and to clarify the applicability of the rule and transition period in general, the Department published a Communication Brief in November 2017.</p> <p>To enhance awareness of and compliance with the rule among prospective and current providers, the Department and CDPHE updated some sections of their websites, provider enrollment/initial survey materials, routine quality assurance survey materials and processes, and other materials to reflect expectations regarding compliance with the HCBS Settings Final Rule (including prior to Colorado's codification of its version of the rule).</p> <p>In addition, CDPHE's routine survey staff and HCBS Settings Final Rule site-specific assessment staff cross-trained with each other. Routine survey staff were trained on settings rule expectations and for several years have been joined by site-specific assessment staff for initial surveys of new providers (as well as other survey matters as needed).</p>
60.	To the extent not already addressed in systemic assessment crosswalk, work with CDHS to analyze existing policies for CHRP settings; to determine where changes could be made to promote compliance with HCBS Settings Final Rule requirements; and to implement such changes.	4/1/2015	Completed 5/9/2022	This project relates to children and youth served by the CHRP Waiver. Out-of-home placements under this waiver are subject both to Medicaid requirements (including the CHRP Waiver, implementing regulations, and the HCBS Settings Final Rule) and to child welfare requirements. The Department worked with the Colorado Department of Human Services (CDHS) to analyze the intersection of these requirements, and both departments worked with CHRP providers to identify points of confusion or apparent tension. Based on this information, the Department and CDHS determined that changes to existing authorities were not needed (beyond those summarized at right); however, they also determined that providers could use additional guidance. The departments worked together to draft and publish a <a href="#">Joint Memo</a> laying out a unified approach to compliance with all of the applicable authorities. The Joint Memo gives CHRP providers a set of overarching principles and processes for resolving questions and concerns, as well as a number of examples for applying this guidance to common issues.	Before the development of the Joint Memo, the Department and CDHS worked to implement a number of changes to the CHRP Waiver that, while not strictly required by the HCBS Settings Final Rule, promoted some of the values of the rule. These changes included moving administration of the waiver from CDHS to HCPF, which is more familiar with the rule and related CMS guidance; removing the requirement that participating children and youth be in child welfare, thus allowing participants to choose to be served in their own/family homes; and moving case management from county child welfare case workers to Community Centered Boards (CCBs), which are versed in person-centered planning and practices. The <a href="#">Joint Memo</a> was published on May 9, 2022.
61.	Publish/implement revisions to departmental manuals, provider agreements, websites, and other materials to promote compliance with HCBS Settings Final Rule requirements.	11/2/2017	10/10/2023	As noted above, the Department overhauled its <a href="#">HCBS Settings Final Rule</a> website in March 2017, has routinely updated the site since then, and completed a major updating and streamlining effort in October 2021 to mitigate the large volume of accumulated information and resources. The Department has also updated other areas of its public website to include, where relevant, links to the HCBS Settings Final Rule site and related materials. The Department has also updated the supplements to its <a href="#">Member Handbook</a> to reflect its waiver programs' compliance with the rule. The Department determined that no changes to the Provider Participation Agreement were needed.	Most necessary changes have been made, as described at left. In working with stakeholders, the Department identified additional changes that could be made to forms currently used in connection with the Human Rights Committee (HRC) review process. Specifically, rights modifications can be added to the currently reviewed rights suspensions and restrictive procedures. Later, following the noncritical rule updates described in Rows 39-50 (expected to be effective by 10/10/23), rights suspensions and restrictive procedures can be eliminated from the HRC forms, as these concepts will be rolled up into rights modifications.
62.	Design and implement procedures so that the Department does not pay for HCBS services rendered at noncompliant settings.	6/1/2022	3/17/2023	<p>Throughout the site-specific assessment process, the Department has sent numerous reminders and notices to providers with overdue PTPs/updates or settings in noncompliant Compliance Statuses, stating (in part) that it will not pay for services rendered at noncompliant settings after the end of the transition period. As described in Rows 15 and 17, provisional and final (post-reconsideration) notices to providers will reiterate that they cannot accept new enrollees, must inform affected individuals of the need to transition, and will not be reimbursed by Medicaid after 3/17/23. Further, as described in Rows 18-21, the ITP process will ensure that affected individuals are successfully served in other settings/via other funding sources by 3/17/23.</p> <p>In addition, as a backstop, the Department expects to send manual transmittals to Gainwell Technologies and/or implement other avenues of ensuring that payments are not made for HCBS at settings that are not</p>	Medicaid reimbursement will not be paid for HCBS at noncompliant settings, effective no later than 3/17/2023.




	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				compliant or, if subject to heightened scrutiny review by CMS, have not received CMS approval by 3/17/23.	
