



# HCBS Settings Final Rule Quarterly Update for Quarter Ending 12/31/18

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

- On November 15, 2018, published a [third volume of answers to frequently asked questions \(FAQs\) regarding the rule](#). This publication addresses questions from providers, case management agencies, and other stakeholders regarding the requirement of a lease or other written agreement providing individuals with protections against eviction. The Department would be grateful for any thoughts the Centers for Medicare & Medicaid Services (CMS) and the Administration for Community Living (ACL) may have regarding the third volume of FAQs.
- On December 26, 2018, [announced a training](#), to be presented three times in January 2019, to help case management agencies and providers better understand the process for implementing rights modifications, including obtaining the individual's informed consent, under the HCBS Settings Final Rule.

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

- On November 26, 2018, [rolled out](#) the new web-based Provider Transition Plan (PTP) platform to providers that operate adult residential settings for which PTPs are required (*i.e.*, alternative care facilities (ACFs), supported living program (SLP) and transitional living program (TLP) facilities, group homes, host homes, and certain other Individual Residential Services and Supports (IRSS) settings). The releases for nonresidential and children's residential settings will follow.
  - The Department made a User Manual available to providers on its [website](#), on the PTP platform, as an [attachment](#) to an [Informational Memo](#) sent to providers, and in the Welcome email sent to providers.
  - The Department published a [template](#) of the new Adult Residential PTP, illustrating the available screens and fields.
  - Since roll-out, the Department has been sending additional Welcome emails to some providers (*e.g.*, where the initial Welcome email bounced back and needed to be sent to a corrected/updated address).



- Providers must submit their initial PTPs, identifying their compliance issues and proposed remedial action plans, along with their supporting documents and other evidence, within 42 days of their Welcome email (adjusted from the normal 30 days because of the winter holidays)—*i.e.*, by mid-January 2019, in most cases, subject to any extensions granted by the Colorado Department of Public Health & Environment (CDPHE). Providers that experienced bouncebacks or other technical problems are on a later schedule.
- All PTPs are subject to desk review by CDPHE, which is also working with providers to provide technical assistance as needed. In addition, having completed its randomly selected site visits, CDPHE continues to conduct more site visits (*e.g.*, follow-ups, visits as requested by providers, and visits with additional providers).
- Providers must submit updates, identifying the compliance issues that they resolved, along with updated supporting documents and other evidence, within 90 days of the initial PTP submission date—*i.e.*, by mid-April 2019, in most cases, subject to any extensions granted by CDPHE.
- On December 4, 2018, provided a [refresher training](#) on the platform for adult residential providers that missed or needed more assistance after the original trainings on September 10 and 14, 2018.
- As of December 31, 2018, site-specific status could be summarized as follows:

	Adult Residential PTPs (on new G-Suite platform)	Children's Residential PTPs (on SharePoint platform)	Nonresidential PTPs (on SharePoint platform)																								
Number of providers	388	20	257																								
Number of settings = number of PTPs to be completed	3484	36	657																								
Compliance status of settings	<table border="1"> <caption>Adult Residential PTPs Compliance Status</caption> <thead> <tr> <th>Category</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>(7) Not yet known (default) or blank</td> <td>86.8%</td> </tr> <tr> <td>(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress</td> <td>11.7%</td> </tr> <tr> <td>Other (aggregated)</td> <td>1.5%</td> </tr> </tbody> </table>	Category	Percentage	(7) Not yet known (default) or blank	86.8%	(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress	11.7%	Other (aggregated)	1.5%	<table border="1"> <caption>Children's Residential PTPs Compliance Status</caption> <thead> <tr> <th>Category</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>(7) Not yet known (default) or blank</td> <td>91.7%</td> </tr> <tr> <td>(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress</td> <td>5.6%</td> </tr> <tr> <td>Other (aggregated)</td> <td>2.8%</td> </tr> </tbody> </table>	Category	Percentage	(7) Not yet known (default) or blank	91.7%	(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress	5.6%	Other (aggregated)	2.8%	<table border="1"> <caption>Nonresidential PTPs Compliance Status</caption> <thead> <tr> <th>Category</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>(7) Not yet known (default) or blank</td> <td>80.5%</td> </tr> <tr> <td>(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress</td> <td>12.3%</td> </tr> <tr> <td>Other (aggregated)</td> <td>7.2%</td> </tr> </tbody> </table>	Category	Percentage	(7) Not yet known (default) or blank	80.5%	(2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule; file updated PTP in three months with evidence showing progress	12.3%	Other (aggregated)	7.2%
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Compliance status options

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

All data in table is as of December 31, 2018. Providers and settings may appear in more than one column.

No category of providers has yet attained completion of remediation at 25% or more of settings (settings in compliance statuses 1 and 4), making CMS milestones CO.08.0 and CO.12.0 overdue but in progress.

The Department expects to submit to CMS updated milestone dates once the following steps are completed:

- Present rights modification training (January 2019) and announce any extensions needed by providers and case management agencies to implement the clarified approach.

- Allow CDPHE to review initial PTP submissions (January-February 2019) and assess the extent to which adult residential HCBS providers appear to be on track to finish implementing their remedial action plans by April 2019.
- Work with the Governor's Office of Information Technology (OIT) to develop specifications and timelines for the nonresidential and children's residential versions of the new web-based PTP platform.