



INFORMATIONAL MEMO

TITLE:	HCBS SETTINGS FINAL RULE—FINAL STATEWIDE TRANSITION PLAN (STP)
SUPERSEDES NUMBER:	N/A
EFFECTIVE DATE:	MARCH 24, 2022
DIVISION AND OFFICE:	STRATEGIC OUTCOMES DIVISION, OFFICE OF COMMUNITY LIVING
PROGRAM AREA:	HOME AND COMMUNITY-BASED SERVICES
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Purpose and Audience:

The purpose of this Informational Memo is to inform waiver participants, advocates, providers, and case management agencies (CMAs) that the Department of Health Care Policy & Financing (Department) has updated Colorado’s Statewide Transition Plan (STP) for bringing home and community-based services (HCBS) throughout the State into compliance with the federal HCBS Settings Final Rule. The Department will accept public comments for the **45-day period** running from **March 25, 2022** through **May 9, 2022**. The Department intends to submit the final STP to the Centers for Medicare & Medicaid Services (CMS) after it has reviewed and addressed the comments received during the public comment period.

Information:

Background

In 2014, CMS published a [rule](#) requiring 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 affects the following 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 settings 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).

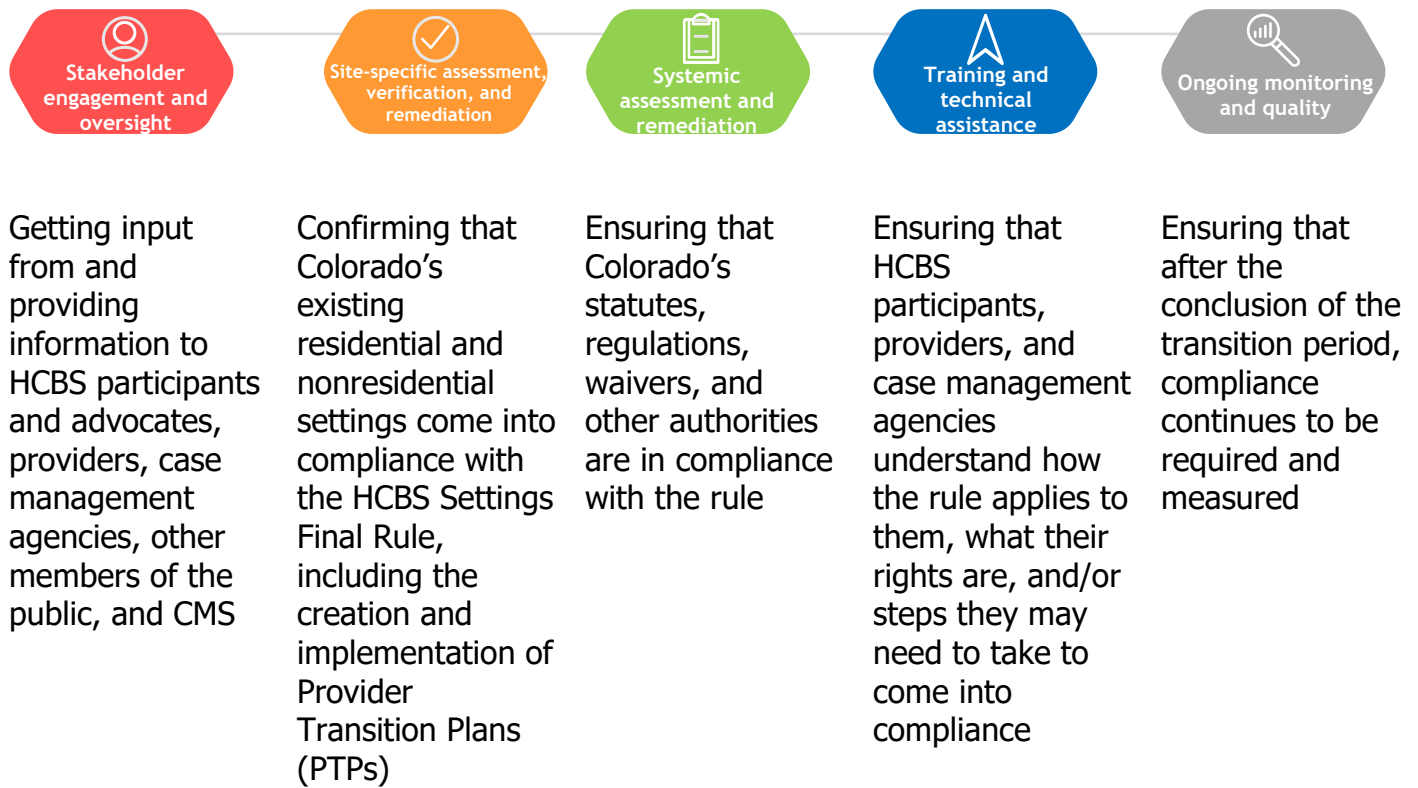
The Department developed Colorado's STP for bringing HCBS throughout the State into compliance with the HCBS Settings Final Rule. After several rounds of public comment, the [STP was last published and submitted to CMS](#) on December 16, 2016. CMS granted [initial approval](#) of that version of the STP on November 21, 2017.

Since then, the Department has worked with stakeholders to make significant progress in implementing the federal rule. The updated STP describes the work completed and the tasks that still remain. Subject to public comment, the Department believes that the updated STP is ready to submit to CMS for final approval.

Materials available for public comment

(1) Statewide Transition Plan (STP)

This document describes the process by which the Department has been working with stakeholders to achieve statewide compliance with the HCBS Settings Final Rule. This work has entailed concurrent progress on five major fronts, or Program Components:



The STP addresses each of these Program Components in turn. It has been updated to reflect significant developments since the STP received CMS’s initial approval and to set out a revised timeline for completing all remaining work before the end of the federal transition period in March 2023.

(2) STP Redline

This document shows the changes made to the STP since it received CMS's initial approval. The Department prepared this document by using Microsoft Word's Compare function, which shows changes in redline format. To allow stakeholders to focus on changes of significance, formatting changes are not shown.

(3) Stakeholder Communication Strategy

This document summarizes the Department's approach to engaging with stakeholders as it implements the HCBS Settings Final Rule. This document replaces and updates some text originally found in the STP, including the entire Key Stakeholders column, which no longer appears in the final STP.

Public Comment Opportunity

The Department will post the final STP, the STP redline, and the stakeholder communication strategy on its [website](#) for public review and comment.

The Department will make these materials available for a **45-day public comment period, running from March 25, 2022 through May 9, 2022.**

The Department commits to incorporating comments, concerns, and suggestions when and wherever possible. The Department will summarize comments and its responses as part of its final submission to CMS. The Department will post on its [website](#) an updated version of the STP, STP redline, and stakeholder communication strategy, along with the summary of public comments and responses, after the public comment period ends.

To request a paper or electronic copy of the materials mentioned in this Informational Memo, and/or to provide public comment, please reach out to us via:

- Phone: 303-866-6314 (Rebecca Spencer, HCBS Policy Analyst)
- Email: HCPF_STP.PublicComment@state.co.us
- U.S. Mail: Department of Health Care Policy & Financing, 1570 Grant Street, Denver, CO 80203, ATTN: Statewide Transition Plan Team
- Fax: 303-866-4411 (Attention: Statewide Transition Plan Team)

Attachment(s):

None

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