Ensuring access to non-disability-specific and private settings					
63.	Confirm that at the system-wide level, individuals are able to choose non-disability specific settings and private residential units if they prefer.	12/10/21	Completed 3/25/2022	<p>Consistent with the HCBS Settings Final Rule, the Department analyzed whether individuals are able to (a) choose services in non-disability specific settings and (b) choose to reside in private rooms/units if their resources allow (at the statewide level, meaning that not every provider or setting must offer private rooms, for example). The Department confirmed that these options are open to all waiver participants.</p> <p>As an initial matter, in all of Colorado’s waivers, participants may choose to live in their own Personal/Family Homes, and in some, they may choose to live in Foster Care, Kinship, or Host Homes. These homes are not disability-specific. They are simply typical apartments or houses in the community. They may include a range of occupancy arrangements, from single-occupancy (private unit) to multiple private bedrooms to shared bedrooms. Therefore, individuals always have a choice to be served in non-disability specific settings and to reside in private rooms/units.</p> <p>As a supplement to this point, the Department analyzed the other types of settings affected by the HCBS Settings Final Rule, as listed in the Executive Summary at the top of the STP. As shown in the notes at right, other setting types are not necessarily disability-specific, may offer a private room/unit option (if residential), and in any event, have alternatives allowing individuals’ needs to be met elsewhere at their election.</p> <p>In Colorado’s <a href="#">American Rescue Plan Act (ARPA) Spending Plan</a>, the Support Post-COVID Recovery &amp; HCBS Innovation category includes several initiatives to build statewide capacity to serve individuals in non-disability-specific settings and/or private residential units. These include, for example:</p> <ul style="list-style-type: none"> <li>• Supporting assisted living facilities and group homes to create more single-occupancy rooms;</li> <li>• Piloting the Community Aging in Place - Advancing Better Living for Elders (CAPABLE) project to support HCBS members to remain at home;</li> <li>• Temporarily increasing home modification budgets to enable more people to be served in their own homes; and</li> <li>• Expanding access to personal care services (via Community First Choice (CFC)) to enable more people to be served in their own homes and communities.</li> </ul> <p>In addition, a number of other initiatives in the ARPA Spending Plan are aimed at innovation and transformative change. Learning from these initiatives may inform additional capacity-building efforts.</p> <p>The Department has also enhanced individuals’ access to non-disability-specific settings by making permanent certain <a href="#">transition services</a> identified as successful during the <a href="#">Money Follows the Person (MFP) demonstration</a>. Details on this and many other initiatives may be found in <a href="#">Colorado’s Community Living Plan (Olmstead Plan) and related updates</a>.</p>	<p>These requirements are satisfied as follows:</p> <ul style="list-style-type: none"> <li>• Alternative Care Facilities (ACFs), Group Homes, Supported Living Programs (SLPs), and Transitional Living Programs (TLPs): although most if not all residents have disabilities, these settings are required to support residents in community integration. This includes not only support for engaging with non-disabled people out in the community, but also for engaging with them in on-site activities and as visitors. Some of these settings include options for private rooms or units. In addition, individuals may choose alternative services that support them to live in their own Personal/Family Homes (e.g., depending on the waiver, Consumer-Directed Attendant Support Services (CDASS), Home Delivered Meals, Home Modification, Homemaker Services, In-Home Support Services (IHSS), Medication Reminder, Non-Medical Transportation, Personal Care, and/or Personal Emergency Response System (PERS)).* In the DD Waiver, individuals may also choose instead to live in a Host Home. All of these alternative settings are not disability-specific and include options for private rooms or units.</li> <li>• Specialized Group Facilities and Residential Child Care Facilities (RCCFs): although these homes are not fully typical, in that the occupants are in (or at risk of being placed in) the child welfare system, they are not disability-specific. A given home may include a mix of occupants with and without disabilities. Some of these settings may include options for private rooms or units. In addition, the CHRP Waiver allows participants to choose to live in their own Personal/Family Homes, Foster Care/Kinship Home, or (if old enough) Host Homes. All of these alternatives are not disability-specific and include options for private rooms or units.</li> <li>• Adult Day, Day Treatment, and Specialized Habilitation: although generally provided at centers that are mostly attended by adults with disabilities, these services are required to support participants in community integration, as detailed above for ACFs, etc. In addition, individuals may choose alternative services that support daytime activities in their own Personal/Family Homes or other typical, non-disability-specific locations in the community (e.g., depending on the waiver, CDASS, Home Delivered Meals, IHSS, Personal Care, and Supported Community Connections).</li> <li>• Supported Employment: individuals may choose to receive these services in locations that are not disability-specific, such as typical businesses in the community.</li> </ul> <p>* The Department acknowledges the U.S. Department of Justice’s (DOJ’s) <a href="#">Olmstead letter</a> (March 3, 2022), which states, among other things, that “[i]ndividuals with physical disabilities, most of whom are on the EBD waiver, cannot access 24-hour, seven-days-a-week supervision” in the community. The Department will be working with DOJ to address the letter’s findings and work to resolve any gaps.</p>

