



Illinois Statewide Transition Plan

Federal Settings Requirements

January 2022



HCBS Final Rule

79 FR 2947

- Addresses several sections of Medicaid law under which states may use Federal Medicaid funds to pay for HCBS
- Ensures that individuals receive HCBS in the most integrated settings and have full access to the benefits of community living
- Defines Person-Centered Planning requirements, Settings requirements, and Settings that are not Home and Community-Based

Impacted HCBS Waiver Operating Agencies

- **HFS Supportive Living Program**
- **DHS Division of Developmental Disabilities (DDD)**
 - *Children and Young Adults with Developmental Disabilities—Support*
 - *Children and Young Adults with Developmental Disabilities—Residential*
 - *Adults with Developmental Disabilities*
- **Division of Specialized Care for Children**
 - *People Who Are Medically Fragile, Technology Dependent*
- **DHS Division of Rehabilitation Services (DRS)**
 - *Persons with HIV or AIDS*
 - *Persons with Brain Injury*
 - *Persons with Disabilities*
- **IDoA Community Cares**
 - *Persons who are Elderly*

HCBS Settings Rules

42 CFR 441.301(c)(4)

- Illinois' current Statewide Transition Plan reflects our continued efforts to attain compliance with Federal Settings requirements
- Build on the *Americans with Disabilities Act*, the *Rehabilitation Act*, and the *Individuals with Disabilities Education Act*
- **January 2014**—After 5 years of work that included public feedback, CMS announces rules that create enhanced standards for Medicaid-funded Home and Community-Based Services.
- **March 2014**—Rules become effective, and states are originally given until March 2019 to put new rules in place and ensure that provider settings become fully-compliant with Settings Rules.
- CMS has extended the compliance date several times due to the pandemic, most recently to **March 17, 2023**.



The underlying principle of the **HCBS Settings Rule** and the goal of system transformation is

COMMUNITY INCLUSION

for all Medicaid HCBS customers.

All Residential and Non-Residential Settings

MUST:

42 CFR 441.301(c)(4)(i)-(v)

- Be integrated in, and support full access to the community
- Be selected by the customer from among setting options (including non-disability specific settings)
- Ensure individual rights of privacy, dignity and respect, and freedom from coercion and restraint
- Optimize customer autonomy in making life choices
- Facilitate individual choice over all aspects of services

Provider-Owned Residential and Non-Residential Settings MUST:

- Promote customer control of own schedule, including access to food at any time
- Allow customer access to visitors and any time
- Be physically-accessible

Reverse Integration

- Involves bringing people and activities from the broader community into the setting, instead of supporting people in the setting to access the broader community
- Reverse integration activities are not sufficient to meet the true intent and spirit of the HCBS Settings rule.
- Visits by community members have value but cannot replace community access for individuals.



Provider-Owned or Controlled Residential Settings **MUST:**

42 CFR 441.301(c)(4)(vi)(A)-(E)



- Furnish a lease or other legally-enforceable agreement providing similar protections to local and municipal rules and laws
- Ensure individual privacy with lockable doors, choice of roommate(s), and freedom to furnish or decorate the unit

Modifications **MUST:**

42 CFR 441.301(c)(4)(vi)(F)



- Be supported by a specific and individualized, assessed need
- Be preceded by positive interventions and supports Less-intrusive methods of meeting the need that had been tried, but did not work
- Be supported by a clear description of the condition that is directly proportionate to the specific assessed need
- Include regular collection and review of data to measure ongoing effectiveness
- Have established time limits for periodic review of effectiveness
- Receive informed consent of the person or guardian, if applicable
- Cause no harm to the person

What Is Considered To Be An Institution?

