



# HCBS Settings Final Rule Quarterly Update for Quarter Ending 6/30/20

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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:

- Held the remaining meetings of the rights modification stakeholder workgroup on a remote-only basis.
- At the third meeting (April 21), workgroup participants finished their first pass-through of the Department's draft rule incorporating the requirements of the HCBS Settings Final Rule into state regulations. Participants asked questions about and offered comments on the draft language. The workgroup also started a discussion of possible training topics and approaches for the Department's consideration in the development of the next phase of its HCBS Settings Final Rule training plan. Participants received a worksheet to be used in organizing their thoughts on this subject before the next meeting.
- At the fourth meeting (May 19), the Department presented a slide deck explaining the approach in its draft rule, focusing on the question of when the full rights modification process, including documentation of the individual's informed consent, is required. The workgroup confirmed that it was interested in helping to develop an informed consent template. Participants were polled on their priorities for training topics and discussed their ideas for training approaches helpful for particular audiences (including individuals, families, friends, guardians, advocates, case managers, and providers).
- At the fifth and final meeting (June 10), the Department presented a consolidated, clarified list of the workgroup's training topic priorities. Participants commented on the priorities and suggested approaches for developing trainings targeted at particular audiences. The Colorado Department of Public Health & Environment (CDPHE) presented an informed consent template, with built-in guidance for providers and case managers, that it had developed with input from the Department. Participants commented positively on the template and were asked to provide further feedback by email. The Department provided updates on the process of revising the draft rule and completing the listening log (updated/working copies of which had been shared with the workgroup before the meeting). The Department noted that although the workgroup was concluding, interested stakeholders would have further opportunities to review and comment on updated versions of the draft rule and listening log before the initiation of the formal rulemaking process. To that end, the Department is now scheduling meetings to be held in late summer and early fall 2020.



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

- Rolled out the Provider Transition Plan (PTP) platform to all remaining providers—*i.e.*, those serving settings where adult day services, specialized habilitation, Supported Community Connections (SCC), prevocational services, day treatment, and group supported employment are provided; as well as certified foster care homes, group homes, kinship homes, residential child care facilities (RCCFs), and Medicaid enrolled providers serving the Children’s Habilitation Residential Program (CHRP). Templates for the [nonresidential PTP](#) and [children’s residential PTP](#) are available on the Department’s [HCBS Settings Final Rule website](#). An updated [User Manual](#) for the platform is available on the Department’s website and within the platform itself.
  - On April 16, the Department sent an email to nonresidential providers advising them of steps they could take before roll-out to streamline the PTP completion process. These steps included ensuring that the Department had their correct email addresses, reviewing the Department’s responses to Frequently Asked Questions (FAQs) and other issuances and trainings, and updating their policies and procedures to ensure consistency with the Department’s guidance and accuracy in reflecting provider operations.
  - On June 16, the Department issued an [Informational Memo](#) informing nonresidential and children’s residential providers of the upcoming roll-out and announcing trainings on how to complete PTPs on the platform.
  - On June 26, the system sent Welcome emails to nonresidential and children’s residential providers, including those new to the platform as well as those already completing PTPs in the platform for their adult residential settings. Additional Welcome emails continue to be sent for providers that need to be added to the platform or need to add or change their authorized users.
  - On June 24 and July 1, the Department provided trainings on how to use the platform. The Department outlined basic functionalities within the system as well as differences in how the system works for nonresidential and children’s residential PTPs compared to adult residential PTPs. The Department recorded these trainings so that they can be shared with providers that missed the live sessions.
- The Department sent additional follow-up emails to some providers that had submitted adult residential PTPs and were significantly overdue on submitting updates demonstrating that all required changes were made. In these emails, the Department noted that despite the COVID-19 pandemic, the deadline for statewide compliance with the HCBS Settings Final Rule had not been extended.

- As of June 30, 2020, site-specific status could be summarized as follows:

|   | Adult Residential PTPs | Children’s Residential PTPs | Nonresidential PTPs |
|---|------------------------|-----------------------------|---------------------|
| Number of providers                                 | 380                    | 10                          | 231                 |
| Number of settings = number of PTPs to be completed | 2784                   | 18                          | 521                 |
| 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
- (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
- (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 July 1, 2020. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.

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With the PTP platform now fully rolled out, the “new normal” beginning to emerge from the pandemic, and CMS’s [issuance today](#) of extended timelines and new guidance relating to the pandemic, the Department expects to update its schedule of rule implementation milestones for submission to CMS in the coming months.