



Disabled & Elderly Health Programs Group

July 30, 2015

Gretchen Hammer
Medicaid Director
Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203-1818

Dear Ms. Hammer,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Colorado's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Colorado submitted this STP to CMS on November 19, 2014. CMS needs additional information to make a determination regarding the status of Colorado's STP. That information must be made available both for the public and CMS to review and provide comment. Concerns and related questions for the state are summarized below.

Uniform Resource Locator (URL) and Public Notice:

- Though the state provides a URL in the notice and facts document provided to the public (<http://www.colorado.gov/cs/Satellite/HCPF/HCPF/1223894303509>), the URL directs to the main state Medicaid webpage, with no clear path from this page to the STP. Please clarify whether this page did direct the public specifically to the STP during the public comment period. If not, the public may not have been able to locate the STP.
- The state must include in its public notice and comment period, a process that enables information to reach anyone without computer access.
 - Please clarify whether the notice posted in the state's register was available non-electronically to the public.
 - In addition, please clarify whether copies of the STP itself were available in hard copy to the public. The public notice referenced in the STP only mentions the STP as available through the state's website or through e-mail upon request.
- Information about public notice, including the comment period, methods for submitting comments, and the availability of the STP document should be included in the STP itself, rather than in separate documents unless those documents are identified and posted as part of the STP. Please clarify whether this document was posted with the STP.
- Please explicitly note, in the state's responses to public comment, any changes that the state made to the STP as a result of the public comments.
- Please provide any additional information regarding issues identified in comments that the state has not yet fully addressed, and include the state's responses to those comments, or confirm the state has fully addressed the issues raised.

Assessments:

Systemic assessments:

- CMS needs a clear and detailed overview of the state's systemic assessment including what the state reviewed, what the outcomes of the review were, and what remedial actions will be taken as a result of each outcome to achieve systemic compliance.
- For example, the state indicates in the STP that a review of regulations and supporting documentation was completed in June, 2014 but does not indicate the findings.
- The state indicates in the STP that the state planned to begin addressing outcomes of the review of licensure and certification processes in April, 2015. CMS needs to understand what was occurring during the 10 months after the assessment was completed unless the state's review of policy and procedures is different from the review of licensure and certification (if that is the case, please clarify in the STP).

Provider and Setting-specific Assessments:

CMS needs additional details with respect to how the provider and settings assessments will be completed, such as which types of providers and settings will be assessed, the assessment timeline and what the state will do to address providers that fail to respond to the assessment. Please clarify the validation process for the provider assessments.

- For example, will the results of the survey of individuals and families be cross-referenced to the provider specific assessment results to check for response agreement? Will any site visits be utilized by the state to validate provider responses? If so, what entity will conduct the site visits, how many site visits will be conducted and how will the state identify the sites. Please specify the timeline for bringing providers into compliance.

Heightened Scrutiny:

The states should clearly lay out its process for identifying settings that are presumed to have institutional characteristics. 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 either to compliant settings or to non-Medicaid funding streams.

These settings 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.

Remediation Activities and Ongoing Monitoring:

- For any necessary changes identified as a result of the systemic review, remedial action steps should be underway, and the state should include milestones and corresponding timelines for all remedial actions in the revised STP.
- If any remedial actions have already been completed the state should provide updates with current details in the revised STP.

- If the state will need to relocate individuals, CMS needs to review the state process as part of its remedial action.
- Colorado's STP describes some activities, namely additional training, technical assistance, and using data from the Quality of Life and National Core Indicators' outcomes as part of the assessment and remediation activities. CMS notes that absent the ability to crosswalk the information in these surveys to specific settings the information cannot be used to verify any setting is fully compliant with the regulation. Please indicate how the state will complete this crosswalk.
- CMS needs to better understand the state process for ongoing monitoring for the transition period and beyond. Therefore please provide information regarding the process and who will be responsible.

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. The state will need to revise and resubmit its STP, which will necessitate the STP being re-posted for public comment. A representative from CMS' contractor, NORC, will be in touch shortly to schedule the call. In the meantime, please do not hesitate to reach out to Ondrea Richardson at 410-786-4606 or at Ondrea.Richardson@cms.hhs.gov, the CMS central office analyst taking the lead on this STP, with any questions.

Sincerely,

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

cc: Richard Allen, ARA