#### Program Component 4: Training and technical assistance


A	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
64.	Require provider staff training on person-centered thinking (PCT) philosophy and practice, and case manager training on these concepts and person-centered planning (PCP)	3/1/2015	10/31/2022	<p>Under Colorado’s codification of the HCBS Settings Final Rule, and as part of the PTP process, providers must ensure that their staff are trained on person-centeredness, person-centered practices, and dignity of risk. CMAs must ensure that case managers are also trained on the related concept of person-centered planning (PCP).</p> <p>The Department has made trainings on PCP and PCT concepts available to both provider and CMA staff. To date, these trainings have included:</p> <ul style="list-style-type: none"> <li>A <a href="#">webinar</a> specifically connecting these concepts to implementation of the HCBS Settings Final Rule. The webinar was presented in October 2015 and continues to be available on the Department’s <a href="#">HCBS Settings Final Rule website</a> under the header “Training Materials Presented by the Department.”</li> <li>Free in-person <a href="#">trainings</a> throughout Colorado on PCP and PCT, sponsored by the Department and presented in 2015-2018 in partnership with Support Development Associates, LLC, the Council on Quality and Leadership (CQL), and other entities.</li> </ul> <p>Trainings offered by others, such as those certified by the <a href="#">Learning Community for Person Centered Practices</a> to offer training in person-centered thinking, may also be suitable.</p>	<p>The expected completion date at left reflects the fact that by 10/31/2022, verification of updated PTPs demonstrating remediation will be completed. The PTP includes a compliance issue for staff not being trained in the required principles, along with a corresponding remedial action plan to ensure that staff receive such training. Providers can demonstrate compliance with the requirement by showing that they participated in one of the trainings identified at left.</p> <p>The Department is considering options for providing free, updated trainings on these topics.</p>
65.	Conduct a webinar training series to provide clarity on the requirements of the HCBS Settings Final Rule.	9/1/2015	Completed 8/26/2021	<p>The Department presented a webinar series from September 2015 through May 2016 addressing the following topics:</p> <ul style="list-style-type: none"> <li><a href="#">Residency Agreements and the HCBS Final Rule</a></li> <li><a href="#">Balancing Individual Rights and Provider Liability</a></li> <li><a href="#">Understanding Guardianship and the HCBS Settings Final Rule</a></li> <li><a href="#">HCBS Settings Final Rule Non-Residential Settings</a></li> <li><a href="#">HCBS Settings Final Rule Residential Settings</a></li> <li><a href="#">Person-Centeredness and the HCBS Requirements</a></li> <li><a href="#">HCBS Settings Final Rule Overview and Provider Assessments</a></li> </ul> <p>In addition, the Department presented a webinar three times in January 2019 to clarify individual rights and the process for implementing individualized rights modifications. (<a href="#">Slide deck</a>; <a href="#">recording</a>; <a href="#">transcript</a>).</p> <p>In light of continued interest in the topic of individual rights and rights modifications, the Department developed additional pre-recorded, self-paced trainings in the spring of 2021. Each training was targeted to a specific group: waiver members; parents, other family members, and guardians; and providers and case management agencies. Implementing a recommendation from advocates, the Department shared a draft of the waiver-member training with self-advocates and hosted a focus group to get their feedback, which was incorporated into a revised training. Final materials were made available in June 2021.</p> <ul style="list-style-type: none"> <li><a href="#">Recording - Members</a>; <a href="#">slide deck</a></li> <li><a href="#">Recording - Families &amp; Guardians</a>; <a href="#">slide deck</a></li> <li><a href="#">Recording- Providers &amp; Case Management Agencies</a>; <a href="#">slide deck</a></li> </ul> <p>The Department also hosted a live question-and-answer session for each group in August 2021, as stated in an <a href="#">Informational Memo</a> that the</p>	<p>Training materials are available on the Department’s <a href="#">HCBS Settings Final Rule website</a> under the header “Training Materials Presented by the Department.”</p> <p>Webinars in the 2015-2016 series were well-attended by providers, CMAs, advocates, and other stakeholders. The Department required affected providers and CMAs to participate in the 2019 and 2021 trainings and invited advocates and other interested stakeholders to attend as well. Webinars/live question-and-answer sessions in these series were also well-attended.</p> <p>The Department continues to assess the need for additional trainings and will provide them as needed. Depending on evolving needs, interest, and resources, some potential future training topics might include:</p> <ul style="list-style-type: none"> <li>Best practices for community integration in the context of the COVID-19 pandemic and beyond (for providers);</li> <li>Refreshers on/basic overviews of the rule, individual rights, and rights modifications (for various audiences, potentially including short videos for waiver participants);</li> <li>Overview of regulatory and waiver changes made with the adoption of Colorado’s codification of the HCBS Settings Final Rule, updates to certain Quality Improvement Strategy (QIS) performance measures, and the eventual implementation of other changes pursuant to the final updated, merged systemic assessment crosswalk (for various audiences, potentially including state agency staff); and/or</li> <li>Refresher on potential heightened scrutiny of new providers/settings (for provider enrollment and licensure/certification staff).</li> </ul>


A	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				Department shared with stakeholders via Constant Contact and asked advocacy groups to share with their constituents.	
