

**Introduction:**

In response to statewide transition plans submitted on or before March 17, 2015, CMS and its STP-reviewing contractor, NORC, have drafted a series of letters to states that summarize areas where each plan needs to be revised and strengthened. The main areas in need of improvement across states include: identifying and reviewing heightened scrutiny settings, detailing the state review of its standards, the adequacy of the site-specific setting assessment and validation, insufficient detail in ongoing monitoring processes, and a lack of attention to relocation process and protections for participants. These letters are a useful starting point to understand CMS’s expectations for states in reviewing their HCBS settings, and also reflect some of the information and feedback state and national advocates have provided CMS regarding individual statewide plans. This chart provides a detailed summary of CMS’s response letter to each state, including any requirements for the state to amend the plan and post it for public comment prior to resubmission. Text in red indicates a note or piece of particular interest.

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
AK	7/9/2015	Lacks description of all covered settings. Policy review incomplete (missing two HCBS requirements, doesn't include regs for all state settings, some of the state analysis appears to be incorrect). Provider assessment insufficient (leaves out 79% of providers, not site-specific, no validation process). Ongoing monitoring process is not clearly detailed. Lacks a process for relocation. Insufficient detail on its process to identify heightened scrutiny settings, including more detail on site visits that occurred. <b>Note: Here it seems CMS is rejecting the approach that a state would only review a sample of provider sites. The implication appears to be that all providers should have to answer the self-assessment (or a non-response would trigger some kind of formal state review).</b>	Late Sept. 2015	Yes. Sept. 2015

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AL	8/20/2015	Lacks description of all covered settings. <b>Requires that any private dwellings that might have the effect of isolating individuals must be adequately reviewed by the state (See also MS letter).</b> STP lacks summary of public comments received and response to that input. Revised STP must include crosswalk comparing state standards to HCBS rules, and specifically address the state’s restraint policies in the ID waiver and how they will satisfy the new rule (with description of any necessary changes). On provider compliance assessments, state must address how it will handle providers who do not return the self-assessment, separately assess each setting operated by a provider, and include individualized outcomes. Self-assessment validation process needs to be described/developed, as do criteria that will trigger a site visit. For on-site assessments of ID settings, who will sit on the peer-review committees and more details on what will trigger on-site review. Revision must address the review and approval process for site-specific remediation plans. Ongoing monitoring requires better description of policy review workgroup (should be a one-time review), planned changes to licensing process (not described) and assurance that beneficiary surveys will be tied to specific settings, not just aggregate review. STP lacks details on heightened scrutiny and relocation process (when necessary).	Early Nov. 2015	Yes. Prior to Nov. 2015 (30 days).
AR	9/16/2015	Multiple problems with public notice process – notices not included, incorrect link not directly to the draft STP, not clear what non-electronic means were used to publicize and make draft available, no summary of comments received. State provided no info on whether it posted response to comments for public review or accepted comments outside the public hearing. Schedule for completing systemic assessment is too long (must be within 6 mos. of submitting STP.) State using on-site assessments and provider self-assessments, but need clarification on verification process and on-site methodology...state claims that autism waiver is already compliant, but must provide justification for that claim. Site assessment schedule lacks completion dates and process for posting results for public comment. Remediation process lacks detail. No detail on heightened scrutiny process, and question on why state included “apartments located in apartment complexes also occupied by persons who do not receive HCBS services” as a HS setting. <b>I could not find any mention of HCBS settings transition at all on Arkansas’s Medicaid websites or Office of Long Term Care, let alone the HCBS transition plan and accompanying documents (response to comments, appendices, etc.). The comment link in their public notice announcement landed on a provider login page, and this <a href="#">public notice announcement</a> for a public hearing on HCBS Settings (8/17) links to the state’s Payment Initiative reform website, which has no information on HCBS.</b>	Not specified	Likely, but not specified.

