

## State Transition Plan for Compliance with HCBS Characteristics/Settings Requirements

### Section 1: Results of the State's Assessment of Settings

In this section of the HCBS Settings Transition Plan, states should report the results of their review and analysis of all settings in which Medicaid Home and Community Services (HCBS) are delivered and settings in which beneficiaries receiving Medicaid HCBS services reside. This review should include public input, as described below.

We recommend use of the Toolkit template for reporting the State's analysis and determinations as to: which settings fully comply with the regulatory requirements; which settings, with changes, will comply; which settings are presumptively non-HCBS, but the State will provide justification/evidence to show that those settings do not have the characteristics of an institution and do have the qualities of home and community-based settings; and those which do not/cannot meet the HCBS settings requirements. Specific information for each type of setting is requested (see Toolkit template) to facilitate CMS's understanding of the State's settings and how they may/may not meet the federal HCBS requirements.

For those settings that fall into the category of "currently non-complying," the State will provide in Section 2 of the Transition Plan the actions it will require/implement to bring those settings into compliance, and the timeline for doing so.

### Section 2: State's Proposed Remedial Strategies and Timeline

In this section of the Transition Plan, the State should describe the actions it will take or require providers to take to bring non-compliant settings into full compliance with the HCBS settings requirements.

At the state level, these actions might include new requirements promulgated in licensing standards or provider qualifications, service definitions and standards, and training requirements. At the provider level, these actions might include changes to the experience of the Medicaid beneficiary within the provider setting that assures him/her of greater control over critical activities like access to meals, engagement with friends and family, choice of roommate, and access to activities of his/her choosing in the larger community, including the opportunity to seek employment and work in a competitive integrated setting.

The remedial strategy might also include relocation of Medicaid beneficiaries to other settings that meet the HCBS settings requirements. When relocation is part of the state's remedial strategy, the State must include in the Transition Plan the following:

- an assurance that the State will provide reasonable notice to beneficiaries and due process to these individuals,
- a description of the timeline for the relocation process,
- the number of beneficiaries impacted,

- an assurance that impacted beneficiaries will be relocated to settings that fully comply with the HCBS settings requirements, and
- a description of the State’s process to assure that relocated beneficiaries, through the person-centered planning process, are given the opportunity, the information, and the supports to make an informed choice of an alternative setting, and that critical services/supports are in place in advance of the individual’s transition.

### Section 3: Public Input Process

The State must seek input from the public for its proposed transition plan, which includes initial review and assessment of settings’ compliance. The State must also provide assurance that a minimum 30-day advance notice of the State’s Transition Plan has been provided to the public for its review and comment. This assurance can be provided by identifying in this section the actual date of the public notice and the process used for providing the public notice (for example, publication in newspapers, announcement via websites, etc.). CMS encourages states to seek input from a wide range of stakeholders and from impacted beneficiaries.

In addition, in this section, the State must provide a summary of public comments, including comments that agree/disagree with the State’s determinations about whether types of settings meet the HCBS requirements; a summary of modifications to the Transition Plan made in response to public comment; and in the case where the State’s determination differs significantly from public comment, the additional evidence the State used to confirm its determination (e.g. site visits to specific settings).

The State must also provide in this section an assurance that the State’s Transition Plan, with any modifications made as a result of public input, is posted for transparency no later than the date of submission to CMS and that all public comments on the transition plan are retained and available for CMS review for the duration of the transition period or approved waiver.