

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

August 13, 2015

Joseph Parks, MD
Medicaid Director
MOHealthNet Division
MO Department of Social Services
615 Howerton Court, P.O. Box 6500
Jefferson City, MO 65102

Dear Dr. Parks,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Missouri's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Missouri submitted its STP to CMS on March 13, 2015. CMS notes areas where the STP needs more details on settings analysis, assessment processes and outcomes, and remedial strategies. The concerns that need to be addressed are summarized below.

Settings:

Although Missouri provided an "HCBS Settings Analysis" document which groups various setting types into one of four compliance categories, the STP did not specifically identify all setting types associated with each of the applicable 1915(c) waivers. Please provide additional information on all setting types applicable to each of the ten waivers. The STP references "member owns the housing" as a setting type that is not yet compliant. These setting types should be more clearly defined to understand the basis for their classification.

Assessments:

- **Systemic assessment:** Missouri indicated that that "the State will review administrative rules to determine if revisions are needed to reflect federal regulations on HCBS settings." The STP only includes broad, department-level citations without reference to specific code

sections. Please provide a crosswalk of the specific regulations, policies, directives, etc. that are applicable to the new HCBS rule and identify what portion of the regulation, policy, etc. corresponds to each specific quality required for a home and community-based setting in the federal regulation. CMS understands that with a planned completion date of March 1, 2015, Missouri did not have sufficient time to address the outcomes of the assessment in the STP submitted on March 13, 2015. However, at this point the detailed results of the systemic assessment should be provided to CMS, including the specific state standards that were analyzed; which setting they apply to, the specific aspect of each standard found to be compliant, non-compliant or silent in relation to the quality required by regulation; and the changes that must be made to each standard to bring it into compliance. Missouri should provide this information so that CMS is better able to understand the state's assessment.

- **Setting-specific assessments:** In general, the assessment processes and outcomes would benefit from more detail. As the state completes the site-specific assessments, please provide estimates of how many settings fully comply, do not currently comply but could with modifications, and cannot comply with the federal HCBS settings requirements, or presumptively have institutional characteristics. This information will help CMS understand the scope of remediation activities needed for the remainder of the transition period. In addition, please provide more detail on the state and Missouri Medicaid Audit and Compliance (MMAC) staff that will be conducting on-site assessments for the Department of Mental Health (DMH) and Department of Health and Senior Services (DHSS) waiver providers. The STP referenced an on-line participant survey, but does not indicate if the survey will be made available in another format to those participants who do not have on-line access. Please clarify.

Systemic Remediation:

While the STP indicates that some remediation will need to be done for a broad group of state regulations, there was no detail provided on the scope of the remedial activities or any related milestones. Please provide detailed timelines and milestones to ensure progress toward compliance.

Settings and/or Provider Specific Remediation:

The STP notes that the individual provider remediation will occur between March 2, 2015 and March 17, 2017 for DMH waiver providers and between July 1, 2015 and March 17, 2017 for DHSS providers. The STP notes that DMH providers not in compliance will submit remediation plans within 45 days of issuance of the summary assessment of findings. The STP did not include any detail on the requirements of the remediation plans, the remediation process activities and the timeline for compliance. Please provide this information.

For DHSS waiver providers, the STP noted that MMAC will send a letter of non-compliance to providers, identifying any deficiencies and allowing the provider 30 days to correct such deficiencies. CMS would like additional information on the rationale for these two different approaches to remediation. Also, while the STP noted that DMH providers will be required to submit periodic status updates on remediation progress from March 2, 2015 through March 17, 2018, the state should define how provider status updates will be managed and who will be monitoring the provider milestones to ensure continued progress toward compliance.

Relocation Activities:

The STP includes an action item to transition individuals to settings that align with HCBS requirements, using a person-centered planning process and ensuring timely notice and due process. This action item needs clarification on the number of individuals potentially affected, the process to assure individuals are given the opportunity, information, and supports to make an informed choice of alternate settings, the process to assure that critical services/supports are in place at the time of relocation, and the timeframes for relocation.

Monitoring:

Please assure provider recertification and existing quality integrated functions will be used as a validity check on annual provider self-assessments, and that the provider self-assessments will not be relied upon solely to address ongoing compliance. The state should identify the mechanisms and monitoring timeframes for validating ongoing compliance, including beyond the transition period, in the STP.

Heightened Scrutiny:

The state 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 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 indicated that it would use Geographic Information System (GIS) to identify potential areas with a high concentration of settings that may be subject to heightened scrutiny. This was to be completed by March 30, 2015. CMS supports the state's intent to utilize GIS as a first step for identifying settings and finds this process to be promising in its potential to assist in the identification of these sites. CMS notes that while GIS could serve in identifying settings that isolate by location, the state should consider a process to identify settings that may isolate by providing all services inside the same setting. CMS would like additional detail on the outcomes of the GIS analysis, along with other methods being used by the state to obtain a preliminary determination regarding heightened scrutiny. Please provide information on when you anticipate submitting evidence for heightened scrutiny, along with the list of settings that will require heightened scrutiny.

CMS would like to have a call with the state to go over these concerns and to answer any questions the state may have. The state will need to revise and resubmit its STP addressing the concerns in this letter, which will necessitate the STP being re-posted for public comment. As part of the public comment process, please make the notices and public comment venues available both electronically and non-electronically and include a copy of the URL for the STP therein. A representative from CMS' contractor, NORC, will be in touch shortly to schedule the call. Please contact Claire Hardwick at (410) 786-6777 or at Claire.Hardwick@cms.hhs.gov, the CMS Central Office 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