



## POLICY MEMO

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<b>Title:</b> Children’s Extensive Support (CES) Waiver: Application of Home and Community-Based Services (HCBS) Settings Final Rule to Youth Day Services	<b>Topic:</b> HCBS-CES
<b>Audience:</b> Members, Youth Day Services Providers, Case Management Agencies & Stakeholders	<b>Sub-Topic:</b> Youth Day Services
<b>Supersedes Number:</b> N/A	<b>Division:</b> Benefits and Services Management
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<b>Expiration Date:</b> Aug. 16, 2027	<b>Program Area:</b> Home- and Community-Based Services (HCBS) Waivers
<b>Key Words:</b> CES, Youth Day Services, HCBS Settings Final Rule	
<b>Legal Authority:</b> 42 C.F.R. § 441.301(c)(4); 10 CCR 2505-10 8.7000 - 8.7001	
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<b>Approved By:</b> Colin Laughlin	

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### Purpose and Audience:

The purpose of this Policy Memo is to inform Members, Youth Day Services providers, Case Management Agencies, and other Stakeholders of the regulatory changes that require Youth Day Services to comply with the Home-and Community-Based Services (HCBS) Settings Final Rule.

### Information:

The Home- and Community-Based Services (HCBS) Settings Final Rule ensures that HCBS Members have access to the benefits of community living and live and receive services in integrated, non-institutional settings. The rule includes a number of criteria that the HCBS settings (locations) must meet to ensure that they are non-

institutional. Additional information on the rule may be found on the [HCBS Settings Final Rule website](#).

Respite is exempt from the rule and may be provided in institutional settings, because waiver members are only at such settings on a temporary, short-term basis. Historically, the Colorado Department of Health Care Policy and Financing (HCPF) treated Youth Day Services as respite-like and therefore, were also exempt from the rule. The federal Centers for Medicare and Medicaid Services (CMS) is now requiring HCPF to treat Youth Day Services as covered by the HCBS Settings Final Rule, as a condition of allowing Members to receive exceptions to the 90-day cap of services within a Support Plan year.

To ensure that Children's Extensive Supports (CES) Waiver Members can continue to receive as much Youth Day Services as necessary, and in collaboration with our federal partners, HCPF is ensuring HCBS Settings Final Rule compliance for Youth Day Service settings.

Effective Nov. 25, 2024, all current and new Youth Day providers must be in compliance with the HCBS Settings Final Rule.

Regulatory changes are being made to reflect these conditions and may be reviewed in HCPF's proposed updates to 10 CCR 2505-10 8.7001.A.2 and 8.7001.A.13.a:

- Covered HCBS means any Home and Community-Based Services provided under the Colorado State Medicaid Plan, a Colorado Medicaid waiver program, or a State-funded program administered by HCPF. This category excludes Respite Services and Palliative/Supportive Care services provided outside the child's home under the Children with Life-Limiting Illness Waiver.
- Provider-Owned or -Controlled Non-Residential Settings include, but are not limited to, provider-owned facilities where Adult Day, Day Treatment, Specialized Habilitation, Supported Community Connections, Prevocational Services, Supported Employment Services, and Youth Day Services (including Youth Day Services at homes owned, leased, or operated by Provider Agencies/independent Contractors) are provided.

These proposed rule updates are currently open for public comment.

The proposed Children's Extensive Support (CES) Waiver Corrective Action Plan (CAP) may be accessed [here](#).

## Action To Be Taken:

### Current Providers:

Current providers who are actively providing Youth Day Services have received communication from HCPF regarding compliance and changes that need to occur. All providers must comply with the HCBS Settings Final Rule when the rule changes described above go into effect. To support providers in attaining compliance, the following process will be employed:

Providers offering Youth Day Services in **center-based programs** and in the **homes of providers unrelated to the member** (along with community locations visited from these settings):

These providers are required by CMS to demonstrate and be verified for compliance in the coming months. This process will resemble the process used during the main statewide transition period for other provider types:

- (1) provider initial self-assessment;
- (2) state verification that all compliance issues have been identified;
- (3) provider completion of remedies to resolve compliance issues; and
- (4) state verification that all remedies have been implemented.

State staff will provide guidance and technical assistance, including distribution of a self-assessment tool, review of provider documents, site visits, and other measures to support providers in making any required changes.

Providers offering Youth Day Services in the **Member's own personal/family home** (along with community locations visited from these settings):

While these settings must comply with the HCBS Settings Final Rule, there will not be a formal process in the near term to verify compliance. These settings will continue to be temporarily presumed compliant, as they were during the main statewide transition. Validation of compliance will occur through ongoing monitoring, including any routine recertification surveys conducted by the Colorado Department of Public Health and Environment (CDPHE).

Current providers who are **not actively providing Youth Day Services** must ensure HCBS Settings Final Rule compliance prior to initiating service delivery. At any time, providers may notify HCPF of their plan to resume services and voluntarily request a site visit.

**New and Enrolling Providers:**

New and enrolling providers must demonstrate HCBS Settings Final Rule compliance upon enrollment. CDPHE will assess such providers as part of the certification process.

**Case Management Agencies:**

Case Management Agencies (CMAs) serving children in the CES Waiver should take note of the regulatory changes described above. While there is no immediate action that CMAs must take, some tasks could arise as part of the validation process described above, including documenting Rights Modifications.

**Attachment(s):**

None

**HCPF Contact:**

For questions, please contact [hcpf\\_hcbs\\_questions@state.co.us](mailto:hcpf_hcbs_questions@state.co.us).