42 CFR 441.301(c)(5)(i)-(iv)

- A nursing facility
- An institution for mental disease—*Chicago Read, McFarland Mental Health Center, etc.*
- An intermediate care facility for individuals with intellectual or developmental disabilities—*ICF/DDs & SODCs*
- A hospital—*all hospitals providing medical, regardless of funding type*



Statewide Transition Plan (STP)

- States must create plans for transitioning into compliance with the HCBS Settings rules.
- Services must continue uninterrupted during the transition period.
- Each version of a state's STP is required to undergo 30 days of public comment.

STEPS FOR FINALIZING A STATEWIDE TRANSITION PLAN

1. Initial STP Approval—includes a systemic assessment with suggested revisions and a timeline for making needed changes; after approval, CMS issues a letter with additional recommendations.
2. Final STP Approval—CMS reviews and approves.
3. Heightened Scrutiny Review Process—occurs at any point in the transition process; involves scrutiny of settings and determination of compliance with Settings Rules; state's evidence must receive public input prior to submission to CMS.

Components of IL Statewide Transition Planning

Training and Education

- *Waiver Operating Agency*
- *Case Management*
- *Provider*
- *Stakeholder*
- *Self-Advocate*
- *Managed Care Organization*

Rule, Policy, Form changes

Waiver Changes

- *Amendments*
- *Performance Measures*

Updated Review Tools

Provider Assessment

- *Site Validation*
- *Heightened Scrutiny Review*

Rate Assessment

Development of Technical Assistance Processes

Development of Ongoing Compliance Monitoring Procedures

Development of Beneficiary Resolution Processes

Enhanced Case Management Platforms

Site Validation



- Final STP approval is dependent on assessment of ALL HCBS Settings and validation of those assessment results
- The State disseminated Provider Self-Assessment surveys in 2016, but only 446 out of 2,219 sites were validated through on-site assessments conducted by state staff
- In 2021, the State began planning a new site validation process with the assistance of HFS DoIT



Heightened Scrutiny Process

- An extra review process for settings with institutional and isolating qualities
- States submit these settings for CMS review if:
 - The setting has been identified as presumed to have the qualities of an institution; and
 - The State believes that the setting has overcome the presumption and can provide evidence to support this.
- Federal CMS will use the list of sites provided by a State to compile a random sample of settings to review.
- The review sample will also include any setting the State requests CMS to review and any setting that generated significant public comment in opposition of the State's assessment.

Impact on Providers

- Providers certified prior to March 2014 must become compliant with Federal Settings requirements by March 2023
- Post March 2014, prospective providers must be compliant with Federal Settings requirements prior to certification
- Federal Financial Participation (FFP)/funding will not be available for Medicaid-funded HCBS provided in presumptively-institutional settings that are unable or unwilling to demonstrate compliance.

Status of Illinois STP

- Illinois published STP drafts for public comment in 2015, 2016, and 2020.
- Illinois has submitted three additional drafts to CMS for Initial STP approval since January 2021; latest submission was May 3rd, 2021.
- Since the February 2020 STP draft was published for public feedback, HFS has worked with respective waiver-operating agencies to address public comments and further enhance the STP.
- CMS gave Initial Approval of Illinois' STP on 07/23/2021

Summary of 2021 Initial STP submission

- Illinois received 274 comment submissions in response to the February 2020 draft.
 - The public comments with state responses are organized into 13 topic categories, with multiple themes (or sub-categories).
 - Data tables were developed based on commentator demographics.
 - The State determined the top 10 themes based on the number of commentators.
 - Most comments were related to services for individuals with I/DD.
- Updates were made to each HCBS Waiver System Remediation Grid:
 - Clarification on services provided within each setting;
 - Further developments in aligning State rules, policies, forms, assessment tools, and training with Settings Rules; and
 - Alignment of these updates with Appendices A and F.

Summary of 2021 Initial STP submission

continued

- Updates were made to the DD Division Action Plan:
 - High-level revisions were made to reflect State responses to public comments;
- Historical appendices were moved to the Illinois STP webpage and hyperlinks were added to the STP document; and
- Due to the COVID-19 pandemic, language within the STP was edited to reflect both on-site and remote (or virtual) assessments.



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