



COLORADO
Department of Health Care
Policy & Financing

Colorado Department of Health Care Policy & Financing (HCPF)

Home- and Community-Based Services (HCBS) Settings Final Rule Communication Plan

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Background

In January 2014, the federal Centers for Medicare & Medicaid Services (CMS) published a [rule](#) requiring Home- and Community-Based Services (HCBS) to be provided in settings that meet certain criteria. The criteria ensure that HCBS participants have access to the benefits of community living and live and receive services in integrated, noninstitutional settings. They also ensure that residential settings are truly homelike.

The rule requires that all HCBS settings meet specific criteria, including that they:

- Be integrated in and support full access to the greater community;
- Be selected by the participant from among setting options;
- Ensure individual rights of privacy, dignity, and respect, and freedom from coercion and restraint;
- Optimize autonomy and independence in making life choices; and
- Facilitate choice regarding services and who provides them.

In addition, provider-owned or -controlled residential settings must meet additional criteria, including that they:

- Have a lease or other written agreement providing similar protections for the individual that address eviction and appeals processes;
- Ensure privacy in the individual's unit, including lockable doors, choice of roommates, and freedom to furnish and decorate the unit;
- Ensure that individuals have freedom and support to control their own schedules and activities, and have access to food at any time;
- Protect individuals' ability to have visitors of their choosing at any time; and
- Be physically accessible.

Some of these additional criteria are also relevant to settings that are not provider-owned or -controlled residential settings.

The Department developed a Statewide Transition Plan (STP) for bringing HCBS throughout the State into compliance with the HCBS Settings Final Rule. After several rounds of public comment, the [STP was last published and submitted to CMS](#) on December 16, 2016. CMS granted [initial approval](#) of that version of the STP on November 21, 2017. Since then, the Department has worked with stakeholders to make significant progress in implementing the federal rule. Today, an updated version of the STP is being released for public comment. After the Department receives, reviews, and addresses public comments, the STP will be submitted to CMS for final approval.

As initially published (in several iterations), the STP contained a Key Stakeholders column identifying by name and/or category the stakeholders that might be interested in or affected by a given action. Various rows in the STP described steps the Department had taken or would take to engage with the identified stakeholders in connection with the actions described in each row. In correspondence with CMS, the Department provided additional details regarding its stakeholder engagement efforts and committed to developing a more formal and effective communication plan.

Purpose

This document is the more formal communication plan envisioned by the Department in its correspondence with CMS. It serves both to summarize the Department's approach to engaging with stakeholders as it implements the HCBS Settings Final Rule, including key developments over the years, and to set out a strategy for ongoing communications. This plan replaces and updates some text originally found in the STP, including the entire Key Stakeholders column, which no longer appears in the final STP. Our hope is that stakeholders will find the separate, updated document easier to understand and comment on than the version that was originally folded into the STP.

Department- and Office-wide developments

After the STP was initially approved by CMS, both the Department as a whole and specifically the Office of Community Living (OCL) within the Department implemented changes to improve stakeholder engagement. Although not particular to the HCBS Settings Final Rule, the changes all contributed to more robust stakeholder engagement for the rule. They include:

- The Department's adoption of the [Constant Contact system](#) for management of stakeholder email lists and distribution of communications. This system allows stakeholders to sign up to receive communications on particular topics of interest to them, and to unsubscribe when desired, thereby replacing certain manually maintained email lists. It also ensures a more consistent look and feel for departmental communications, enhancing readability and access to relevant information. Within the Constant Contact email distribution lists, the Department most frequently sends its HCBS Settings Final Rule-related communications to the ones for Intellectual and Developmental Disability (IDD) Stakeholders and Long-Term Services & Supports (LTSS) Stakeholders, but at times it also used other Constant Contact email distribution lists (e.g., placing notices in the At A Glance newsletter) and/or manually maintained email lists (e.g., the evolving participant list for the Rights Modification Stakeholder Workgroup/Open Meeting Series).
- The Department's implementation of the [Memo Series](#) to align, streamline, and clarify departmental communications. As stated in [HCPF PM 18-001](#),

Prior to January 2018, the Department communicated with supervised agencies, contractors, and others through a variety of methods. Each of the Department's Offices communicated through previously approved methods, such as Agency, Dear Director or Dear Administrator Letters, e-newsletters, Communication Briefs or guidance provided through other electronic communications. Archiving and public record retention varied based on the communication method.

