



# HCBS Settings Final Rule Quarterly Update for Quarter Ending 6/30/23

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Since its last quarterly update, the Department took the following steps to ensure systemic compliance with the HCBS Settings Final Rule:

- Continued to work with stakeholders on noncritical rule updates, aimed at streamlining processes and eliminating redundant language, as part of the larger rule overhaul in support of case management redesign. After clearance this summer, the rule updates will be presented to the Medical Services Board (MSB) for expected approval in winter.
- Put out updated Community Mental Health Supports (CMHS) Waiver language for public comment. As detailed in a [Fact Sheet](#), the proposed amendments 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, for the settings that were previously publicly noticed and approved through the Statewide Transition Plan (STP), (i) the services offered at each setting and (ii) the process for ongoing monitoring for compliance with HCBS Settings Final Rule requirements; and
  - Noting in Appendix C-5 that effective November 11, 2023, the Department is adding a new service to the CMHS waiver, Mental Health Transitional Living (MHTL), that will be provided in the new setting of Mental Health Transitional Living Homes (MHTLHs). New language details how the Department will ensure initial compliance as well as ongoing monitoring.

Public comment closes on August 4, 2023, after which the Department will submit the proposed amendments to CMS.

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

- Worked with the Colorado Department of Public Health & Environment (CDPHE) to support providers in finishing demonstrations of compliance.
- As of June 30, 2023, site-specific status could be summarized as follows:
  - Consolidating the three Provider Transition Plan (PTP) categories, 99.4% of all covered settings in Colorado have been verified as compliant.



- Details are in the following table.

	<b>Adult Residential PTPs</b>	<b>Children’s Residential PTPs</b>	<b>Nonresidential PTPs</b>
<b>Number of providers</b>	352	9	196
<b>Number of settings = number of PTPs to be completed</b>	2134	13	328
<b>Compliance status of settings</b>			

**Compliance status options consolidated within green wedges**

- (1) Setting is NOT subject to heightened scrutiny and IS compliant with rule
- (4) Setting IS subject to heightened scrutiny and IS able to overcome institutional presumption

**Compliance status options consolidated within rust-colored wedges**

- (2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule
- (3) Setting is NOT subject to heightened scrutiny and NOT timely able to comply with rule
- (5) Setting IS subject to heightened scrutiny and NOT YET able to overcome institutional presumption
- (6) Setting IS subject to heightened scrutiny and NOT timely able to overcome institutional presumption

All data in table is as of July 6, 2023. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.

The “Other” wedges above encompass a total of just 15 settings. If still not verified as compliant, these settings will be subject to pre-provisional notices (final warnings) in August/September, followed by provisional notices in September/October, as set out in the CAP.

Finally, pursuant to the schedule in the CAP, and after public comment, the Department [submitted to CMS](#) a small second batch of heightened scrutiny determinations on May 31, 2023. We look forward to CMS’s review of and feedback on these determinations.