66.	Issue responses to frequently asked questions (FAQs) regarding application of the HCBS Settings Final Rule to various situations.	1/30/18	Completed 4/10/19 with another issuance forthcoming	<p>This process was iterative and connected to other components of the STP. In the course of discussing the HCBS Settings Final Rule with advocates, providers, CMAs, and other stakeholders; working with Telligen and CDPHE to conduct site visits and desk reviews of provider materials; reviewing public comments on early versions of the STP and systemic assessment crosswalk; and other implementation activities, the Department heard a number of questions about how to operationalize certain requirements of the rule. The Department answered the initial round of questions in FAQ Part I. Its responses led to further questions (answered in later FAQs) and informed later stages of the site-specific assessment process and other implementation activities.</p> <p>FAQ responses are available on the Department’s <a href="#">HCBS Settings Final Rule website</a> under the header “Additional Departmental Guidance.”</p>	<p>The Department published a series of responses to FAQs regarding implementation of the HCBS Settings Final Rule:</p> <ul style="list-style-type: none"> <li>• <a href="#">Part I: General Questions</a> (January 2018)</li> <li>• <a href="#">Part II: Follow-Up on General Questions</a> (June 2018)</li> <li>• <a href="#">Part III: Leases and Residential Agreements</a> (November 2018)</li> <li>• <a href="#">Part IV: Employment-Related Services</a> (April 2019)</li> <li>• Part V: MythBusters (forthcoming)</li> </ul> <p>Cover memos/briefs to which these FAQs were attached are available upon request.</p> <p>The Department continues to assess the need for more FAQs and will issue them as needed.</p>
67.	Provide strategic technical assistance to all key stakeholders by issuing fact sheets and responding to questions related to the implementation of the STP (action steps, timelines, and available technical assistance).	8/1/2014	Completed 5/9/22	<p>The Department issued fact sheets, communication briefs, and informational and operational memos, and it hosted statewide question-and-answer calls, in order to inform stakeholders about STP implementation, timelines, compliance expectations, and other issues. Recent such issuances (from 2020 onward) are available on the Department’s <a href="#">HCBS Settings Final Rule website</a> under the header “Additional Departmental Guidance.”</p> <p>Department staff also provided strategic technical assistance through the meetings, calls, emails, and other communications avenues identified above in the “Stakeholder engagement and oversight” section of the STP.</p> <p>From November 2015 through March 2016, the Department hosted several in-person and webinar-based stakeholder workgroups to discuss concerns, best practices, and other issues for implementing the HCBS Settings Final Rule. The workgroups, which met five times, were comprised of service providers, family members, and advocates. They discussed both residential and nonresidential settings. The workgroups focused in particular on expanding community integration opportunities, informed choice, and participant rights. For several years, notes from these meetings were available for review on the Department’s <a href="#">website</a> under the header “Stakeholder Engagement.” Although the notes were taken down from the front end of the website as part of the October 2021 website update and streamlining effort, they are still available upon request. The workgroups’ conversations helped inform the Department’s work in implementing other phases of the STP, including issuing FAQs as listed above.</p> <p>In April 2018, the Department held a general question-and-answer teleconference for all interested stakeholders to discuss the application of the HCBS Settings Final Rule to various scenarios (<a href="#">recording</a>, <a href="#">transcript</a>). The Department published the transcript and recording of this conversation and used it to inform its second FAQ issuance.</p> <p>In April 2018, the Department hosted informal roundtables to discuss the application of the rule to situations involving individuals with a history of sexually offending behaviors.</p> <p>In August 2019, the Department issued an <a href="#">Informational Memo</a> inviting interested stakeholders to participate in a workgroup to develop materials supporting implementation of the HCBS Settings Final Rule. As described elsewhere in this STP, workgroup members contributed to the development of Colorado’s codification of the HCBS Settings Final Rule, an informed consent template with built-in guidance for providers and case managers, and identification of additional topics to be included in the Department’s training plan. The workgroup met five times, from December 2019 through June 2020. Workgroup meeting minutes are available on the Department’s</p>	<p>The Department issued the following materials, in addition to the FAQs listed above:</p> <ul style="list-style-type: none"> <li>• <a href="#">Operational Memo 22-020 - Implementation of the HCBS Settings Final Rule within the Children’s Habilitation Residential Program (CHRP)</a> - May 9, 2022</li> <li>• <a href="#">Operational Memo 21-066 - HCBS Settings Final Rule - Use of Updated Documents</a> - September 24, 2021</li> <li>• <a href="#">Informational Memo 21-044 - HCBS Settings Final Rule - Trainings on Individual Rights and Rights Modification</a> - July 1, 2021</li> <li>• <a href="#">Informational Memo 21-037 - HCBS Settings Final Rule - Heightened Scrutiny Determinations</a> - June 10, 2021</li> <li>• <a href="#">Operational Memo 21-032 - Informed Consent Template for Rights Modifications</a> - March 17, 2021 <ul style="list-style-type: none"> <li>◦ <a href="#">Informed Consent Template</a> - March 2021</li> </ul> </li> <li>• <a href="#">Operational Memo 20-103 - Rights Modifications Documentation</a> - December 21, 2020 <ul