Effective January 1, 2018, the Department's Executive Team approved the HCPF Memo Series as a new method of providing policy and operational guidance. The HCPF Memo Series communications will be available in one place on the Department's website for easier search and navigation. . . .

The HCPF Memo Series has three types of official communications: A Policy Memo, an Operational Memo and an Informational Memo. The

intention of the Memo Series is to clarify protocols and ensure Department expectations are clear and actionable for the recipients of Department communications.

- OCL’s reorganization, which occurred in 2017, was intended to better support integration of related tasks, recognize interdependencies of functions within OCL, and align functions to better serve stakeholders. The two former divisions (one for IDD and one for other LTSS) were reconstituted as four new divisions (one for case management and quality performance; one for benefits and services management; one for strategy, innovation, and engagement; and one for operations and administration). This reorganization aligned with efforts to implement the HCBS Settings Final Rule in Colorado, as the rule affects such a broad array of waivers, provider types, and case management agency (CMA) types—both those targeted to individuals with IDD, and those targeted to other populations. The reorganization allowed for more efficient building of and access to expertise within OCL and for more streamlined communications with external stakeholders (e.g., all CMAs rather than just a subset).
- OCL’s implementation of a [stakeholder engagement website](#) providing a calendar of meetings and a one-stop-shop for engagement opportunities. This website is one of several departmental pages that link back to the Department’s [HCBS Settings Final Rule page](#), enhancing the latter page’s findability for those interested in the subject. The Department was also able to use the calendar on the OCL stakeholder engagement site; for example, to schedule [heightened scrutiny town halls](#) at times that would not pose conflicts with other meetings and to publicize the meetings to those who may have missed other communications, thereby maximizing town hall participation.

Finally, the COVID-19 pandemic required virtually all state agencies to adjust their approach to stakeholder engagement. During the pandemic, OCL began to hold regular [webinars](#) for two groups: the disability, older adult, and advocacy communities; and providers and CMAs. These webinars, which are ongoing, provide a forum for the Department to provide updates and respond to questions and concerns. For the HCBS Settings Final Rule specifically, some scheduled in-person meetings were replaced with remote (online and/or phone) meetings, and meetings continue to be held on a remote-only basis. It seems likely that some people participated remotely in meetings which, had they been held in person, would have required prohibitive amounts of travel time and/or expense. On the other hand, others with difficulty in using remote methods may have been prevented from joining meetings that they otherwise might have attended in person.

Target audiences

In developing this separate plan, the Department kept in mind that the HCBS Settings Final Rule affects an extraordinarily broad group of stakeholders with different needs, interests, and preferences for engagement. The rule affects all ten of Colorado’s HCBS waiver programs and a wide variety of setting types, some of which are presumed compliant during the transition period and others of which are required to demonstrate compliance sooner rather than later. It will ultimately touch the lives of tens of thousands of waiver participants each year, along with all the providers and CMAs that serve them. Implementing the rule has been a joint effort of multiple state agencies, including the Department (the Colorado Department of Health Care Policy & Financing, or HCPF), the Colorado Department of Public Health & Environment (CDPHE), and the Colorado Department of Human Services (CDHS); CMS and the

Administration for Community Living (ACL) at the federal level; and others, each with different roles.

This plan details a distinct communication strategy for each of the following target audiences:

- Individual waiver participants;
 - Subset: those who may need to transition to a new setting or funding source;
- Their family members and friends;
- Advocates and advocacy groups;
- Providers of waiver services;
- CMAs, including Community Centered Boards (CCBs) and Single Entry Points (SEPs);
- State agencies, including CDPHE and CDHS;
- Federal agencies, including CMS and ACL; and
- State legislators/committees (e.g., the Joint Budget Committee).

