



# HCBS Settings Final Rule Quarterly Update for Quarter Ending 9/30/23

---

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 August 9, 2023, submitted updated Community Mental Health Supports (CMHS) Waiver language to CMS. 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, HCPF is adding a new service to the CMHS waiver, Mental Health Transitional Living (MHTL), that will be provided in the new setting type of Mental Health Transitional Living Homes (MHTLHs). New language details how HCPF will ensure initial compliance as well as ongoing monitoring.
- In September 2023, began working with an instructional designer to develop a new self-paced e-learning module for case managers, to be housed in the new case management learning management system (LMS). The training will cover the HCBS Settings Final Rule, rights protected by the rule, rights modifications, and the case manager's role within these areas. (Prior trainings have also covered these topics.)

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 \(CAP\)](#):

- Worked with the Colorado Department of Public Health & Environment (CDPHE) to support providers in finishing demonstrations of compliance.
- As of September 30, 2023, site-specific status could be summarized as follows:
  - Consolidating the three Provider Transition Plan (PTP) categories, 99.9% 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>	351	9	196
<b>Number of settings = number of PTPs to be completed</b>	2132	13	327
<b>Compliance status of settings</b>			
<p><b>Compliance status options consolidated within green wedges</b></p> <ul style="list-style-type: none"> <li>■ (1) Setting is NOT subject to heightened scrutiny and IS compliant with rule</li> <li>■ (4) Setting IS subject to heightened scrutiny and IS able to overcome institutional presumption</li> </ul> <p><b>Compliance status option in rust-colored wedges</b></p> <ul style="list-style-type: none"> <li>■ (2) Setting is NOT subject to heightened scrutiny and NOT YET compliant with rule</li> </ul>			
<p>All data in table is as of October 10, 2023. Providers and settings may appear in more than one column. The table excludes data relating to PTPs in Retired status.</p>			

The “Other” wedges above encompass a total of just three settings (one adult residential and two nonresidential). HCPF and CDPHE continue to provide technical assistance to these settings and believe that all three should be capable of demonstrating compliance soon. In addition, pursuant to the schedule in the CAP:

- HCPF sent “pre-provisional notices”/final warnings to providers on August 21, 2023 (adult residential) and September 21, 2023 (nonresidential).
- HCPF sent a provisional notice to the adult residential provider and to affected members (via their case management agency) on September 21, 2023. If needed, HCPF will send provisional notices for the two nonresidential settings on October 20, 2023. Provisional notices explain how to request informal reconsideration.