style="list-style-type: none"> <li>◦ <a href="#">BUS Screenshots and Data Entry for Rights Modification Screens</a></li> <li>◦ <a href="#">BUS Screenshots for Log Notes</a></li> <li>◦ <a href="#">Informed Consent Template</a></li> </ul> </li> <li>• <a href="#">Informational Memo 20-34 - HCBS Settings Final Rule - Milestone Update 3</a> - September 1, 2020 <ul style="list-style-type: none"> <li>◦ <a href="#">CO Milestones Update Schedule</a> - September 1, 2020</li> </ul> </li> <li>• <a href="#">Informational Memo 20-034 - HCBS Settings Final Rule - Meetings to Develop Rule and Related Materials</a> - August 3, 2020</li> <li>• <a href="#">Informational Memo 20-025 - HCBS Settings Final Rule - PTP Training Announcement #3</a> - June 16, 2020</li> <li>• Informational Memo 20-007 - HCBS Settings Final Rule - Updated Milestones - February 3, 2020 <ul style="list-style-type: none"> <li>◦ HCBS Settings Final Rule Colorado Milestones Update II - February 3, 2020</li> </ul> </li> <li>• <a href="#">Informational Memo 19-050 - HCBS Settings Final Rule - Rights Modification Workgroup</a> - August 27, 2019</li> <li>• <a href="#">Operational Memo 19-029 - HCBS Settings Final Rule - Rights Modification Updates</a> - July 8, 2019</li> <li>• <a href="#">Operational Memo 19-024 - HCBS Settings Final Rule - Intensive Supervision</a> - June 4, 2019</li> <li>• <a href="#">Operational Memo - 19-009 - HCBS Settings Final Rule - PTP Process</a> - March 21, 2019</li> <li>• Operational Memo - 19-006 - HCBS Settings Final Rule - Rights Modification Updates - February 26, 2019</li> <li>• <a href="#">Informational Memo 18-059 - HCBS Settings Final Rule - Rights Modification Training Announcement</a> - December 26, 2018</li> <li>• <a href="#">Informational Memo 18-045 - HCBS Settings Final Rule - PTP Training Announcement #2</a> - November 27, 2018</li> </ul>

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
				<p><a href="#">website</a> under the header “Stakeholder Engagement,” subheader “Rights Modification Stakeholder Workgroup Meetings.”</p> <p>In August 2020, the Department issued an <a href="#">Informational Memo</a> inviting interested stakeholders to participate in an Open Meeting series to continue developing the Draft Rule and informed consent template. Five meetings were held, from August 2020 through January 2021.</p> <p>In January 2021, the Department hosted a technical assistance call for case managers regarding the new rights modification screens and fields in the BUS. (<a href="#">Recording.</a>)</p> <p>In August 2021, the Department held three live question-and-answer sessions, as stated in an <a href="#">Informational Memo</a> inviting stakeholders to participate. The sessions focused on individual rights and the rights modification process. There was one for each of the following groups: individuals participating in HCBS waivers; parents, families, and guardians of waiver participants; and providers and case management agencies. The sessions were well-attended and helped us identify areas where additional guidance may be needed.</p> <p>In addition to these measures, the Department provided ongoing technical assistance through the site-specific assessment process (with the assistance of CDPHE) and through numerous one-on-one/small group email exchanges, meetings, phone calls, and other efforts as needed. Although the completion date at left reflects the date of the most recent formal issuance (as listed at right), the Department expects the provision of technical assistance to continue for the foreseeable future.</p>	<ul style="list-style-type: none"> <li>• <a href="#">Informational Memo 18-028 - HCBS Settings Final Rule - PTP Training Announcement #1</a> - August 29, 2018</li> <li>• <a href="#">HCBS Settings Requirements Guidance Call Recording</a> - April 5, 2018</li> <li>• <a href="#">HCBS Settings Requirements Guidance Call Transcript</a> - April 5, 2018</li> <li>• Communication Brief - Follow-up Conference Call Regarding Responses to FAQs on HCBS Settings Requirements - March 22, 2018</li> <li>• Communication Brief - Department Responses to June 2016 Public Comments on HCBS Statewide Plan and Systemic Assessment Crosswalk - November 9, 2017</li> <li>• Communication Brief - Compliance Requirement for New Settings under the Home and Community Based Services (HCBS) Settings Final Rule - November 9, 2017</li> <li>• Communication Brief - Individual/Family/Advocate (IFA) Survey Report, Results to Date, and Revised Survey - August 30, 2017</li> <li>• Communication Brief - Department Adjusts Timelines for Statewide Transition Plans - June 1, 2017</li> <li>• <a href="#">Fact Sheet for Individuals and Families</a> - August 2015</li> <li>• <a href="#">Fact Sheet for Providers</a> - August 2015</li> </ul> <p>Links to these materials were available for review on the Department’s <a href="#">website</a> under the header “Additional Departmental Guidance.” Although some links are no longer available and/or were taken down from the front end of the website as part of the October 2021 website update and streamlining effort, the materials are still available upon request.</p> <p>The Department continues to assess the need for more guidance and will issue it as needed.</p>
68.	Provide training to licensure/certification staff on HCBS Settings Final Rule requirements.	6/1/2015	Completed 3/1/2018 and ongoing	Representatives of CDPHE’s licensure and certification staff attended many of the webinar trainings listed above, as well as an in-person event hosted by the Department in June 2015 to discuss HCBS Settings Final Rule implications for licensure and certification. CDPHE also trained and continues to train its regular licensure and certification survey staff on HCBS Settings Final Rule requirements. These trainings are in addition to that provided to CDPHE’s HCBS Settings Final Rule-specific staff before and as they worked to conduct the site visits and PTP desk reviews described above.	<p>The Department and CDPHE have worked together to ensure that their requirements are compatible and complementary, enabling providers to comply with all applicable requirements under the HCBS Settings Final Rule as well as other licensing and certification authorities, and enabling survey teams to efficiently enforce all applicable requirements.</p> <p>In addition to the trainings described at left, the departments coordinated through such channels as the weekly interagency meetings described in the first Action Item of the STP, Department participation in CDPHE rule revisions and vice-versa, joint efforts to develop trainings, and cooperative review of FAQs and other issuances.</p>
