

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 9, 2018

Jennifer Tidball, Acting Director  
MO HealthNet Division  
MO Department of Social Services  
615 Howerton Court, P.O. Box 6500  
Jefferson City, MO 65102

Dear Ms. Tidball:

In follow-up to the 3/29/17 initial approval granted to Missouri's Home & Community Based Services (HCBS) Statewide Transition Plan (STP), CMS provided additional detailed feedback to the state to assist with final approval and implementation of its STP. CMS acknowledges that since this technical assistance was provided, work has continued within the state to bring settings into compliance and further develop the STP; however, a summary of this feedback is attached for reference to assist in the state's efforts as it works towards final approval.

In order to receive final approval, the STP should include:

- A comprehensive summary of completed site-specific assessments of all HCBS settings, validation of those assessment results, and inclusion of the aggregate outcomes of these activities;
- Draft remediation strategies and a corresponding timeline for resolving issues that the site-specific settings assessment process and subsequent validation strategies identified by the end of the HCBS rule transition period (March 17, 2022);
- A detailed plan for identifying settings presumed to have institutional characteristics, as well as the proposed process for evaluating these settings and preparing for submission to CMS for review under heightened scrutiny;
- A process for communicating with beneficiaries currently receiving services in settings that the state has determined cannot or will not come into compliance with the HCBS settings rule by March 17, 2022; and
- A description of ongoing monitoring and quality assurance processes that will ensure all settings providing HCBS continue to remain fully compliant with the federal settings criteria in the future.

Prior to submitting the updated version of the STP for consideration of final approval, the state will need to issue the STP for a minimum 30-day public comment period. I want to personally thank the state for its efforts thus far on the HCBS STP, and look forward to the next iteration of the STP that addresses the feedback in the attachment.

Sincerely,

Ralph F. Lollar, Director

**ATTACHMENT**

**Additional CMS feedback on areas where improvement is needed by the State of Missouri in order to receive final approval of the HCBS Statewide Transition Plan**

*PLEASE NOTE: It is anticipated that the state will need to go out for public comment once these changes are made and prior to resubmitting to CMS for final approval. The state is requested to provide a timeline and anticipated date for resubmission for final approval as soon as possible.*

**Public Engagement:**

- Missouri has chosen to provide links to online documents throughout the revised STP. At the same time, the state maintains three different related websites, one each for the Department of Social Services, Department of Mental Health and the Department of Health and Social Services. When reviewing documents, not all information can be easily accessed from all websites. In preparation for the posting of the final STP, CMS requests that the state review the links to ensure the public has access to all STP documents and any support materials referenced within the STP.

**STP and HCBS Settings:**

- ***Group Settings:*** As a reminder, any setting in which individuals are clustered or grouped together for the purposes of receiving HCBS must be assessed and validated by the state for compliance with the rule. This includes all group residential and non-residential settings (including but not limited to prevocational services, group supported employment and group day habilitation activities). The state may presume that any setting where individualized services are being provided in typical community settings comport with the rule. Please confirm that the STP accurately includes all group residential and non-residential settings in its assessment and validation activities.
- ***Reverse Integration:*** CMS requests additional detail from the state as to how it will assure that non-residential settings comply with the various requirements of the HCBS rule, particularly around integration of HCBS beneficiaries to the broader community. States cannot comply with the rule simply by bringing individuals without disabilities from the community into a setting. Reverse integration, or a model of intentionally inviting individuals not receiving HCBS into a facility-based setting to participate in activities with HCBS beneficiaries is not considered by CMS by itself to be a sufficient strategy for complying with the community integration criteria outlined in the regulation.
- ***Non-Disability Specific Settings:*** Please provide clarity on the manner in which the state will ensure that beneficiaries have access to services in non-disability specific settings among their service options for both residential and non-residential services. The STP should also indicate the steps the state is taking to build capacity among providers to increase access to non-disability specific setting options across home and community-based services.

**Site-Specific Setting Assessment & Validation Activities:** Missouri's revised STP describes the state's site-specific assessment process, which included completion of provider self-assessments, collection of consumer survey responses, onsite visits, and an ongoing annual quality review. CMS requests that the state provide additional detail with regard to each of these activities:

- ***HCBS Participant/Consumer Feedback:*** The state offered a participant survey in a number of different formats across various waivers. Please provide the following details:
  - Whether the questions in the HCBS participant survey cover all the criteria outlined in the HCBS settings rule;
  - How the state linked participant survey responses with provider self-assessments;
  - How the state worked with providers to address any discrepancies between participant feedback and provider self-assessment responses to assure that such discrepancies are addressed at the setting level.
- ***Provider Self-Assessments***
  - Please confirm whether completion of the provider self-assessment is mandatory for all HCBS providers, and whether providers are asked to complete an assessment of each individual setting for which they are responsible. Please also describe how the state addressed any providers who did not participate in the self-assessment process.

### **Site-Specific Remedial Actions**

- ***Ongoing Technical Assistance to Assist Providers in Setting Remediation:*** In the STP, the state commits to providing technical assistance to providers that require support to bring settings into full compliance with the federal HCBS criteria. Please provide additional details about the state’s plans for providing technical assistance.
- ***Communication of Options with and Support to Beneficiaries when a Provider will not be Compliant:*** For those settings that are not able to be brought into compliance by the end of the transition period, please provide the following information related to the communication and assistance provided to beneficiaries to locate compliant settings or access alternate funding streams:
  - **Department of Health and Senior Services (DHSS):** A description (and corresponding timeline) of the strategies for continued service provision to beneficiaries living in settings the state determines to be non-compliant, including a timeframe for providing notice to individuals receiving services in non-compliant settings.
  - **Department of Mental Health (DMH):**
    - Clarification that the transitional manual has been developed to replace Division Directive 5.010, and an updated link to the transition manual.
    - A description (and corresponding timeline) of the strategies for continued service provision to beneficiaries living in settings the state determines to be non-compliant, including a timeframe for providing notice to individuals receiving services in non-compliant settings.

### **Heightened Scrutiny**

Using Geographic Information System (GIS) data, Missouri identified 140 providers with 152 settings across its DMH waivers and 34 settings across DHSS waivers that fall under at least one of the three categories of presumptively institutional settings. Although Missouri has provided considerable detail on the heightened scrutiny process, it is still unclear what steps the state has taken beyond GIS to identify whether any settings may have characteristics that isolate individuals from the greater community of individuals not receiving Medicaid HCBS. Please describe any additional actions.

In addition to laying out the various components that will be included in the state’s evidentiary packages for each setting once the reviewer’s findings have been completed, we request that the state articulate the rationale used to support the state’s final determination to move a setting to CMS for a heightened scrutiny review. In addition, please provide information regarding how public input will be obtained for settings that the state intends to submit for heightened scrutiny.

## **Milestones**

CMS provided the state with a draft milestone chart reflecting anticipated milestones gleaned from the state's STP. Please review and edit these milestones and resubmit the document to CMS. CMS will upload the information into the milestone tracking system where the state will be able to track and edit the STP milestones.