Communication strategies

Because each stakeholder group has its own needs, interests, and preferences for engagement, the Department tailored different strategies for communicating with each group. Communication strategies address both the Department’s need to inform or instruct the target audience, as well as its need to receive input (questions, comments, feedback) from each group.

Target audience	Key considerations	Communications approaches
Individual waiver participants	<ul style="list-style-type: none"> • Need to know how rule affects them • Need information presented in non-technical ways • Need to provide input on their lived experiences 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Shared Fact Sheet for Individuals and Families • Invited to participate in IFA Survey via Constant Contact circulation of Communication Brief and individualized case manager prompts (at Department’s instruction) (see STP, Row 8) • Invited to participate in public question-and-answer session via Constant Contact circulation of Communication Brief (see STP, Row 67) • Invited via Constant Contact circulation of Informational Memo to January 2019 training on rights and rights modifications (see STP, Row 65) • Invited via Constant Contact circulation of Informational Memo and individualized outreach (at request of Department) to participate in Rights Modification Stakeholder Workgroup (see STP, Rows 10 (sub-row with rights modification details), 28, and 67)

		<ul style="list-style-type: none"> • Invited via Constant Contact circulation of Informational Memo to participate in Open Meeting Series (see STP, Rows 10 (sub-row with rights modification details), 22, 29, and 67) • Invited via Constant Contact circulation of Informational Memo and by individualized provider and case manager outreach (at Department’s instruction) to participate in heightened scrutiny town halls (see STP, Row 10 (sub-row with heightened scrutiny details)) • Invited via Constant Contact circulation of Informational Memo and by advocacy organizations (at request of Department) to June 2021 training and August 2021 public question-and-answer session on rights and rights modifications, with modules and session targeted specifically to members (see STP, Rows 65 and 67) <ul style="list-style-type: none"> ○ Members were invited via email, flyer, and advocacy organizations to participate in a focus group to comment on and further develop these modules before they were finalized (see STP, Row 65) • Informed of rights in plain language pursuant to requirement in Colorado’s codification of rule (see new 10 CCR 2505-10 section 8.484) <p>Planned</p> <ul style="list-style-type: none"> • Develop and share short video(s) on individual rights and rights modifications (see STP, Row 65) • Invite to participate in process to develop Individual Transition Plan (ITP) template (see STP, Row 19)
<ul style="list-style-type: none"> • Subset: those who may need to transition to a new setting or funding source 	<ul style="list-style-type: none"> • Need to know what change is happening and why • Need to direct their transitions through person-centered planning 	<p>Planned</p> <ul style="list-style-type: none"> • Notify through case manager of provisional determination, option to participate in informal reconsideration process, and final determination (at Department’s instruction) (see STP, Rows 15-18) <ul style="list-style-type: none"> ○ The Department found that notifying individuals through their

	<ul style="list-style-type: none"> • Need sufficient time and resources to support an orderly transition 	<p>case managers was effective in the heightened scrutiny context, as demonstrated by individual and family participation in the heightened scrutiny town halls and submission of written comments. Therefore, the Department expects to use a similar communication approach in the context of settings determined unable or unwilling to comply.</p> <ul style="list-style-type: none"> • Support to participate in ITP process (see STP, Rows 19-21) <ul style="list-style-type: none"> ○ The ITP will include assurances that the individual received reasonable notice and due process in their transition; that they were given the opportunity, information, and supports to make an informed choice of an alternate setting; and that critical services/supports are in place in advance of their transition.
<p>Their family members and friends</p>	<ul style="list-style-type: none"> • Need to know how rule affects them • Need information presented in non-technical ways • Need to provide input on their lived experiences 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Shared Fact Sheet for Individuals and Families • Heard from those that participated in early stakeholder workgroups to discuss concerns, best practices, and other issues for implementing rule • Invited to participate in IFA Survey via Constant Contact circulation of Communication Brief (see STP, Row 8) • Invited to participate in public question-and-answer session via Constant Contact circulation of Communication Brief (see STP, Row 67) • Invited via Constant Contact circulation of Informational Memo to January 2019 training on rights and rights modifications (see STP, Row 65) • Invited via Constant Contact circulation of Informational Memo to participate in Rights Modification Stakeholder Workgroup (see STP, Rows 10 (sub-row with rights modification details), 28, and 67) • Invited via Constant Contact circulation of Informational Memo to participate in