69.	Provide training to case managers through CMAs, including SEPs and CCBs, to support informed choice of setting, identify areas of noncompliance, and support implementation of STP.	9/1/2015	Completed 8/26/21 and ongoing	<p>CMAs were able to participate in the 2015-16 webinar training series and were required to participate in the 2019 and 2021 webinar training series on the HCBS Settings Final Rule described above. Case managers are also required to have training in person-centered planning and person-centered training, as described above.</p> <p>The Department also covered the topics at left with CMAs through the FAQs, communication briefs, informational and operational memos, statewide question-and-answer sessions, meetings, calls, emails, and other communications avenues discussed above.</p>	Through these trainings, issuances, and other measures, the Department provided training to case managers to support informed choice of setting, identify areas of noncompliance, and support implementation of STP. As part of the process of developing the ITP (see Rows 18-20), the Department will also consider the need to train, and the best approaches for training, case managers on the creation and implementation of ITPs.
70.	Provide training to State Long-Term Care (LTC) Ombudsman and Adult Protective Service (APS) professionals on the HCBS Settings Final Rule and intersections with Ombudsman and APS work	12/14/2021	Completed 3/11/2020 and 12/14/2021	Department and CDPHE staff co-presented these trainings. The trainings helped ensure that LTC Ombudsman and APS workers, while not directly responsible for enforcing the HCBS Settings Final Rule, could act as an additional set of eyes and ears in the field for purposes of identifying possible compliance issues (particularly with regard to rights modifications) and knew where/to whom to direct questions or refer individuals.	The LTC Ombudsman training was attended in-person by a large group of professionals at their March 2020 statewide conference. The APS training in December 2021 was attended by 80 APS professionals and was recorded for future viewing by this group.



**Program Component 5: Ongoing monitoring and inclusion of HCBS Settings Final Rule criteria within the HCBS quality framework**

	Action Item	Start Date	End Date	Progress/Status	Findings/Results/Outcomes
71.	Include HCBS Settings Final Rule-related measures within the current 1915(c) waiver quality improvement system.	5/1/2021	Measures were updated effective 7/1/21; additional updates if made will go into effect by 1/1/2023 or 7/1/2024	<p>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. For example, in the <a href="#">DD Waiver</a>, Performance Measure (PM) G.c.3 was amended to read: “Number and percent of providers surveyed in the performance period that met requirements for implementing Rights Modification N: Number of surveyed providers that met requirements for implementing a Rights Modification D: Total number of surveyed providers.” In this waiver, two other PMs were also amended to better measure whether restrictive interventions—that is, rights modifications other than restraints—were appropriately planned and implemented:</p> <ul style="list-style-type: none"> <li>PM G.c.6 was amended to read: “Number and percent of waiver participants with Restrictive Intervention Plans where proper procedures were followed in initially establishing the Restrictive Intervention Plan N: # of waiver participants w/ Restrictive Intervention Plan where proper procedures were followed in initially establishing the Restrictive Intervention Plan D: # of waiver participants w/ a Restrictive Intervention Plan.”</li> <li>PM G.c.1 was amended to read: “Number and percent of participants with restrictive interventions where proper procedures were followed in the ongoing implementation of the restrictive intervention plan N: # of participants with restrictive interventions where proper procedures were followed in the ongoing implementation of the restrictive intervention plan D: # of participants with a restrictive intervention plan.”</li> </ul> <p>Additional changes, if needed, will be pursued according to the schedules set out above for waiver amendments.</p>	<p>The Spring 2021 waiver amendments are available on the Department’s <a href="#">HCBS Public Comment Opportunities website</a> under the header “Home and Community-Based Services (HCBS) Waiver Amendment Review - March 2021.”</p> <p>These measures help the Department and CMS ensure that on a statewide level, state agencies, case management agencies, providers, and others are carrying out their respective duties as required. The measures amended to date specifically ensure that if rights modifications are implemented, they conform to the federal and state requirements for such modifications. If the data collected pursuant to these measures indicate that this is not happening as expected, the Department will pursue remedial actions as specified in the applicable waiver(s).</p>
