

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**

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April 4, 2018

Margaret Brodie  
Director, Health Care Services  
Alaska Department of Health and Social Services  
4501 Business Park Boulevard, Building L  
Anchorage, AK 99503-7167

Dear Ms. Brodie:

In follow-up to the 12/28/2016 initial approval granted to Alaska'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 toward final approval.

In order to receive final approval, all Statewide Transition Plans 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 settings 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 criteria 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,

A handwritten signature in black ink, appearing to read "Ralph F. Lollar", is written over a light blue circular stamp. The signature is fluid and cursive.

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

## ATTACHMENT

### **Additional CMS feedback on areas where improvement is needed by the State of Alaska 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 again 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 consideration of final approval as soon as possible.***

#### **Site-Specific Assessment & Validation**

- ***Validation of Site-Specific Provider Assessments:*** Since the state has confirmed that all of the provider self-assessments have been completed, please provide an explanation of the strategies that the state will utilize to confirm/validate the self-assessment results. States may use a combination of various strategies to assure that each setting is properly validated (including but not limited to state onsite visits; data collection on beneficiary experiences and consumer feedback; leveraging of existing case management, licensing & certification, and quality management review processes; partnerships with other federally-funded state entities, including but not limited to Developmental Disability and aging networks; and state review of data from operational entities, such as managed care organizations (MCOs) or regional boards/entities, provider policies, consumer surveys, and feedback from external stakeholders), so long as compliance with each individual setting is validated by at least one methodology beyond the provider self-assessment.
- ***Individual, Privately-Owned Homes:*** The state may make the presumption that privately owned or rented homes and apartments of people living with family members, friends, or roommates meet the home and community-based settings criteria if they are integrated in typical community neighborhoods where people who do not receive home and community-based services also reside. A state will generally not be required to verify this presumption. However, the state must outline what it will do to monitor compliance of this category of settings with the regulatory criteria over time. CMS requests that Alaska provide additional details about its strategy for compliance monitoring of these settings. Note, settings where the beneficiary lives in a private residence owned by an unrelated caregiver (who is paid for providing HCBS services to the individual), are considered provider-owned or -controlled settings and should be evaluated as such.
- ***Please summarize Setting Assessment & Validation Results:*** Please clarify how many settings were determined to be in each of the following compliance categories:
  - Fully comply;
  - Do not comply but could with modifications;
  - Cannot comply; and
  - Are presumed to have the qualities of an institution, but for which the state will submit evidence for the application of heightened scrutiny.

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

- ***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.
- ***Communication with Beneficiaries of Options When a Provider Will Not Be Compliant:*** Please provide a detailed strategy for assisting participants receiving services from providers not willing or able to come into compliance

by the end of the transition period. CMS asks that Hawaii include the following details of this process in the state's next installation of its STP:

- Please include a timeline and a description of the processes for assuring that beneficiaries, through the person-centered planning process, will be given the opportunity, the information and the supports necessary to make an informed choice among options for continued service provision, including in an alternate setting that aligns, or will align by the end of the transition period, with the regulation. CMS requests that this description and timeline specifically explain how the state intends to assure beneficiaries that they will be provided sufficient communication and support including options among compliant settings, and assurance that there will be no disruption of services during the transition period.
- Please provide an estimate of the number of individuals who may need assistance in this regard

### **Monitoring of Settings**

CMS requests Alaska to provide more details on the monitoring process the state intends to use to ensure continued compliance of its settings with the federal criteria, including a timeframe for each specific monitoring step listed. Since the state is planning to weave its existing provider certification, case management, and quality assurance processes into its ongoing monitoring and compliance activities around the federal home and community-based settings rule, the state should indicate how monitoring around the settings criteria will be embedded into these existing processes and reviews.

### **Heightened Scrutiny**

As a reminder, the state must clearly lay out its process for identifying settings that are presumed to have the qualities of an institution. 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, the institutional presumption will stand and the state must describe the process for determining next steps for the individuals involved. Please only submit those settings under heightened scrutiny that the state believes will overcome any institutional characteristics and can comply with the federal settings criteria. Please include further details about the criteria or deciding factors that will be used consistently across reviewers to make a final determination regarding whether or not to move a setting forward to CMS for heightened scrutiny review. There are state examples of heightened scrutiny processes available upon request, as well as several tools and sub-regulatory guidance on this topic available online at <http://www.medicaid.gov/HCBS>.

### **Milestones**

A milestone template has been completed by CMS with timelines identified in the STP and has been sent to the state for review. CMS requests that the state review the information in the template and send the updated document to CMS. The chart should reflect anticipated milestones for completing systemic remediation, settings assessment and remediation, heightened scrutiny, communications with beneficiaries and ongoing monitoring of compliance.