



**DHS Secretary Kristi Putnam
Office of the Secretary**

P.O. Box 1437, Slot S201, Little Rock, AR 72203-1437
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July 7, 2023

Amanda Hill
Health Insurance Specialist
Division of Long-Term Services and Supports
Disabled and Elderly Health Programs Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services

Dear Ms. Hill:

As requested, this narrative has been amended.

CMS requested that all states should ensure the following information is submitted to CMS to document state and provider compliance with the regulatory criteria that must be met by the end of the transition period.

- Description of how the state’s oversight systems (licensure and certification standards, provider manuals, person-centered plan monitoring by case managers, etc.) have been modified to embed the regulatory criteria into ongoing operations.
- Description of how the state assesses providers for initial compliance and conducts ongoing monitoring for continued compliance; and
- Description of a beneficiary’s recourse to notify the state of setting non-compliance (grievance process, notification of case manager, etc.) and how the state will address beneficiary feedback

Per CMS’ request, below is the narrative for the State of Arkansas on the HCBS Settings rule compliance.

Waivers, State Plan Amendments, and Provider Manuals

Progress has been made with the Settings Regulation compliance, the two of the 1915(c) waivers operated by DAABHS, AR.0195- ARChoices in Homecare (ARChoices) waiver and AR.0400 Living Choices Assisted Living (LCAL) have been revised and renewed. Both were approved by CMS in the Spring of 2022, and updated with the Settings review assurances, and performance measures for monitoring. Site reviews were completed for Assisted Living Facilities, Adult Day Care, Adult Day Health Facilities and Adult Family Homes. (Note that although Adult Family Homes were initially reviewed, they are no longer licensed or reimbursed by Arkansas Medicaid.) Provider manuals for the ARChoices and Living Choices waivers have been updated and were promulgated in the Fall of 2022 with the appropriate information and rules for providers to follow concerning the HCBS settings regulations.

The 1915(c)-waiver operated by the Division of Developmental Disabilities Services (DDS) AR.0188 - Community and Employment Support (CES) (formally Alternative Community Services) was renewed, with final approval by CMS effective August 1, 2022, for a five-year period. As part of the renewal application additional updates were made to the assurances and performance measures for monitoring. The CES Waiver was promulgated in accordance with State of Arkansas Administrative Rules. As the current CES Waiver was in existence prior to March 2014, the State of Arkansas had previously submitted a statewide transition plan in accordance with regulation requirements for HCBS at 42 CFR 441.301 (c) and 441.710 (a) (1) (2). This setting plan was reviewed and approved by CMS on June 2, 2017.

The state has implemented two 1915(i) State Plan Amendments since the initial approval. The AR 18-0017 housed within the Provider-led Shared Savings Entity Program (PASSE) and 18-0016 Adult Behavioral Health Services for Community Independence (ABHSCI), both SPAs provide HCBS to clients. The PASSE program was developed and implemented in phases with the final implementation occurring in 2019. PASSE, which is a full risk organized care organization responsible for providing all services to its enrolled members, excluding non-emergency transportation, dental in a capitated program, school-based services provided by school employees, skilled nursing facility services, assisted living facility services, State operated Intermediate Care Facilities, or waiver services provided through the ARChoices in Homecare program or the Arkansas Independent Choices program. The PASSE also provides care coordination services through the § 1915(b) waiver. The HCBS Provider Manuals and associated provider licensure manuals are promulgated and indicate that the Settings requirements must be followed.

Person Centered Service Plans and Case Manager Monitoring

As stated above, all waiver programs that provide HCBS to beneficiaries who are Aging, Physically Disabled, Intellectually or Developmentally Disabled or those who have significant Behavioral Health needs have the required Settings language imbedded in the waivers and corresponding provider licensure manuals. With the implementation of a third-party independent assessment in 2018, we are also in compliance with federal Conflict Case Manager regulations. In the case of PASSE members, we pay the PASSE entities to provider care coordination. The care coordinators are responsible for developing and overseeing member's Person-Centered Service Plans. As for the Aging/Physically Disabled waivers, internal state staff oversee the development and implementation of the beneficiary's Person-Centered Service Plan.

In all circumstances, state staff oversee compliance with the provider licensure standards, including Conflict Free Case Management.

Licensure and Certification Standards for Providers

HCBS Providers for the 1915(i) HCBS, along with current and new HCBS Providers licensed, certified, and inspected by DHS, are currently being identified and will be contacted electronically and face-to-face. When a facility applies for licensure to be a state approved HCBS facility, DHS employees will review facility compliance with the HCBS settings rule during the initial site inspection.

DHS provided electronic questionnaires/self-assessments. Site Reviews are being conducted to ensure that the providers are complying with the HCBS Settings regulations. The providers must meet the HCBS Settings regulation requirements when they renew their application, if applicable.

Assessment of Initial Compliance of the Settings Rule and Monitoring for Ongoing Compliance

DHS conducts annual and incident-specific on-site reviews of all providers that serve people in HCBS settings. These reviews use observation, interviews, and record review to determine provider compliance with requirements. DHS issues a report to each organization that owns, operates, or otherwise controls HCBS settings with any characteristics at each location that do not appear to be in compliance with the current HCBS settings rule as part of the annual certification. A compliance action plan must be submitted to address any deficiencies that are cited and accepted by the agency. Follow-up visits are conducted to assure implementation of changes in accordance with approved compliance action plan.

Grievances and Appeals

A beneficiary can file a complaint or grievance, regarding non-compliance with the settings rule or any other complaint/incident at a facility, through email, telephone, or fax directly to the Division of Provider Services and Quality Assurance. When filing a complaint, the beneficiary would provide the name and address of the facility in question and provide details about the alleged violation or incident. If the beneficiary would like to remain anonymous, they may do so, or they can provide their contact information to the Department in the event more information is needed to conduct an investigation.

Grievance and appeals processes within the agency follow A.C.A. § 20-10-1201 et.seq. which discusses the protection of long-term care facility residents and A.C.A. § 12-12-1701 et. seq. which discusses the hotline, investigations, registry, and procedures for investigations.

Appeals: Appeals and grievances can be forwarded via email to DPSQAPOC@arkansas.gov, via phone at 501-320-6214, or via mail to:

Attn: Director of DPSQA

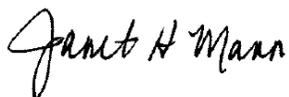
P.O. Box 8059, S408

Little Rock, AR 72203-8059

Providers are informed of the right to appeal the findings in the Notice of Non-Compliance.

If you have any questions or need additional information, please contact Kristie Hayes at Kristie.hayes@dhs.arkansas.gov.

Sincerely,



Janet Mann
Deputy Secretary of Health and Medicaid Director
Arkansas Department of Human Services

cc: Lynn Ward, CMS Dallas Regional Office, Kristie Hayes, Senior Project Manager, Division of Medical Services/OIT, Elizabeth Pitman, Director, Division of Medical Services, Martina Smith, Director, Division of Provider Services and Quality Assurance, Melissa Weatherton, Director, Division of Developmental Disabilities, and Paula Stone, Director, Office of Behavioral Health