

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

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July 30, 2015

Theresa Eagleson, Acting State Medicaid Director  
Illinois Department of Healthcare and Family Services  
Prescott E. Bloom Building  
201 South Grand Avenue East  
Springfield, Illinois 62763-0001

Dear Ms. Eagleson:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Illinois' Statewide Transition STP (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Illinois submitted this STP to CMS on March 16, 2015. Overall, CMS finds Illinois' STP to be a well-organized document that addresses most components of the requirements. CMS appreciates the progress Illinois has made toward ensuring compliance with the new requirements. There are several areas where CMS needs information on key details regarding the assessment processes and outcomes, remedial action processes, and monitoring activities. These items and related questions are summarized below.

### **Assessments:**

- **Heightened Scrutiny.** CMS' review found that several settings may have the effect of isolating individuals (according to CMS guidance) that do not seem to be included in the state's count of "non-integrated settings." Further, it appears that Illinois identifies settings that potentially isolate members from the community (e.g. gated communities) but it is unclear whether these settings have been categorized by the state as presumed to have the qualities of an institutional setting and included in the group prioritized for site visits and possibly subject to heightened scrutiny or removed as a home and community-based setting. CMS will further address heightened scrutiny later in this letter.
- **Provider self-assessment survey.** CMS found that the provider survey was missing key elements of the CMS requirements. CMS would like additional clarification of the methodology utilized to identify compliant and non-compliant settings. For instance, why did the state select the cut-off of two points (on a five-point scale) for measures of autonomy and independent behavior?
- **Validation of provider self-assessment surveys.** The STP has limited evidence that the state will incorporate a validation process, such as case management review and confirmation, licensure or certification staff review, and/or advocates who have been on site, to validate provider self-assessments of compliance. The state plans to visit sites presumed to have the qualities of an institutional setting based on provider survey results, but there is concern about a lack of sufficient assessment of the 1533 residential and 378 non-residential sites that the state says appear to be in compliance based on these surveys. While it seems that the site

visits to validate the provider self-assessment survey results will only be to those settings that appear not to meet the federal requirement, there is one mention in the timeline of visiting a “sampling of sites in each of the categories” (p. 115). CMS would like the state to clarify whether it will conduct site visits to a sample of settings that are not within the group identified as presumed to have institutional characteristics and what methodology will be used to select those sites. The state should also clarify when site visits will be completed as two different dates are provided in the STP (p. 116 lists site validation visits as ending 3/17/2016 while p. 115 says consumer interviews at sites will conclude 9/15/2016). Also, given that there was not a 100% response rate to the agency and setting surveys, the state should explain how it is addressing the providers who did not respond.

- **Assessment results.** Another area that needs clarification is that the survey results are aggregated, so they cannot be linked to specific setting types (e.g. Child Group Homes). CMS would like to see the survey results by setting types.
- **Ongoing Monitoring:** CMS reviewed the state’s description of its oversight and monitoring process for ensuring continuous compliance of settings (p. 14, 120). However, there is a lack of detail on this process. CMS requests that the state add a detailed monitoring strategy that lays out the methods of oversight to ensure that the settings remain in compliance.

### **Remedial Activities:**

- **Site-specific remediation.** Illinois identified remediation strategies, action steps, and timeframe for its remedial process, but did not provide a detailed description of its remedial actions to assure compliance since site-specific issues have not yet been identified.
- Upon completion of the site specific assessments described in the STP, CMS would like to see additional information on site-specific remediation strategies.
- **Systemic remediation.** The systemic remediation strategies listed on p. 118 should be broken into smaller components and CMS would like clarification of the timeframe for completing these activities. The STP provides inconsistent dates for the conclusion of systemic remediation activities: Appendix G (p. 118) indicates that required modifications to administrative rules/statutes/waiver definitions are not expected to be completed until 1/1/2019. However, Appendix A indicates that revisions to state statutes, policies, and procedures would be completed 3/17/2017. While the 2017 date doesn’t appear to be consistent with the STP’s articulated timeline of events, CMS is concerned that the 2019 date doesn’t leave sufficient time to ensure provider compliance with revised requirements by the March 2019 end of the transition period. Please clarify the timeline.

### **Relocation of Beneficiaries:**

- The STP includes limited information regarding the relocation of beneficiaries. On p. 20, the state provides a very high level description of the process. It includes an Initial Start Date for potential relocations (1/1/2018) and indicates that it will be “ongoing” with no end date. The STP should indicate that all actions to ensure individuals are in settings that meet the requirements are completed by 3/17/2019.
- The state does not describe its process to assure that critical services/supports are in place in advance of the individual’s transition. Once the state determines the settings that will not comply with the requirements by the end of the transition period, it should add more details on the relocation process to the STP. The state does not include the number of beneficiaries who will be relocated since they have not yet determined their non-compliant settings.

### **Heightened Scrutiny:**

The state should clearly lay out its process for identifying settings that are presumed to have the characteristics of an institution. These are settings for which the state should 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 should 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.

The state should make revisions to the STP and complete a public input process as specified at 42 CFR 441.301(c)(6)(iii)-(iv). CMS asks the state to submit the revised STP on or before 75 days from the date of receipt of this letter. CMS will coordinate with the State to schedule future meetings to discuss the results of CMS' review and how the state should proceed with making revisions. 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 Daphne Hicks at [Daphne.Hicks@cms.hhs.gov](mailto:Daphne.Hicks@cms.hhs.gov) the CMS central office analyst taking the lead on this STP, with any questions.

Sincerely,

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

cc. Ruth Hughes