

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

July 30, 2015

Judy Mohr Peterson
Med-QUEST Division Administrator
State of Hawaii, Department of Human Services
601 Kamokila Blvd, Room 518
PO Box 700190
Kapolei, HI 96709-0190

Dear Ms. Mohr Peterson,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Hawaii's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Hawaii submitted its STP to CMS on March 9, 2015 and resubmitted on June 9, 2015. CMS finds Hawaii's STP to be a well-organized document that addresses many of the requirements and we appreciate the new summary of public comment. CMS notes several areas where the STP needs more details on the assessment processes and outcomes, monitoring, heightened scrutiny, and the relocation plan. These concerns and related questions for the state are summarized below.

Settings:

- The state has not identified all settings types that are covered by its waiver and demonstrations. Please provide all settings types cross-walked to corresponding waivers/demonstrations.

Systemic Assessment:

- Systemic Assessment Outcomes. The state indicated that it would complete the systemic assessment by 04/01/15. Please provide an outcome of this review, including the reference for each state regulation that was assessed, the specific setting(s) under the purview of each regulation, outcomes for each setting type based on how the state regulation aligns with each quality of a home and community-based setting, and an estimate of the number of settings that comply, do not comply, and may comply with remediation.

Settings Assessment:

- **Consumer Survey.** The state intends to survey a statistically significant sample of participants/consumers rather than the entire population. The state should clarify this sample will ensure the state receives adequate information about each site and will be able to validate a representative and statistically significant sample of settings.
- **Provider Review Validation.** The state should include additional details about the provider survey:
 - How the state will ensure that all providers respond;
 - Whether the state will validate each setting or only a statistically significant and representative sample; and
 - The process the assessors will use to conduct their site validation.

Monitoring and Oversight:

- The state should specify with more detail how it intends to ensure ongoing compliance from the point of initial assessment through recertification. For example, does the state currently have recertification processes that will be integrated into monitoring HCBS settings or will it use other tools or methods to ensure ongoing compliance? Furthermore, will annual reviews be conducted for both compliant and non-compliant settings, or does the state only intend to monitor sites that were initially non-compliant? If so, how will the state ensure that currently compliant settings remain compliant?

Remediation Activities:

- **Systemic Remediation.** The state indicates that it will modify statutes, rules, regulations, standards, and other requirements from 06/01/15 – 06/01/17. The state also notes that it will develop operational procedures for compliance with revised state statutes, rules, regulations, standards, or other requirements from 01/01/16 - 06/30/16. Please clarify if the development of operational procedures for compliance with revised statutes, etc. is occurring while the proposed changes move through the state approval process.
- **Setting Remediation.** Once the settings assessment has been completed, the state will need to include more details about the remediation process so it is clear how sites will be expected to come into compliance. Additionally, the state should provide an estimate of how many and what type of settings does comply, does not comply, and may comply with remediation.

Relocation Plan:

- The state should include a relocation plan for beneficiaries in settings that cannot be remediated. The plan should include details describing how it will deliver adequate advance notice, which entities will be involved, how beneficiaries will be given information and supports to make an informed decision, and how it will ensure that critical services are in place in advance of the transition.

Heightened Scrutiny:

The state should clearly lay out its process for identifying settings that are presumed to be institutional through the Settings Analysis Tool. 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 HCBS 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 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.

Hawaii will need to provide detailed information related to each site it wishes to bring forward for heightened scrutiny.

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 on the currently planned amendment submission date of December 31, 2015. This 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. Please contact Amanda Hill at 410-876-2457 or at Amanda.Hill@cms.hhs.gov, the CMS CO analyst taking the lead on this STP, with any questions related to this letter.

Sincerely,

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

cc. Hye Sun Lee