



# HCBS Settings Final Rule Quarterly Update for Quarter Ending 12/31/21

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

- On November 12, 2021, obtained final Medical Services Board (MSB) approval of Colorado’s codification of the federal rule. ([MSB agenda](#).) The codification was published in the Colorado Register on December 10, 2021 ([table of contents](#); [rule](#)), and it went into effect on January 10, 2022.
- On December 13, 2021, started clearance of a joint memo that was drafted and will be issued by both the Department and the Colorado Department of Human Services (CDHS). The joint memo sets out a unified approach for Children’s Habilitation Residential Program (CHRP) Waiver providers to comply with both the HCBS Settings Final Rule and existing child welfare authorities.
- On December 14, 2021, presented a training to Adult Protective Service (APS) professionals on the intersections of the HCBS Settings Final Rule with APS work. APS workers have already begun to apply the training to help spot issues in the field.

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

- Continued to work with the Colorado Department of Public Health & Environment (CDPHE) to review and verify Provider Transition Plan (PTP) updates in all three categories of affected settings: adult residential, children’s residential, and nonresidential.
- In November 2021, developed a process to involve CDPHE’s regular survey staff (as distinct from the team verifying PTP updates) in reminding providers about the need to submit updates.
- As of December 31, 2021, site-specific status could be summarized as follows:

	<b>Adult Residential PTPs</b>	<b>Children’s Residential PTPs</b>	<b>Nonresidential PTPs</b>
Number of providers	367	10	212
Number of settings = number of PTPs to be completed	2324	15	396



	Adult Residential PTPs	Children’s Residential PTPs	Nonresidential PTPs
Compliance status of settings			

**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
- (6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients
- Other
  - (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
  - (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
  - (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 January 3, 2022. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.

- Consolidating the three PTP categories above, more than half of all covered settings in Colorado (54%) have been verified as compliant.

Other:

- The Department completed a significant updating and streamlining effort for its [HCBS Settings Final Rule website](#) on October 19, 2021.
- The Department is currently updating the Statewide Transition Plan (STP) for public comment and eventual submission to CMS for final approval. We expect to publish the STP for public comment (and share it with CMS) on or about February 25, 2022, initiating a 45-day public comment period to end on April 11, 2022 (this comment period will be longer than normal because of the size of the document). The Department will review and respond to public comments, aiming to submit to CMS the updated STP with responses to public comments by May 11, 2022. Pursuant to CMS’s

email of December 7, 2021, this process will occur before the Department finalizes the updated, merged Systemic Assessment Crosswalk.