

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

September 4, 2015

Kate McEvoy
State Medicaid Director
State of Connecticut, Department of Social Services
25 Sigourney Street
Hartford, CT 06106

Dear Ms. McEvoy,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Connecticut's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Connecticut submitted its STP to CMS on December 19, 2014. CMS is requesting additional details regarding assessment processes and outcomes, remedial action processes and monitoring. These items are summarized below.

Settings:

Connecticut needs to include all settings that are covered by its waivers in the STP.

Systemic Assessment:

Although Connecticut's STP reports on a systemic assessment conducted by both the Department of Social Services (DSS) and the Department of Developmental Services (DDS), and includes work plans describing each Department's activities, it does not provide any detailed regulatory citations. The state does not identify the specific state regulations that were analyzed; the specific aspect of each regulation found to comply, not comply or be silent; or the changes that must be made to each regulation to bring it into compliance. The state should create a crosswalk of each of the state regulations with each relevant portion of the federal regulation and include this information in the STP to support the state's assessment.

- In reporting the outcomes of its systemic assessment, Connecticut describes the settings as "substantially compliant," but does not define this term or describe the assessment criteria that were used to make that determination. Connecticut should clarify what this term means and how it determined if settings are compliant.
- Connecticut has not included a complete listing of the estimated number of settings that comply, may comply with changes, cannot comply or are presumed to be institutional in nature. The state has only identified two Adult Day Health programs that may not comply and asserts that some of the Residential Care Homes (RCH) that have not yet been assessed

also may not comply. Connecticut should update the STP to include a report of the outcomes of its assessments with estimates of the number of sites for each of the different compliance categories.

Site-Specific Assessment:

- Connecticut has completed its site-specific assessments for all settings except the Residential Care Homes and the Acquired Brain Injury provider-owned/controlled homes, but the number of sites are not estimated and the outcomes are not reported by setting. The full scope of the assessments to date is hard to determine. Connecticut should provide additional detail on its site-specific assessments as part of the STP. In particular, it is unclear whether there will be additional assessments of the Community Living Arrangements, Community Companion Homes and the Adult Day Health Centers.
- DSS and DDS reported in the STP that they are either reviewing, or are in the process of validating, the results of the state's assessment of its settings, but do not describe in detail how they will validate the survey results. DDS intends to use the results of the National Core Indicator (NCI) surveys completed by participants, but does not explain how the results can be linked to the specific sites where services were delivered. Connecticut should include details in the STP on the validation process and describe how it is able to use the NCI survey to report on specific sites.

Monitoring and Oversight:

Connecticut's STP includes a description of the monitoring process, but it lacks milestones or a schedule of ongoing activities. The state should clarify in the STP how it will monitor progress through its existing processes and quality monitoring systems to ensure ongoing compliance with the home and community-based settings requirements. DDS also reports that it is forming a Transition Work Group to provide support for the Department, but the exact role and composition are not described in the STP. It is also unclear if the group is a statewide body, covering all of the waivers as opposed to only those administered by DDS. CMS requests that Connecticut describe these activities in greater detail and describe how they will be coordinated across the Departments for shared settings.

Remediation:

- The STP provides only a general statement of intent with regard to remediation and does not provide details of the regulatory changes, milestones or clear timeframes for its remediation activities. The DSS and DDS' schedules of remediation and monitoring activities include general changes to the state's waivers and regulations, including the Department of Public Health's regulations for the RCHs, which is scheduled to occur between June 30, 2015 and December 31, 2015. DDS also states that it intends to draft an overall policy to address the home and community-based settings requirements as well as dignity of risk and informed choice policies for their participants, although these were not identified as problems in the

current policies. Connecticut's revised STP should provide information to address the following issues with regard to its remediation activities, milestones and timeframes:

- Connecticut did not estimate the number of sites needing remediation with the exception of the two Adult Day Health sites mentioned earlier and the general suggestion that some RCHs will require remediation. The assessment of the Acquired Brain Injury Waiver provider-owned and controlled homes is still outstanding as well.
 - In addition, remediation of the RCHs is scheduled for a year from April 1, 2015 to March 31, 2016, but there are no interim milestones.
 - In the case of the Acquired Brain Injury Waiver homes, a three month period was scheduled for all three compliance activities, assessment, remediation and relocation. This timeline doesn't appear sufficient for all activities.
 - Additionally, some of the changes aren't scheduled to be clearly completed by March 2019.
- CMS is also concerned that the timeframe for remediation is too short, especially if there is a delay in the outstanding assessments mentioned above. Additional details on remediation should be included in the STP once the assessment of all of Connecticut's settings are concluded. The details of changes to regulations, licensing requirements, and policies as well as the specific milestones should be included in the STP for both DDS and DSS.

Relocation of Beneficiaries:

- Connecticut did not estimate the number of beneficiaries that may need to be relocated in the STP. Please provide this information.
- Connecticut's STP states that it will only take six months to relocate residents, but a year is scheduled for the activity in the table on Remediation and Monitoring Activities. CMS is concerned that the timeframe for relocation is too short, especially if there is a delay in the assessment information. Additional details on relocation should be included in the STP once the assessment of all of Connecticut's settings are concluded. The details should describe how individuals will be given adequate time and due process, the information and support they will need to make informed choices about alternate settings, and the assurance that all the services and supports they need will be in place at the time of relocation.
- In the case of the Acquired Brain Injury Waiver homes, a three month period was scheduled for all three compliance activities, assessment, remediation and relocation, as noted above, and no detailed milestones or timeframes were provided for the relocation process. Please provide this information and describe how all relocation activities can be accomplished in this timeframe.

Heightened Scrutiny:

Connecticut should clearly lay out its process and timeframes 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 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 settings not funded by Medicaid HCBS.

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.

The state must submit a revised STP no later than 30 days from the receipt of this letter that addresses the concerns raised above. In the revised STP, the state should include a date specific when it will submit an amended STP that includes information from its remaining site-specific reviews. This amended STP must be posted for public comment for 30 days prior to submission to CMS.

CMS would like to have a call with the state to go over these 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 Ciera Lucas, the CMS Central Office analyst taking the lead on this STP, at (410) 786-0832 or at Ciera.Lucas@cms.hhs.gov, with any questions related to this letter.

Sincerely,

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

cc: Richard McGreal, ARA