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AZ	11/25/2015	CMS requests that AZ amend its timeline (currently through 2021) to conform with 3/17/2019 deadline for compliance. Evidence of adequate non-electronic notice of public hearings were lacking. Summary of public comments received was too broad. State must remove the section describing a transition plan for person-centered planning regulations, because the person-centered planning regulations were fully effective on 3/17/2014.	Not specified	Likely, but not specified.
CA	11/16/2015	State listed services, not specific settings under each waiver. Unclear if the provided settings list includes all HCBS settings (cites deficiencies with CFC program and 1115 CBAS demo list of settings). CMS looked closer at some of the findings from the systemic assessment of state policies and regs. Found that some policies under CBAS waiver were actually silent on the federal regulations (visitors, freedom from restraint, community integration) thought the state claimed the state policies satisfied the federal regs. Also rejects states claim that remediation is not necessary for 1915(k), 1915(c) HIV/AIDS and 1915(c)IHO waivers and asks state to develop a remediation plan to create settings policies under these programs. Insufficient description of the site-specific assessment process, including sample size for on-site assessments, how state will ensure responses from providers, timeline for completing self-surveys, and how matching of provider and beneficiary surveys will be done. State needs to clarify methods for ongoing monitoring of provider compliance for settings other than the CBAS settings. Remediation process needs more specificity and clear milestones and timelines. CMS cites Sweethear Spectrum and Golden Heart Ranch as settings that should undergo review as possible settings that isolate. State needs to develop an adequate relocation plan. CMS also asked for clarification about the state's definition of delayed egress, secured perimeter and certain institutional practices in some CBAS settings.	75 days after call	Not specified.
CO	7/30/2015	Problems with public notice process. Insufficient response to public comment. No results or crosswalk from policy review. Insufficient detail in provider assessment process, including validation, who will be reviewed, use of site visits. No detail on relocation process, remedial action process. CMS finds use of National Core Indicators (NCI) or QoL surveys inadequate unless it can be site-specific and fully cross-walked.	Not specified	Yes, but not specified.

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CT	9/24/2015	Transition plan does not appear to include all HCBS settings. Standards assessment does not include detailed regulatory citations, nor which elements comply, not comply or are silent on HCBS settings regulations. Standards crosswalk is needed. On settings assessments, the state only identified two Adult Day settings that may not comply, along with a few Residential Care Homes not yet reviewed. Settings assessment must include estimates of settings that comply, need changes, not able to comply or potentially subject to HS. State claims settings assessments are nearly complete, but outcomes not reported by setting and it is unclear what went into the assessment process. Validation process is not detailed, and use of NCI is not sufficient unless it can be tied to specific settings. No milestones for the monitoring process. Role and composition of Transitional Work Group are not sufficiently described. Remediation process is not described in detail and only identifies a couple sites requiring remediation. Time frames seem too short, though some changes appear to extend beyond the March 2019 deadline. No projection of how many transfers are expected, what the protections and notice will be, and the timeline (6 months) seems too short. No description of heightened scrutiny process.	Late October 2015	Yes, but only after all the settings assessments are completed.
DC	8/13/2015	Lacks description of all covered settings. Requires more detail in systemic assessment (distinguish standards by setting types to which they apply). Site-specific assessment process needs clearer description of sampling process, validation process, and how provider self-assessments and beneficiary surveys will be linked together and to specific settings. Plan needs to set more milestones in the timeline for the assessment and remediation process (results, remediation plans, relocations etc.). Using NCI data alone for monitoring is not sufficient because it is not setting-specific. More robust description of transfer process and protections needed. Needs more detail on heightened scrutiny process, including listing sites presumed institutional because of co-location with public institution or inpatient institutional facility. The individual waiver plans are not of equal quality, with the IDD waiver being much stronger than Elderly and PWD waiver.	March 2016	Yes.

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DE	9/24/2015	Standards assessment should include degree of compliance in results (supports, contradicts, silent). State must ensure that all providers respond to self-assessments and include enforcement mechanisms. Unclear if “desk review” of setting results is meant as validation check or what is meant by “look-behind” review of 20% of providers. Methodology and sampling approach need to be explained for these elements. Encourages more milestones for results analysis, follow up with providers who report noncompliance and development of remediation plans. Results must include aggregate count of compliant, compliant w/changes, not able to be compliant and HS. No detail provided on ongoing monitoring process or compliance with corrective action plans. Long process for adjusting policies (finish by 1/17). More information needed on beneficiary protections and estimated projection of individuals who will be transferred, including the Stockley facility.	Winter/ Spring 2016	Yes, after assessment results in Dec. 2015.
FL	8/13/2015	Lacks description of all covered settings (#, type, presumptive institutional, etc.) Requires more specificity in the standards assessment crosswalk, including necessary changes. <b>Visitation restrictions appear to conflict with new HCBS regulations</b> , but not explained. Explanation of how state standards on restraints satisfy new rules also needed. Setting specific assessment requires more detail on on-site review process (who? How many conducted? How is sample selected?), the distinction between preliminary and full assessment, validation process is lacking, assure review of each individual setting (including for providers with multiple settings), whether the settings assessment will be used for ongoing monitoring and, if so, how. Next STP must include site-specific remediation process linked to setting assessment results. Requires clear milestones for standards remediation, clarification of timeline for results from provider self-assessments (appears that assessment will be completed before it’s even designed). Heightened scrutiny process is inadequately described. <b>CMS notes that it knows large intentional disability-specific communities are planned in FL, and asks whether state intends to fund through Medicaid HCBS, and whether any such settings already receive HCBS.</b>	Late Oct. 2015. Then again with site-specific assessment results by summer 2016.	Yes. Sept/Oct 2015.
GA	7/23/2015	Needs to add dates and time frames for assessment and remediation. Policy review does not detail specific provisions. Provider assessment process lacks a description of validation process, of sample size and method, and site-specific results. Also lacks a clear description of heightened scrutiny sites and process. Remediation plans and assessment results will have to be put up for comment...to be resubmitted by Jan. 2016.	Late August 2015, then again by Jan 2016.	Yes. Fall 2015.