		<p>Open Meeting Series (see STP, Rows 10 (sub-row with rights modification details), 22, 29, and 67)</p> <ul style="list-style-type: none"> • Invited via Constant Contact circulation of Informational Memo to participate in heightened scrutiny town halls (see STP, Row 10 (sub-row with heightened scrutiny details)) • Invited via Constant Contact circulation of Informational Memo to June 2021 training and August 2021 public question-and-answer session on rights and rights modifications, with module and session targeted specifically to parents, guardians, and advocates (see STP, Rows 65 and 67) <p>Planned</p> <ul style="list-style-type: none"> • Invite to participate in process to develop Individual Transition Plan (ITP) template (see STP, Row 19)
Advocates and advocacy groups	<ul style="list-style-type: none"> • Need to know how rule affects the populations they serve • May find technical information (assuming base knowledge) helpful • Need to provide input on lived experiences of populations they serve 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Heard from those that participated in early stakeholder workgroups to discuss concerns, best practices, and other issues for implementing rule • Invited to participate in IFA Survey via Constant Contact circulation of Communication Brief (see STP, Row 8) • Invited to participate in public question-and-answer session via Constant Contact circulation of Communication Brief (see STP, Row 67) • Invited via Constant Contact circulation of Informational Memo to January 2019 training on rights and rights modifications (see STP, Row 65) • Invited via Constant Contact circulation of Informational Memo to participate in Rights Modification Stakeholder Workgroup (see STP, Rows 10 (sub-row with rights modification details), 28, and 67) • Invited via Constant Contact circulation of Informational Memo to participate in Open Meeting Series (see STP, Rows 10 (sub-row with rights modification details), 22, 29, and 67)

		<ul style="list-style-type: none"> • Invited via Constant Contact circulation of Informational Memo to participate in heightened scrutiny town halls (see STP, Row 10 (sub-row with heightened scrutiny details)) • Invited via Constant Contact circulation of Informational Memo to June 2021 training and August 2021 public question-and-answer session on rights and rights modifications, with module and session targeted specifically to parents, guardians, and advocates (see STP, Rows 65 and 67) • Addressed requests for guidance in responses to frequently asked questions (FAQs) and other issuances (see STP, Rows 66-67) <p>Planned</p> <ul style="list-style-type: none"> • Invite to participate in process to develop Individual Transition Plan (ITP) template (see STP, Row 19)
Providers of waiver services	<ul style="list-style-type: none"> • Need to know how rule affects them • May find technical information (assuming base knowledge) helpful • Need frequent opportunities to ask questions (technical assistance) • Need information to be consistent with that provided to CMAs 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Shared Fact Sheet for Providers • Heard from those that participated in early stakeholder workgroups to discuss concerns, best practices, and other issues for implementing rule • Invited to participate in public question-and-answer session via Constant Contact circulation of Communication Brief (see STP, Row 67) • Invited to participate in informal roundtables involving individuals with a history of sexually offending behaviors (see STP, Row 67) • Required via Constant Contact circulation of Informational Memo to take January 2019 training on rights and rights modifications (see STP, Row 65) <ul style="list-style-type: none"> ○ With this and subsequent trainings, the Department combined provider and CMA audiences to ensure both heard the same guidance and understood their respective roles and responsibilities

