

Disabled & Elderly Health Programs Group

October 8, 2015

Michael Hales
Deputy Director
State of Utah, Department of Health
PO Box 143101
Salt Lake City, UT 84114

Dear Mr. Hales,

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Utah's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community-based settings requirements. Utah submitted its STP to CMS on March 17, 2015. CMS is requesting some supplemental information about assessments, remedial actions, monitoring activities, heightened scrutiny and relocation of beneficiaries. These items are summarized below.

Settings:

Please update the STP to include a listing of all actual setting types (as opposed to provider types) where participants receive services or reside.

Systemic Assessments:

- Please provide an outline in the STP of the components of the assessment and timeframes for completion.
- Please include a crosswalk of the codes and regulations reviewed by the state and identify the sections that are relevant to the settings requirements in the federal regulation. Please clarify which sections align with the regulation, are silent on the regulation, or conflict with the regulation.
- Please identify the date when the state will submit an amended STP that delineates the findings from the systemic assessment. Please ensure that the public input process is accounted for in the date that is set.

Site-Specific Assessments:

- The STP outlines a plan for site-specific assessments, including provider self-assessments, and a modification to an existing evaluation tool. Please provide further details on the state's plan to complete site-specific assessments.
- Utah indicates it has evaluation tools to conduct setting-specific assessments. It appears these tools will only be used if the provider self-reports that they are not yet compliant. Please provide details on how the state will validate assessments for providers who self-report that they are compliant.
- Please indicate what actions Utah will take if a provider does not submit a self-evaluation.

- CMS notes that the state needs to assess all settings, including the settings where beneficiaries live and non-residential settings where beneficiaries receive services. Please include this information in an amended STP.
- The STP included a preliminary HCBS transition planning compliance report. Please explain how the state determined that providers were presumed to be 100 percent compliant. The state should provide an update to this compliance report once the assessments are completed, including the number of settings that are compliant, can become compliant with changes, are not and cannot be compliant, and are presumed to have institutional qualities. Additionally, the updated compliance report should include specifics on how those determinations were made.

Monitoring of Settings:

- CMS notes the state discusses the ongoing use of a modified evaluation tool and new provider enrollment and education forms. The state also discusses remediation action items that include developing a system to track provider progress, completing remediation plans and conducting onsite compliance reviews. However, the end dates for these items are 3/17/2019 for the tracking system, and 1/31/2015 for onsite reviews. Please clarify that monitoring activities will remain in place beyond the transition period and identify which approaches will be used.
- Please clarify that all providers (as opposed to just providers identified as out of compliance) will be monitored to ensure they stay in compliance over time.

Remedial Strategies:

- Please provide projected remedial actions specific to issues found during the systemic assessment. Once the state completes its systemic assessment, it should update remedial actions linking them to issues that were uncovered during the assessment.
- Please include projected remediation action items, milestones and timelines for non-compliant settings.
- In the STP on page 6, the state has an Action Item called “Collaborate to Develop Provider Remediation Plan”, and a proposed start date of 1/1/16 and end date of 12/31/18. Please provide clarification about the process and additional details regarding intermediate steps with timelines for this overall action.

Heightened Scrutiny:

Utah states that it will dis-enroll and/or sanction providers that fail to implement individual provider remediation plans, or those determined through the heightened scrutiny process to have institutional-like qualities that cannot be remediated. Please describe the state’s process for identifying settings that are presumed to have institutional qualities. 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 in nature and do not have the qualities of an institution. If the state determines it will not submit information on such settings meeting the scenarios in the regulation, the presumption will stand and the state must describe the

process for informing and transitioning the individuals involved to compliant settings or settings not funded by Medicaid HCBS.

Settings that are presumed to be institutional in nature 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; and
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

Relocation of Beneficiaries

Please provide timelines for relocating beneficiaries, as well as the estimated number of beneficiaries impacted, once this information is known. Any relocation of beneficiaries should afford sufficient time and the information and supports necessary for an individual to make an informed choice about alternate settings and assurance that all the services and supports needed by the individual will be in place at the time of relocation.

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. As stated above, the state needs to revise and resubmit its STP, which necessitates 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 Ondrea Richardson in the CMS Central Office at 410-786-4606 or at Ondrea.Richardson@cms.hhs.gov, with any questions related to this letter.

Sincerely,

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

cc: Richard Allen