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HI	7/30/2015	Lacks specific outcomes for regulation review, though claims review was complete 4/1/2015. Does not identify all settings. Settings assessment process does not appear to include all settings, lacks description of the validation process. Consumer survey should show how it will include information covering all sites. On-site review is insufficiently described. Lack of detail for ongoing monitoring. Insufficient description of heightened scrutiny process. No description of relocation plans.	12/31/2015	Yes. Fall 2015.
IA	9/4/2015	State must be sure to include all 1915(c) and (i) programs in the STP and list settings by program, and it must respond to public comments re: compliance determinations when assessments results are completed (did not do so in its response to comments.) Not clear that all settings were included in the settings analysis. CMS suggests a list of all settings by setting type along with numbers of settings by their degree of compliance. Section 1915(b) HCBS settings (due 9/2015) must be included. Systemic assessment must include detailed analysis of all sources of state standards (licensure, certifications, regulations, etc.). Assessment must include support/contradict/silent designation for each element and needed remediations. Completion date for systemic assessment is lacking. Iowa using GIS, self-assessments, IA Part. Exp. Survey, on-site review, and other info, but does not provide a coherent description of how they are used, validation process, sampling methodology, on-site review process. Target completion dates lacking here as well. State must estimate number of settings by presumed compliance status. Specific milestones for ongoing monitoring and for remediation process needed. State needs to project # of individuals who need to be transferred, flesh out that process. Insufficient description of HS process, and incorrect deadline of March 16, 2019 to submit evidence (leaving no time for review and remediation.)	1/31/2016	Yes, prior to next submission.
ID	8/7/2015	Not clear if setting types listed are comprehensive. The standards assessment is not specific and does not distinguish compliance, non-compliance or silence with HCBS regs. Questions about eviction regulations not in compliance with tenancy laws. Site-specific assessment discussion does not include non-residential settings. Use of licensing process is inadequate for validation of self-assessments, as licensing for ALFs is on a five year cycle and all ALFs won't be relicensed prior to 2019. Should not delay setting assessment until after state standards have been updated. STP lacks detail and timeline for setting remediation, ongoing monitoring, heightened scrutiny process, and relocation protections/process. Also, unclear if state is correctly comparing access of individuals receiving HCBS against access for community individuals not receiving Medicaid HCBS. The provider assessment questions on community integration only ask about the community accessing the setting, not residents accessing the community.	Late Oct. 2015	Yes.

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IL	7/30/2015	Several settings that should be heightened scrutiny were not identified. Self-assessment survey missing key elements, has unexplained scoring system, little evidence of validation process or how site visits will be used. Survey results not site-specific. No detail on ongoing monitoring. More detail on remediation plan will be required. No description of how relocation will work. No system to identify heightened scrutiny settings.	mid-Oct. 2015	Yes.
IN	10/8/2015	The state did not identify all HCBS setting types or the number of each setting that falls into different levels of compliance (yes, yes with changes, no or HS). CMS asks for clarification about several places where the state asserts that the regulations do not apply (though they do). CMS asks for a crosswalk as part of systemic assessment with specific citations, complete timelines, and an explanation of how NCI data will be used for the systemic assessment. Site specific assessments need clearer timelines, specific milestones, and more info on the process for sampling and validation of self-surveys. CMS wants to know how state will use case managers to validate provider surveys. The Dept of Aging and Dept of Mental Health Admin. appear to have a robust ongoing monitoring process, but not clear if this will continue post 2019. DRRS will use 90 day checklist (which the NCI data showed to be overly optimistic in an earlier STP draft). Remediation plan lacks specific detail and needs a clear oversight process to ensure needed changes are completed. Relocation plans are also lacking across all departments. Timeline for transitions is too close to March 2019 for some categories of settings. HS process is also lacking. CMS recommends better alignment across the various divisions managing HCBS programs.	Not specified	Yes.

