



HCBS Settings Final Rule

Quarterly Update for Quarter Ending 6/30/21

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

- Held a virtual focus group in May with self-advocates to obtain feedback on a draft training for individuals on their rights and the rights modification process. This training was revised in light of the feedback.
- Published an [Informational Memo](#) on July 1 to inform stakeholders of the availability of the following pre-recorded, self-paced trainings on individual rights and the rights modification process:
 - For individuals participating in HCBS waivers ([recording](#)) ([slide deck](#))
 - For parents, families, and guardians of waiver participants ([recording](#)) ([slide deck](#))
 - For providers and case management agencies (CMAs) ([recording](#)) ([slide deck](#))
- As noted in the Informational Memo, the Department will host live question-and-answer sessions in August, after people have had a chance to review the trainings.

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

- On June 10, published the following materials relating to heightened scrutiny:
 - [Informational Memo](#) (subsequently circulated to stakeholders via Constant Contact and via additional emails)
 - [Fact sheet](#)
 - [Site-specific assessment and heightened scrutiny process](#)
 - Notices in the [Colorado Register](#), tribal consultation document, and newspapers. The newspaper notices repeated on June 24.
 - [List of settings](#)
 - [52 summary sheets](#)



- Instructed both CMAs and providers to reach out to individuals living or receiving services at affected settings (or if authorized, their guardians/other legal representatives) to ensure that they were aware of the opportunities to comment.
- Hosted virtual public town hall meetings on June 28, 29, and 30 to take comments on the heightened scrutiny determinations. The meetings had between 36 and 55 participants (including some state agency and contractor staff).
- Received email comments regarding the determinations. To date, no stakeholders have asked to see the folders of supporting evidence used in preparing the summary sheets.
- The public comment period had a soft close on July 10 (a Saturday—the Department told stakeholders that it would review comments received within a few days of that date). The Department is now reviewing and addressing all input from the town halls and the emails, with the aim of preparing updated summary sheets for submission to CMS later this month or in August. As previously indicated, these submissions will include settings in both the location-based category (factors i and ii) and the otherwise isolating category (factor iii).
- More broadly, the Department has 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.
- As of June 30, 2021, site-specific status could be summarized as follows:

	Adult Residential PTPs	Children’s Residential PTPs	Nonresidential PTPs
Number of providers	372	10	213
Number of settings = number of PTPs to be completed	2550	15	407
Compliance status of settings	<p>(2) No HS, not yet compliant, in progress, 61.6%</p> <p>(1) No HS, compliant, done, 36.0%</p> <p>Other, 2.4%</p>	<p>(2) No HS, not yet compliant, in progress, 73.3%</p> <p>(1) No HS, compliant, done, 26.7%</p>	<p>(6) HS, not on track to comply, 6.6%</p> <p>(2) No HS, not yet compliant, in progress, 54.3%</p> <p>(1) No HS, compliant, done, 31.0%</p> <p>Other, 8.1%</p>

	Adult Residential PTPs	Children’s Residential PTPs	Nonresidential PTPs
Compliance status options			
<ul style="list-style-type: none"> ■ (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 ■ (6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption; prepare now to transition clients ■ Other <ul style="list-style-type: none"> (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 (7) Not yet known (default) or blank (8) Setting has closed because of rule (9) Setting has closed for another reason 			
<p>All data in table is as of July 1, 2021. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.</p>			