



**HFS**

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## **HCBS Settings Rule Proposed Corrective Action Plan (CAP)**

### **HCBS Settings Final Rule criteria for which additional time is needed**

*42 CFR 441.301(c)(5)(v)—State presentation of information to CMS that presumptively institutional settings have the qualities of home and community-based settings.*

Illinois expects all HCBS provider settings, including settings that require heightened scrutiny review, to transition to full compliance with HCBS Settings requirements by March 17, 2023. In their 11/17/2022 communication to Director Cunningham, CMS asserted: “states that have submitted presumptively institutional settings to CMS for a heightened scrutiny review and have yet to receive final adjudication of those settings should request a CAP to authorize additional opportunities to complete discussions with CMS.” The State of Illinois is awaiting final adjudication of 529 presumptively institutional settings submitted to CMS for heightened scrutiny review. Consequently, Illinois is requesting a CAP to authorize additional time for collaboration with CMS to ensure full compliance with HCBS Settings criteria among our presumptively institutional settings.

### **The state’s efforts to bring providers into compliance with those criteria, and the PHE-related impacts that created barriers to compliance**

The State identified presumptively institutional Supportive Living Program (SLP) and Adult Day Service (ADS) settings through inter-agency meetings, provider self-surveys, collaboration with quality assurance staff, and on-site visits. HCBS Settings compliance data was collected for these sites through on-site visits and standard quality assurance surveys with tools updated to monitor for compliance with HCBS Settings requirements. During on-site visits, State staff engaged with HCBS provider setting staff and customers to gauge compliance with HCBS Settings requirements. This information was presented for 30-day public comment in June of 2022 and the State did not receive feedback. Illinois Department on Aging (IDoA) and Illinois Department of Healthcare and Family Services’ Supportive Living Program (IDHFS-SLP) have trained providers, agency staff, and case managers on HCBS Person-Centered Planning and Settings

requirements. Both agencies have updated policy, rule, forms, and quality assurance monitoring tools to assess for compliance with HCBS Settings requirements. All new provider and case manager staff are directed to review HCBS Person-Centered Planning and Settings requirements trainings.

Illinois Department of Human Services' Division of Developmental Disabilities (IDHS-DDD) identified HCBS provider settings for the application of Heightened Scrutiny through several methods:

- A 2020 provider self-survey to identify IDHS-DDD HCBS settings with institutional or isolating characteristics
- A December 2021 pre-validation provider self-survey Pre-Validation provider self-survey to identify isolating characteristics  
<https://www.dhs.state.il.us/page.aspx?module=17&item=138633&surveyid=1598>
- Direct outreach to IDHS-DDD provider agencies
- Consultation with IDHS-DDD Quality Assurance staff
- A November 2021 self-advocate survey to gauge customer experience in their communities  
<https://www.dhs.state.il.us/page.aspx?module=17&item=138380&surveyid=15955>
- Interviews with customers during Public Consulting Group's (PCG) on-site validation assessments of IDHS-DDD Heightened Scrutiny locations

IDHS-DDD, Public Consulting Group (PCG), and IDHFS staff reviewed evidence of compliance with HCBS Settings requirements submitted to the Settings Compliance Validation Portal. PCG staff conducted on-site visits for all IDHS-DDD Heightened Scrutiny locations. IDHS-DDD provider settings with one or more non-compliance concerns received Compliance Action Plans (CAPs), requiring those settings to submit a plan for remediating all non-compliance concerns within 14 days. IDHS-DDD requires full remediation within 60 days of settings submitting their CAPs. IDHS-DDD staff are conducting quality assurance reviews of CAPs to ensure genuine remediation occurs among all settings, including Heightened Scrutiny locations, prior to the March 2023 deadline for implementation. On October 28, 2022, the State presented IDHS-DDD Heightened Scrutiny compliance information for 30-day public comment. The State identified a total of 27 comments, all from parents and family members of individuals receiving Home and Community-Based Services (HCBS) at Misericordia Heart of Mercy's Community Day Service (CDS) setting located at 1600 N. Ridge Avenue in Chicago. The State will publish its feedback to these comments in December 2022.

Throughout the validation period, IDHS-DDD has maintained a website with HCBS Settings resources that include recorded HCBS Settings trainings, provider toolkits,

HCBS Settings FAQs, HCBS Settings related Information Bulletins (IBS), sample Residency agreements, tips for remediating non-compliance issues, etc. <https://www.dhs.state.il.us/page.aspx?item=138570> IDHS-DDD has maintained weekly office hours throughout the transition period for IDHS-DDD provider settings, offering remediation guidance to providers, and allowing providers to share plans for remediation. Additionally, IDHS-DDD partnered with Illinois Council on Developmental Disabilities (ICDD) and the Council on Quality Leadership (CQL) to offer technical assistance to providers.

The COVID-19 pandemic exacerbated the nationwide staffing crisis, restraining Illinois HCBS provider agencies from promptly training limited numbers of staff on HCBS Setting criteria, furnishing evidence of compliance to the State, and fulfilling customer access to the broader community. At the State agency level, administrators were confronted with the dilemma of fulfilling CMS' requirement for on-site compliance assessments for all 529 presumptively institutional settings and maintaining the health safety of staff, providers, and customers. As such, IDHFS worked with their Department of Innovative Technology (DoIT) staff to build a Microsoft Customer Relationship Management (CRM) portal that served as a forum for over 2,400 HCBS provider settings to submit supportive policy and sources of evidence of compliance with all applicable HCBS Settings criteria. While on-site assessments of presumptively institutional SLP and ADS settings had already taken place, all 515 presumptively institutional IDHS-DDD settings still required in-person review. Thus, the State's utilization of PCG's assistance.

### **The state's plan to overcome encountered barriers, and the time needed to do so**

The State is committed to the following:

- Continued participation in bi-weekly technical assistance calls with CMS
- Participation in a debriefing call with CMS regarding their October 2022 on-site visits to Illinois Heightened Scrutiny locations
- Continued technical assistance to IDHS-DDD provider settings to ensure compliance by the March 2023 Implementation deadline
- Continued quality assurance reviews of IDHS-DDD provider setting Compliance Action Plans (CAPs)
- Accommodation of any CMS recommendations for corrective actions

The timeline for compliance will be agreed upon following discussions with CMS regarding additional corrective actions that are required.