

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

August 20, 2015

Stephanie Azar
Acting Commissioner
Alabama Medicaid Agency
501 Dexter Avenue
Montgomery, AL 36104

Dear Ms. Azar:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Alabama's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Alabama submitted its STP to CMS on March 17, 2015. CMS notes areas where the STP requires additional detail regarding assessment processes and outcomes, heightened scrutiny, remedial action processes, monitoring, relocation of beneficiaries and response to public comments. The issues that need to be addressed are summarized below.

Settings:

- Although the STP provided a list of services for each of the waivers, it should also include all settings impacted by the new requirements, specifically for the Individuals with Intellectual Disabilities (ID) Waiver and day programs for the Living At Home (LAH) Waiver. Please list all the settings in which ID Waiver and LAH Waiver services are delivered.
- The state should clarify that none of the private dwellings of waiver participants in which services are rendered include foster homes or serve to isolate individuals on the basis of program or geography. It is the state's responsibility to ensure that settings demonstrate the characteristics of a home and community-based setting. If the state is operating with a presumption that an individual's private home or private family home is meeting these requirements the state needs to confirm that none of these settings are operated in a manner that isolates the individual from the community of individuals not receiving Medicaid funded home and community-based services. Information available in the Toolkit on settings that isolate may be helpful in this regard. Such settings may include places where all or the majority of services are rendered in that setting or on the grounds of that setting. They might

also include settings where a group of individuals with disabilities or a specific type of disability (or their families) reside.

Response to Public Comments:

- In the revised STP, please ensure that a summary of public comments is provided and indicate what, if any, revisions were made to the STP on the basis of these comments.
- Several of the links in the current STP are not operational. Please ensure that all links included in the STP are functional.

Assessments:

- **Systemic assessment:** CMS requests additional detail on the following:
 - Describe the systemic assessment process for the state standards. Please include the specific state regulations, statutes, etc. that were analyzed and which specific settings they apply to.
 - Please provide the outcomes of the systemic assessment once the assessment is complete. This should include a crosswalk of which statutes, regulations or policies the state found to be in compliance with provisions of the federal regulations, which were silent on these provisions, and which were not in compliance. The crosswalk should identify the area of the state’s policies, regulations, etc. that relate to the specific qualities required under the federal regulation.
 - Provide additional details on how restraint policies are incorporated into the overall systemic assessment with respect to the ID Waiver program and how these policies comport with the home and community-based regulations.
- **Site-specific assessments:**
 - Please provide additional information on the following, across all waiver programs:
 - Describe how the state will address providers who do not complete the self-assessment.
 - Clarify that providers will be required to assess each of their individual sites.
 - Provide the outcomes of the site-specific assessments. If the outcome data are unavailable at the time the STP will be resubmitted, please indicate the date that CMS can expect a further revised STP which does include all site-specific assessment outcomes. Please note that if you will be submitting a second revised STP, it will also need to be posted for public comment prior to being submitted to CMS.
 - Provide details on how provider self-assessments will be reviewed and validated, who will be responsible for the review and validation, and when the review and validation will be complete.
 - Please clarify the criteria used to determine when a site visit will be conducted and how many site visits are expected to be completed.
 - For the ID and LAH Waivers, please provide additional information on the following:
 - Clarify that the “regional offices” referenced (STP pgs. 18, 21) in relation to conducting site visits are state regional offices.

- Provide additional detail on the composition of peer review committees for on-site assessments, the factors that will determine when these committees are convened, and what the on-site assessment process will include.
- For the SAIL Waiver, please provide additional information on the following:
 - For the on-site assessments of the dormitory and apartment complexes where some waiver participants reside, please provide additional detail on what the on-site assessment included and how compliance was validated.
 - Clarify how the integration of residents of the apartment complexes into the community is facilitated.
 - Clarify who is the “Director” (STP pg. 11) that conducted the site visits.
- For the TA and HIV/AIDS Waivers, please clarify that none of the private dwellings of waiver participants in which services are rendered include foster homes or serve to isolate individuals on the basis of program or geography. Please see the language above in “Settings” for guidance.

Remediation:

- **Systemic assessments:** CMS requests that the state describe the changes that need to be made to each regulation, statute or standard and identify the timeline and milestones to bring it into compliance.
- **Site-specific assessments:** Please describe the processes for review and approval of site-specific remediation plans and the state’s monitoring system, including milestones that will be used to ensure ongoing compliance with the remediation plan.

Monitoring:

- Please clarify the purpose of the workgroup with representatives of other Operating Agencies in relation to ongoing review of standards, policies and licensing requirements. These standards should already have been brought into compliance during the remediation phase of the systemic assessment.
- Please clarify the role of the licensing process in overall monitoring and indicate what, if any other processes/entities will be used for monitoring.
- For consumer satisfaction surveys, provide assurances that the state will link those surveys to individual sites, not merely consider the results on an aggregate level.

Heightened Scrutiny:

The state should clearly lay out its process for identifying settings that are presumed to have institutional qualities. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based in nature and do not have the qualities of an institution. If the state determines it will not submit information on settings meeting the scenarios described in the regulation, the presumption will stand and the state must describe the process for

informing and transitioning the individuals involved to other compliant settings or settings not funded by HCBS Medicaid.

Settings presumed to be institutional include the following:

- Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

Relocation of Beneficiaries:

CMS requests that the state provide details on this process, including a timeline and a description of the actual processes for assuring that beneficiaries, through the person-centered planning process, will be given the opportunity, the information, and the supports necessary to make an informed choice of an alternate setting that aligns, or will align by the end of the transition period, with the regulation. This should include assurance that critical services/supports are in place in advance of the individual's transition. The revised STP should estimate the number of individuals who may need relocation from settings that cannot be brought into compliance.

CMS requests that the state submit a revised STP no later than 75 days from receipt of this feedback letter that addresses CMS concerns regarding the assessment processes. The revised STP should include a remediation plan, with specific milestones, and corresponding timeframes for achieving systemic and site-specific compliance. The revised version of the STP will need to be posted for at least 30 days for public comment prior to being submitted to CMS.

CMS would like to have a call with the state to go over these questions and concerns and to answer any questions the state may have. A representative from CMS' contractor, NORC, will be in touch shortly to schedule the call. Please contact Patricia Helphenstine at 410-786-5900 or at patricia.helphenstine1@cms.hhs.gov, the CMS Central Office analyst taking the lead on the STP with any questions.

Sincerely,

Ralph F. Lollar, Director
Division of Long Term Services and Supports

cc: Jackie Glaze, ARA