72.	Develop process(es) for case managers to confirm with individuals that the settings at which they receive services are compliant.	1/30/18	3/17/2023	<p>In addition to providing the trainings and issuing the FAQs and other guidance described elsewhere in this STP, the Department took the following steps to support case managers:</p> <ul style="list-style-type: none"> <li>Published a <a href="#">BUS Update Memorandum</a> on February 7, 2019 to inform case management agencies (CMAs) of the addition of a new contact type for rights modifications to the Benefits Utilization System (BUS) (a component of the state’s case management system).</li> <li>On December 18, 2020, updated the BUS to include new screens that allow for a standardized method of entering the information supporting a rights modification.</li> <li>Published an <a href="#">Operational Memo</a> on December 21, 2020 to inform CMAs of the BUS updates and to inform CMAs and provider agencies of the availability of a standardized template for obtaining informed consent for a rights modification. As stated in the memo: <ul style="list-style-type: none"> <li>“Beginning January 1, 2021, all CMAs with access to the BUS . . . will be required to begin entering Rights Modification information into the new screens in the BUS, instead of other screens in the BUS that have been used on an interim basis. This information must be entered for all new modifications as they are implemented and for continuing modifications as they come up for review/renewal . . . . The <a href="#">attached document</a> provides screenshots of the new screens and instructions on how to enter the required documentation.”</li> </ul> </li> </ul>	<p>As discussed at left, 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. An additional tool, to be developed as discussed below, would touch on but not be limited to rights modifications.</p> <p>Pursuant to existing regulatory and waiver requirements, case managers are already required to meet with individuals on a regular, recurring basis. CMAs have expressed interest in having a dedicated, simple tool (such as a checklist) that case managers could use in meeting with individuals, as a means of spotting common compliance issues and other concerns at specific settings. The Department plans to develop such a tool and roll it out before the end of the transition period. Where the tool indicates a potential compliance issue, case managers will be asked to escalate the concern appropriately. This may include discussing the issue with their supervisor, other CMA staff, the provider, and ultimately the Department and/or CDPHE.</p>

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				<ul style="list-style-type: none"> <li>○ “The Department is providing, as an attachment . . . , <a href="#">an informed consent template</a> that should be used by all providers and CMAs as of January 1, 2021.”</li> <li>○ “Beginning January 1, 2021, the new <a href="#">Rights Modification One-Time Questions</a> should be answered when the case manager is initially using the Rights Modification screens for a member to add or review/renew a Rights Modification for that member. . . . The answers to these questions can be updated as needed on a going-forward basis.”</li> <li>○ “Beginning [December 21], all CMAs . . . will be required to begin answering new Yes/No questions in the <a href="#">Log Notes screen</a> when saving new Log Notes.”</li> <li>• Hosted a technical assistance session on January 13, 2021 to provide additional guidance for CMAs on the BUS updates and informed consent template (<a href="#">recording</a>).</li> <li>• Published an <a href="#">Operational Memo</a> on March 17, 2021 to inform CMAs and provider agencies of the availability of an <a href="#">updated standardized template</a> for obtaining informed consent for a rights modification.</li> <li>• Worked with other Department staff and contractors to ensure that the new care and case management system, which is expected to replace the BUS, includes appropriate rights modification screens and fields, and is accompanied by relevant training and manual material.</li> </ul>	
73.	Ensure that after the transition period, settings are monitored for compliance with HCBS Settings Final Rule criteria	11/2/2017	3/17/2023	<p>As noted above, 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"> <li>• Adoption of Colorado’s codification of the federal rule (with additional regulatory and waiver changes still to come);</li> <li>• Updates to the performance review measures in certain waivers to better capture the requirements for rights modifications;</li> <li>• Changes to both agencies’ websites and materials sent to providers and prospective providers seeking to add/expand their HCBS offerings; and</li> <li>• 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).</li> </ul> <p>As noted above, CDPHE cross-trained its survey staff on HCBS Settings Final Rule criteria so that they could address these criteria as part of new provider enrollment during (and after) the transition period as well as routine quality assurance surveys after the transition period. Regarding such surveys:</p> <ul style="list-style-type: none"> <li>• Under an Interagency Agreement (IA) between the Department and CDPHE, CDPHE surveys prospective HCBS providers before it recommends them to HCPF for certification as Medicaid waiver providers. Provider types subject to certification include ACFs, adult day programs, program approved service agencies (PASAs) serving the waivers for individuals with IDD (providing services such as community connector, IRSS in host homes and other settings, prevocational services, SCC, specialized habilitation, and supported employment), home care agencies (HCAs) (providing personal care, homemaker, etc., including through IHSS), group homes, SLPs, and TLPs, among others. See CDPHE’s list of <a href="#">Regulated Health Facilities</a> and HCPF’s <a href="#">HCBS provider enrollment site</a>. These initial certification surveys have been addressing</li> </ul>	<p>With the issuance of its November 2017 Communication Brief, the Department ensured that new HCBS providers (not part of the transition period) were compliant with the HCBS Settings Final Rule from the outset. The Department and its sister state agencies worked together, as described at left, to further ensure compliance among newly enrolling providers after the end of the transition period. Pursuant to the materials and tools described at left, prospective providers must demonstrate compliance before they can begin providing HCBS.