



## **Disabled & Elderly Health Programs Group**

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September 16, 2015

Dawn Stehle  
Director, Division of Medical Services  
State of Arkansas, Department of Human Services  
112 West 8th Street, Slot S401 Little Rock, Arkansas 72201-4608  
Dear Ms. Stehle,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Arkansas's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Arkansas submitted its STP to CMS on June 29, 2015. In conducting an initial review of the STP, CMS has questions regarding the public notice and public comment processes, as well as the state's assessment processes.

### **Public Notice:**

- Please provide the actual public notice as part of the STP to confirm the information that was shared with the public regarding the STP and the public input process.
  - Please provide the name of the newspaper in which the notice or STP was published and clarify what was published in the newspaper (e.g., entire STP, instructions for public input process, URL to access STP, etc.).
  - Please also include the instructions the state provided to the public on how to submit comments.
  - Please explain how and when the public hearing was made known to the public, and how accessible the event was to the public (e.g., provision of call-in lines).
- The URL provided in the STP (<https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>) does not link to the STP. Additionally, the state did not provide a URL where the final STP (the version submitted to CMS) was uploaded, after changes were made as a result of the public comments received.
  - Please provide assurances that the link provided to the public directed individuals to the STP during the public comment period. The state should verify that all components of the STP – narrative, timeline chart, and public comments and responses – were made available to the public through a functional URL.
  - Please provide the correct URL where the submitted STP can now be found. The public needs to be able to check and see how the state addressed comments.
- Please verify that the version of the STP that the public commented on is the same version submitted to CMS for review, with the exception of any changes the state made to address comments received during the public comment period.
- Please clarify how the STP was made available to the public in non-electronic formats.

### **Public Comment:**

- Please clarify how public comments were accepted in formats other than at the public hearing, and whether the state’s responses to the public comments were posted for the public to review.
- Please include a summary of comments received. This summary should indicate the manner in which the comments were received (by what means - website, public hearing etc.), who submitted the comments (general public vs. an organization), what themes and/or trends were observed across the comments and how the state responded to the comments.

**Assessments:**

- **Systemic Assessment.** CMS notes that the systemic assessment needs to be completed within 6 months of the submission of the STP. While assessment by the Division of Developmental Disabilities Services (DDS) (“D-1: Develop revised HCBS standards” and “D-3: Review and revise HCBS Medicaid Manual”) is planned to be finished by 7/1/15, the review by the Division of Aging and Adult Services (DAAS) (“A-10: Other standards Assessment”) will not be completed until 7/30/16. Please verify if the state completed the 7/1/15 systemic assessment by DDS as planned and revise DAAS’ systemic review process and timeline to reflect alignment with the 6 month time frame.
- **Site-Specific Assessment.** The STP indicates that the state plans on conducting site-specific assessments via provider self-assessments (“self-study”) and onsite visits. Please clarify how the state will validate the outcomes of these assessments and detail the process for conducting on-site visits (e.g., selecting sites, tools to be used during visit, etc.). Please also verify when the site-specific assessments will be completed, and provide a description of how the assessment outcomes will be made available to the public through a revised STP.
- The STP notes that “[d]ue to the nature of the Autism Waiver, it has been determined that the Autism Waiver complies with HCBS requirements.” STP p. 8). Please provide details regarding what process the state used to make this determination.

**Remediation:**

- Though the state notes, in the STP, that it is in the process of developing remediation actions (STP p. 5), CMS would like to better understand the timing of the assessment process vs. the remediation process in the timeline document provided. For example, Report Response and Issuance of Approval are listed in the Assessment section, though these appear to be steps that will be included in the state’s remediation plans. The remediation section (Section 3) does not appear to have remedial actions to address site-specific compliance findings. Please provide this information. Please also provide clarification regarding when the assessment phases will be complete and the remediation phases will begin.
- In addition, please match remedial strategies and milestones noted in the STP narrative document with actions and dates in the timeline chart document.

**Heightened Scrutiny:**

The state should clearly lay out its process for identifying settings that are presumed to be institutional in nature. 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 into compliant settings or into non-Medicaid funding streams.

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.

Please clarify why the state has cited “apartments located in apartment complexes also occupied by persons who do not receive HCBS services” as a setting for which DDS may ask for heightened scrutiny by CMS.

CMS would like to have a call with the state to specifically discuss issues relating to public notice and comment. After learning the status of those requirements, we will discuss next steps with the state. A representative from CMS’ contractor, NORC, will be in touch shortly to schedule the call. Please contact Sara Rhoades, the CMS Central Office analyst taking the lead on this STP, at 410-786-4484 or at [Sara.Rhoades@cms.hhs.gov](mailto:Sara.Rhoades@cms.hhs.gov) with any questions related to this letter.

Sincerely,

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

cc: Bill Brooks, ARA