



# HCBS Settings Final Rule

## Quarterly Update for Quarter Ending 3/31/24

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Since its last quarterly update, the Colorado Department of Health Care Policy & Financing (HCPF) took the following steps to ensure systemic compliance with the HCBS Settings Final Rule:

- On March 8, 2024, submitted to CMS updates to the four waivers up for renewal: Children’s Extensive Support (CES), Children’s Habilitation Residential Program (CHRP), Persons with Developmental Disabilities (DD), and Supported Living Services (SLS). The updates include:
  - Deleting the language formerly contained in Attachment #2: Home and Community-Based Settings Waiver Transition Plan;
  - Updating language in Appendix C-5: Home and Community-Based Settings to describe (i) the setting types at which services under each waiver are provided, along with the services offered at each setting type; and (ii) the process for ongoing monitoring for compliance with all HCBS Settings Final Rule requirements at each setting type; and
  - Updating language in Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions to reflect HCPF’s codification of the HCBS Settings Final Rule.

We are in receipt of CMS’s informal questions on the updates and are preparing responses.

- Confirmed that HCPF’s overhauled HCBS rules went into effect on March 16, 2024. HCPF’s codification of the HCBS Settings Final Rule changed from section 8.484 to [section 8.7001.B of 10 CCR 2505-10](#). HCPF is now initiating a follow-up rulemaking that will include striking existing rules that have been superseded by the new rules.
- Continued working with instructional designers to develop new self-paced e-learning modules for case managers, to be housed in the new case management learning management system (LMS).

Since its last quarterly update, HCPF took the following steps to complete site-specific assessment, remediation, and verification for settings receiving extra time under the approved [Corrective Action Plan \(CAP\)](#):

- As previously noted, HCPF sent Final Notices on December 15, 2023 to one provider and two case management agencies (CMAs) regarding one nonresidential setting not



yet verified as compliant. As of that date, HCPF had identified 12 members that would need to transition to another setting or funding source. This provider indicated that it planned to stop participating in the Medicaid program by March 15, 2024.

- To ensure that CAP period individual transitions were timely completed, the Department:
  - On February 15, 2024, emailed a Courtesy Reminder to the one provider with the one setting still not verified as compliant, and emailed a reminder to the two CMAs with affected members.
  - During the following weeks, reached out to CMAs as needed, where CMAs still had individual transitions outstanding (per CMA updates in SharePoint trackers).
  - On April 1, 2024, directly checked the Care and Case Management System (CCM) to confirm that individual CAP-period transitions had been completed. HCPF has separately communicated to CMS its findings regarding how members completed their transitions.
- As a backstop to the individual transition process, HCPF on March 18, 2024 sent the provider a notice regarding the end-dating of its noncompliant specialty and sent a transmittal to HCPF's fiscal agent to effectuate the same. This step ensured that all covered settings not yet verified as compliant were no longer receiving Medicaid HCBS reimbursement. Stated differently, 100% of settings that were subject to the site-specific verification process and that are still open and participating in Medicaid have been validated as compliant.
- With the conclusion of work on Provider Transition Plans (PTPs) that received CAP-period extensions, HCPF decommissioned the PTP platform on March 31, 2024.

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The remaining CAP milestones relate to addressing CMS's feedback on our heightened scrutiny determinations, which we look forward to receiving.