</p> <p>Pursuant to the IA processes for ongoing surveys of existing HCBS providers, as listed at left, the Department will be able to ensure that settings where people are served by these providers are monitored for compliance with the HCBS Settings Final Rule after the end of the transition period.</p> <p>Finally, for all providers and settings—including those not covered by CDPHE’s and CDHS’s routine surveys under the IAs, and/or those that may have been presumed compliant during the transition period—the Department will be able to ensure compliance through case managers’ visits and observations at such settings and conversations with individuals receiving services.</p>

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				<p>compliance with the HCBS Settings Final Rule pursuant to the revised tools and trainings identified above and will continue to do so pursuant to Colorado's codification of the federal rule.</p> <ul style="list-style-type: none"> <li>In addition, CDPHE routinely surveys provider types subject to (re)certification (see list above) on a three-year cycle. Recertification surveys include visiting private homes where individuals receive IRSS. With Colorado's codification of the federal rule, recertification surveys will address compliance with the HCBS Settings Final Rule.</li> <li>Similarly, under an IA between the Department and CDHS, CDHS surveys prospective CHRP residential habilitation providers, and annually resurveys current providers, to confirm their compliance with the applicable regulations. CDHS's regulations for CHRP providers cross-reference HCPF's, which in turn now include the HCBS Settings Final Rule. (If included in the first bullet point above, certain providers may instead be surveyed by CDPHE.)</li> </ul> <p>Finally, the Department plans to take advantage of existing case management processes. As noted in Row 72, the Department has developed various mechanisms to support case managers in ensuring compliance at the settings where individuals are served, and it plans to develop an additional tool (such as a checklist) to that end. While not specific to settings excluded from the CDPHE/CDHS IA survey processes listed above, these measures will help ensure that such excluded settings still experience ongoing monitoring and oversight.</p>	
74.	Identify and publicize process(es) for waiver participants, case managers, and others to report potential violations of HCBS Settings Final Rule criteria.	1/30/18	3/17/2023	<p>Individuals can report concerns to their case managers, with whom they already meet regularly under existing case management processes; those available to help resolve grievances and/or complaints and to assist with dispute resolution, if applicable pursuant to existing regulatory processes; independent advocates, such as those affiliated with the Long-Term Care Ombudsman's Office and local Arcs; the CDPHE complaint line; and the Department, if needed. The Department has also followed up on certain concerns raised by individuals, families, and advocates in the IFA Survey.</p> <p>Case managers can report concerns from individuals, families/advocates, and/or their own observations to their supervisor, other CMA staff, the provider if appropriate, and ultimately the Department and/or CDPHE, if needed.</p> <p>Adult Protective Services (APS) workers and advocates/advocacy groups may also raise concerns via most of the avenues identified above.</p>	<p>Although numerous avenues for reporting potential violations exist, and these options have been mentioned to some extent in trainings and guidance, a more concerted effort would help publicize them. Before the end of the transition period, the Department plans to engage in such an effort. Potential methods to pursue might include one or more of the following:</p> <ul style="list-style-type: none"> <li>Adding a dedicated section to the Department's <a href="#">HCBS Settings Final Rule website</a> under a new header such as "Ask a Question/Report a Concern";</li> <li>Discussing the ways individuals can report concerns as part of a possible training or short video for waiver participants on their rights and the rights modification process (see Row 65); and/or</li> <li>Including this information as part of the planned tool/checklist for case managers.</li> </ul>
75.	Monitor data from member experience surveys related to outcomes relevant under the HCBS Settings Final Rule.	1/1/2016	Ongoing	<p>As discussed in Row 8, the Department developed a voluntary, anonymous Individual/Family/Advocate (IFA) Survey to collect input from waiver participants, their family and friends, and advocates regarding their lived experiences and their perceptions of the settings where they live and receive HCBS. Depending on the information the survey respondent chooses to disclose, survey responses may or may not be tied to particular providers, settings, or CMAs. Colorado also participates in other member surveys, such as National Core Indicators (NCI)-IDD and NCI-AD. Data from these surveys is not connected to particular providers, settings, or CMAs.</p>	<p>In Colorado's <a href="#">American Rescue Plan Act (ARPA) Spending Plan</a>, the Waiver Quality Expansion category includes an initiative to evaluate and expand member experience surveys. As part of this initiative, the Department will evaluate whether to retain and/or modify any components of the surveys mentioned at left. Depending on which surveys/items the Department retains, the information collected on an ongoing basis may help inform various compliance initiatives, including follow-up with particular providers, settings, or CMAs; the issuance of additional guidance; the development of additional trainings; and coordination with CDPHE regarding enforcement approaches.</p>