		<ul style="list-style-type: none"> • Invited via Constant Contact circulation of Informational Memo to participate in Rights Modification Stakeholder Workgroup (see STP, Rows 10 (sub-row with rights modification details), 28, and 67) • Invited via Constant Contact circulation of Informational Memo to participate in Open Meeting Series (see STP, Rows 10 (sub-row with rights modification details), 22, 29, and 67) • Invited via Constant Contact circulation of Informational Memo to participate in heightened scrutiny town halls (see STP, Row 10 (sub-row with heightened scrutiny details)) • Required via Constant Contact circulation of Informational Memo to take June 2021 training and invited to participate in August 2021 public question-and-answer session on rights and rights modifications, with module and session targeted specifically to providers and CMAs (see STP, Rows 65 and 67) • Addressed requests for guidance in responses to frequently asked questions (FAQs) and other issuances (see STP, Rows 66-67) <ul style="list-style-type: none"> ○ CDPHE supplemented distribution of many issuances via its provider portal • Provided 1:1 technical assistance through CPDHE as part of the Provider Transition Plan (PTP) process and directly from HCPF regarding rights modifications <p>Planned</p> <ul style="list-style-type: none"> • Invite to participate in process to develop Individual Transition Plan (ITP) template (see STP, Row 19) • Require to participate in potential future trainings (see STP, Row 65)
<p>CMAs, including CCBs and SEPs</p>	<ul style="list-style-type: none"> • Need to know how rule affects them • May find technical information (assuming base knowledge) helpful 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Heard from those that participated in early stakeholder workgroups to discuss

	<ul style="list-style-type: none"> • Need frequent opportunities to ask questions (technical assistance) • Need information to be consistent with that provided to providers 	<p>concerns, best practices, and other issues for implementing rule</p> <ul style="list-style-type: none"> • Invited to participate in public question-and-answer session via Constant Contact circulation of Communication Brief (see STP, Row 67) • Invited to participate in informal roundtables involving individuals with a history of sexually offending behaviors (see STP, Row 67) • Required via Constant Contact circulation of Informational Memo to take January 2019 training on rights and rights modifications (see STP, Row 65) <ul style="list-style-type: none"> ○ With this and subsequent trainings, the Department combined provider and CMA audiences to ensure both heard the same guidance and understood their respective roles and responsibilities • Invited via Constant Contact circulation of Informational Memo to participate in Rights Modification Stakeholder Workgroup (see STP, Rows 10 (sub-row with rights modification details), 28, and 67) • Invited via Constant Contact circulation of Informational Memo to participate in Open Meeting Series (see STP, Rows 10 (sub-row with rights modification details), 22, 29, and 67) • Invited via Constant Contact circulation of Informational Memo to participate in heightened scrutiny town halls (see STP, Row 10 (sub-row with heightened scrutiny details)) • Required via Constant Contact circulation of Informational Memo to take June 2021 training and invited to participate in August 2021 public question-and-answer session on rights and rights modifications, with module and session targeted specifically to providers and CMAs (see STP, Rows 65 and 67) • Addressed requests for guidance in responses to frequently asked questions (FAQs) and other issuances (see STP, Rows 66-67)
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		<ul style="list-style-type: none"> • Provided 1:1 technical assistance directly from HCPF regarding rights modifications <p>Planned</p> <ul style="list-style-type: none"> • Invite to participate in process to develop Individual Transition Plan (ITP) template (see STP, Row 19) • Require to participate in potential future trainings (see STP, Row 65) • Require to use tool to help case managers spot compliance issues as part of ongoing monitoring (see STP, Row 72)
State agencies, including CDPHE and CDHS	<ul style="list-style-type: none"> • Need clarity on rule interpretation for cross-agency consistency • Need role clarity 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Participated in weekly interagency meetings (with CDPHE and CDHS, see STP, Row 1) • Participated in development of PTP templates and implementation of site-specific assessment process (with CDPHE, see STP, Rows 9-14) • Participated in development and presentation of trainings (with CDPHE, see STP, Rows 65, 68) • Participated in development of FAQs and other written guidance (with CDPHE and CDHS, see STP, Rows 60, 66-67) • Participated in informal roundtables involving individuals with a history of sexually offending behaviors, as well as development of guidance regarding same (with CDPHE and Sex Offender Management Board (SOMB), see STP, Row 67) • Participated in each other’s rulemakings to ensure cross-agency consistency (with CDPHE and CDHS) <p>Planned</p> <ul style="list-style-type: none"> • Continue to participate in weekly interagency meetings • Continue to participate in development of trainings, written guidance, and rulemakings
Federal agencies,	<ul style="list-style-type: none"> • Need updates on Colorado’s implementation status 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Received initial approval of STP

