



HCBS Settings Final Rule Quarterly Update for Quarter Ending 9/30/19

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

- On August 27, 2019, published an [Informational Memo](#) announcing that the Department plans to host a workgroup to develop proposed materials regarding the rights modification process under the rule, such as:
 - Proposed best practices for not just complying with the requirements of the rule, but going above and beyond to implement person-centeredness, community integration, and other core values;
 - Lists of frequently asked questions (FAQs) not already addressed in the Department's FAQ series and Operational Memos, along with proposed answers, including guidance targeted toward implementing best practices;
 - Proposals for updating regulations and waivers to incorporate the requirements of the rule, including by streamlining existing processes under the waivers serving people with intellectual and developmental disabilities (IDD) for rights suspensions and restrictive procedures;
 - Proposed forms to use in documenting the rights modification criteria, including informed consent; and/or
 - Proposed trainings for individuals and families, providers, and/or case managers.

In the Informational Memo, the Department invited those who are interested in participating to reach out. The Department has received expressions of interest from many representatives of advocacy organizations, HCBS provider agencies, and case management agencies serving the HCBS waivers. The Department is currently working to schedule the first meeting of the workgroup.

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

- On October 8, 2019, executed an Interagency Agreement (IA) with the Governor's Office of Information Technology (OIT) to formalize scheduling and resources for the extension of the Provider Transition Plan (PTP) Google Cloud



Platform (GCP) to nonresidential and children’s residential settings. With the IA in place, the Department is now finalizing for publication and submission to CMS the remainder of its milestones for implementation of the HCBS Settings Final Rule.

- Continued to work with the Colorado Department of Public Health & Environment (CDPHE) to complete reviews of PTP materials for adult residential settings.
- As of September 30, 2019, site-specific status could be summarized as follows:

	Adult Residential PTPs (on GCP platform)	Children’s Residential PTPs (on SharePoint platform)	Nonresidential PTPs (on SharePoint platform)
Number of providers	387	20	253
Number of settings = number of PTPs to be completed	3293	36	598
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 October 1, 2019. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.

While many adult residential PTPs still have an unknown/blank compliance status (number 7), the State is well on its way toward verifying compliance at these settings:

- 95% of these PTPs have been completed and submitted by the provider and are awaiting CDPHE review or have been reviewed by CDPHE and sent back to the provider for additional information. As CDPHE and providers complete this iterative process, PTPs will be assigned to one of the other compliance statuses.
- CDPHE staff have been working with providers to update their overall policies, procedures, leases/residential agreements, handouts, and other materials applicable across numerous settings, with this work being recorded in a single master PTP for that provider. Once the provider addresses issues that apply to all its adult residential settings, CDPHE reviews setting-specific materials (like activity calendars) and issues within individual PTPs. Because the second stage of review generally goes relatively quickly and can apply to dozens of separate settings, we expect to begin seeing large batches of PTPs reaching a more definite compliance status in the coming months.
- For most of the remaining 5% of adult residential PTPs with an unknown/blank compliance status (number 7) that are still in Draft status, the Department asked OIT to process a bulk-edit to reassign them to a noncompliant status (number 3). Providers can still complete and submit PTPs for these settings, but if they do not do so in time for CDPHE review, the settings eventually will be subject to letters advising the providers and case managers of affected Medicaid HCBS participants that (a) the participants will have to begin transitioning to other settings or funding sources and (b) new participants may not begin receiving services at the settings.