



Montana submits this narrative to address the three bullets listed on slide 8 of the deck that was presented during the May 11, 2022, CMS webinar titled “HCBS Settings Rule Implementation – Moving Forward Toward March 2023 & Beyond,” to document state and provider compliance with these regulatory criteria.

Bullet 1

- *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.*

Licensure

Montana Department of Public Health and Human Services (DPHHS) created a validation tool to be used by program officers, quality assurance specialists, and licensing specialists.

In late 2023 DPHHS plans to integrate the existing validation tool into an electronic case tracking solution. This approach will retain the existing validation tool and process while making the results readily available to program officers, quality assurance personnel and Licensure Bureau staff. The ability to efficiently review current assessment responses, past validation results, and attach member feedback will provide a robust oversight system.

Onsite evaluations by the DPHHS Licensure Bureau are conducted for licensed providers at an interval not to exceed 3 years. follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are generally conducted onsite. The DPHHS Licensure Bureau is authorized to conduct on site visits at any time just cause is present. Just cause is defined as a referral, a complaint, or any reason where credible evidence requires an investigation. The validation tool will be completed by the licensing staff at each 3-year visit unless a validation was completed within the most recent year.

DPHHS will take a series of steps to guide providers in making the transition to full compliance with HCBS settings, such as informational letters, updates to the Administrative Rules of Montana and provider manuals, and other targeted communications.

Provider Manuals, Policies, Administrative Rules

DPHHS completed a comprehensive review of the state standards governing HCBS services in the Montana Medicaid program.

Phase 1 was to identify and document all state standards. See Section 4a of the Statewide Transition Plan (STP) for inventory of all administrative rules, waivers, and state plans establishing the state standards each service and setting.

Phase 2 included a review of each current administrative rules, policies, and manuals by program managers. The program managers identified potential changes necessary for compliance with the HCBS settings requirements. See Section 4b for HCBS Settings Final Rule requirements cross walked with the state standards. Each state standard was then documented as *met, partially met, silent, or did not meet*.



Phase 3 is the final state in the assessment and remediation of state standards. During this phase, DPHHS reviewed potential resolution options for improved alignment of the Medicaid policy and/or State licensing rules with the HCBS Settings Final Rule. The options considered included: a) amending licensing rules, 2) amending all HCBS Medicaid service rules, 3) amending overarching HCBS Medicaid service rules, or 4) a combination. DPHHS has determined that amending overarching HCBS Medicaid services rules will provide clarity of service and setting requirements efficiently, effectively and without unnecessary redundancies. In the following months DPHHS will propose amendments to the administrative rules to complete the assessment of state standards phase.

Person Centered Planning

To continue to receive federal Medicaid funds for waiver services, Montana must comply with the “settings” requirements. If a provider is unable or unwilling to remediate a setting, it may be necessary to transition an individual to a compliant setting. In any instance where an individual would need to move to an alternate setting, the individual will be given timely notice and afforded a choice of alternative providers through the person-centered planning process.

Bullet 2

- *Description of how the state assesses providers for initial compliance and conducts ongoing monitoring for continued compliance*

New providers will complete a Provider Self-Assessment (PSA) during their initial enrollment. Upon initial contact to the department, a provider is supplied Home and Community Based Settings tools and resources for review to include Montana’s Provider Self-Assessment. Once the provider completes the Provider Self-Assessment, the document is returned to the department for the initial desk-level review. The department communicates the outcome of the review in addition to a request of additional information in preparation for the virtual validation visit. The department completes Montana’s Validation Tool with the provider by method of telephone conversations, e-mail communications, video calls (if technology allows), and photographic evidence. Last, the department will also engage several resources to include, at a minimum, case management teams, program officers/managers, and advocates.

The tools developed will address questions recommended by CMS as part of the assessment process and, as such, are based on the nature and quality of the experience of individuals supported by that agency/facility. Each of these assessments will help determine which programs/settings are in compliance, provide means of validating provider assertions, lead to the development of provider corrective plans when necessary, and permit efficient and effective ongoing monitoring.

Future service and/or settings development will be evaluated against the HCBS Final Settings rule. Waiver changes are internally reviewed and approved by program staff, HCBS settings experts, DPHHS Division Administrators, and the Medicaid Director to ensure HCBS Settings and other regulatory compliance.



DPHHS has and will continue to take a series of steps to guide providers in making the transition to full compliance with HCBS settings, such as informational letters, training sessions and, and other targeted communications. For settings that are found not to be in compliance, the provider will be required to submit a corrective action plan to DPHHS that describes the steps to be taken and expected timelines to achieve compliance. Consideration of corrective action plans by the State will take into account the scope of the transition to be achieved and the unique circumstances related to the setting in question.

DPHHS staff review, analyze, and communicate approval/non-approval of remediation plans. DPHHS staff verify compliance through various methods which may include onsite review, documentation review or other ways to determine that compliance has been achieved in accordance with the remediation plan. Technical assistance will be provided via telephone calls, letters, and other methods as appropriate. DPHHS notifies the setting (by letter) when evidence of compliance is reached.

Ongoing Compliance

Monitoring of ongoing compliance will be a continuous process by several state and contracted staff. HCBS Program Officers and HCBS Case Management Teams provide oversight of member health and safety, community integration, and member satisfaction on an ongoing basis and in response to critical incidents. Potential HCBS Setting compliance risks will be noted as part of the visit documentation. These monitoring notes will be followed up on by HCBS program officers, may lead to an increase site risk assessment, and will initiate a full validation visit if appropriate.

Member communications will be evaluated by HCBS program officers for indications of potential HCBS Setting non-compliance. As part of the follow-up to surveys, member interviews, or member-initiated feedback, HCBS case management staff and/or HCBS program officers may request a validation visit alongside other health and safety follow-up.

Licensure Bureau staff will monitor for potential HCBS setting compliance risks during referral, complaint, or other credible evidence investigations. When a monitoring risk is identified the licensure staff will be noted as part of the investigation documentation. These investigation notes will be followed up on by HCBS program officers, may lead to an increase site risk assessment, and will initiate a full validation visit if appropriate.

Bullet 3

- *Description of a beneficiary's recourse to notify the state of provider non-compliance (grievance process, notification of case manager, etc.) and how the state will address beneficiary feedback.*

Member feedback is a critical component of our ongoing monitoring and validation efforts. Members will be able to provide feedback in several ways including site specific member surveys, member interviews, formally filed member grievances, or member-initiated feedback. The site-specific feedback will inform assessment desk reviews and validation visits. All member surveys will include contact information of program officers available to assist them in completing the survey. When appropriate member feedback may initiate a mid-cycle monitoring visit to identify potential areas of noncompliance and/or weaknesses in the assessment and validation cycle.



During the person-centered planning meetings members are informed of their rights to file a complaint or grievance and the process for filing. Members may also be reminded of this right during interviews or meetings with case management, program officers, or certification staff.

The ability to efficiently review current assessment responses, past validation results, and attach member feedback will provide a robust oversight system.

Member communications will be evaluated by HCBS program officers for indications of potential HCBS Setting non-compliance. As part of the follow-up to surveys, member interviews, or member-initiated feedback, HCBS case management staff and/or HCBS program officers may request a validation visit along with other health and safety follow-up.