<p>including CMS and ACL</p>	<ul style="list-style-type: none"> • Need to provide guidance (technical assistance) to state 	<ul style="list-style-type: none"> • Provided quarterly updates and engaged in other correspondence (see STP, Row 6) <ul style="list-style-type: none"> ○ The Department compiles these updates on its website for transparency and the public’s review • Reviewed federal written guidance to states • Participated in federal trainings for all states, and presented during one such training • Participated in monthly small group calls for selections of states • Provided heightened scrutiny materials for review <p>Planned</p> <ul style="list-style-type: none"> • Expecting to receive final approval of STP (with changes as needed) • Expecting to receive approval of heightened scrutiny materials (with changes as needed)
<p>State legislators/ committees (e.g., the Joint Budget Committee)</p>	<ul style="list-style-type: none"> • Need updates on Colorado’s implementation status 	<p>So far, the Department has done the following with this group:</p> <ul style="list-style-type: none"> • Provided quarterly reports in response to a legislative request for information (LRFI) (no longer in effect) • Provided responses to other (one-time formal or informal) LRFIs as needed <p>Planned</p> <ul style="list-style-type: none"> • Provide responses to other (one-time formal or informal) LRFIs as needed
<p>All</p>	<ul style="list-style-type: none"> • Need a one-stop-shop website with information on HCBS Settings Final Rule implementation in Colorado • Need ways to ask questions • Need to be informed of opportunities to provide formal public comment (e.g., on the STP, settings being put forward for heightened 	<p>So far, the Department has done the following with all groups:</p> <ul style="list-style-type: none"> • Overhauled and streamlined website to better serve stakeholders (see STP, Row 4) • Publicized two email accounts where questions can be sent and from which some correspondence is sent to relevant recipients (see STP, Row 3) • Attended gatherings of relevant groups and met with stakeholders as requested (see STP, Rows 3, 70) • Provided formal public notice and opportunities to comment for different

	scrutiny, and proposed rules)	<p>iterations of the STP, systemic assessment crosswalk, and heightened scrutiny materials (see STP, Rows 5, 10 (sub-row with heightened scrutiny details), 22)</p> <ul style="list-style-type: none"> • Provided formal public notice and opportunities to comment for Colorado’s codification of rule (see STP, Rows 32-37) • Provided responses to public comments received as listed above <p>Planned</p> <ul style="list-style-type: none"> • Provide public notice and opportunities to comment for final updated, merged systemic assessment crosswalk and implementing redlines to rules and waivers (see STP, Rows 23, 40-56)
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As is clear from the table above, a variety of methods of communicating to and hearing from each group is needed, from informal presentations and meetings to trainings to formal issuances and public comment opportunities. Some of these methods are used on an almost daily basis (e.g., emails, website updates/access), while others are used only rarely (e.g., formal public comment opportunities). The Department chooses the method of communication based on the relevant objectives and the needs of the target audience.

Although it may not be clear from the table above, the use of communication strategies is iterative. For example, when the federal rule was relatively new, many communications within Colorado involved questions from advocates, providers, and CMAs; these questions informed the creation of written guidance to such stakeholders, in the form of FAQ responses and other issuances. As another example, when CMS provided new guidance to the states (or to Colorado in particular), such new guidance informed the Department’s issuance of further/amended guidance to stakeholders within Colorado. In this way, the Department and stakeholders have been able to adapt to ongoing developments. To this end, we will continue to evaluate our communication methods and the needs of our stakeholders, tailoring our approaches depending on what needs to be communicated and by/to whom, and ensuring that our messages are both timely and easily understood.