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KS	9/4/2015	<p>Disjointed combination of two plans. Lack of detail in the plans may have hindered public’s ability to meaningfully comment. State’s response to comments was not specific enough. Standards assessment lacks specific milestones and needs a detailed policy specific crosswalk with the HCBS settings regulation that includes compliance status (supports/contradicts/silent on), needed remediations, and a clear and consistent timeline. Settings assessment lacks detail and is not consistent between the two plans. No validity check or sampling methodology, lack of detail about on-site review process. State must also develop key milestones and report outcomes for completed site-specific assessments. Inventory and description of all HCBS settings was due in April but never submitted or posted. Must estimate number of settings by compliance status. Plans have discrepancies in when the assessment outcomes and remediation plans will be completed. Ongoing monitoring process lacks detail (who is responsible, what activities required, etc.) Limited detail on the systemic remediation process (timelines, scope of remediation required, corrective action for non-compliant providers). Mechanisms to ensure Provider remediation compliance are not detailed. State did not present an adequate process to identify HS settings. Must include an estimate of the number of HS settings, and a process for validating surveys from providers who self-identified as subject to HS. CMS questions this statement: “Higher scrutiny may be necessary for individual choice to reside in a setting deemed out of compliance with the final rule.” (6) CMS notes that HS is to determine institutional vs. community nature of a setting and that: “If an individual chooses to remain in a setting that is not compliant by the end of the transition period, the setting can no longer be funded with Medicaid HCBS.” More detail needed on potential relocations and the process. The state may not “grandfather” in settings and should remove such references.</p>	Nov./Dec. 2015	Yes.
KY	7/23/2015	<p>Lacks crosswalk for regulatory review. No explanation of provider specific reviews. No description of the validation process. CMS needs site-specific results for settings review, especially for heightened scrutiny sites. Concern about late start for heightened scrutiny process (high number of isolating settings identified.) Clearer timelines for remediation are needed, and remediation timeline seems unrealistic. Needs better description of changes to ongoing monitoring process and of relocation planning. Timeline for HS results is too late in the transition window.</p>	12/31/2015	Yes. Fall 2015.



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LA	10/15/2015	<p>STP lists services instead of settings for DD program, asks for clarification on settings tied to several service types. STP lacks crosswalk linking state policies to specific federal settings regulations. State concluded that changes would not be necessary. CMS questions why certain apparently institution-like settings (disability-specific or clustered) are not being reviewed under heightened scrutiny and asks for clarification. STP has timelines to notify providers of compliance <i>before</i> setting validation has occurred, and lacks detail on sampling methodology, site visit process and overall validation approach. OAAS setting assessment will not be finished until Feb. 2017, two years after other programs. If state uses NCI data, it should be linked to specific sites. Overall monitoring process has some specifics (random unannounced site visits), but lacks detail overall. Corrective action process needs a mechanism to ensure compliance and specific milestones. Relocation planning needs more detail, specific milestones (and enough time for smooth transitions), and alignment across agencies. HS process is not explained and does not appear to go beyond geographic triggers. CMS warns state that presumed compliance may not apply to settings that include a group of individuals with disabilities who purchased units and reside together in a single setting.</p>	45 days after call with CMS	Not specified.
MA	11/05/2015	<p>State's STP is fragmented (three agencies and multiple addendums) and lacks cohesion. CMS suggests at least a clear index/toc for the various parts, and streamlining to reduce duplicative language. Role of EOHHS as central organizer must be clarified. Clearer and more specific milestones on timeline are necessary. Provider types listed do not match with types listed on waiver reports. State needs to provide a detailed crosswalk on the systemic assessment complete with citations and compliance status of citation, and listing of any needed changes. Review of EOE regulations and policies and ASAP contract is absent and must be included. Site-specific assessment methodology is not clear for each agency. Specific outcomes were not included, particularly for those 58 settings that must implement changes to comply. Only one agency, DDS, describes a validation methodology. More detail required for the ongoing monitoring activities (must go beyond 2019, NCI must be linked to individual sites). Little detail on the plans to ensure remediation compliance. Remediation strategies for sheltered workshops are not listed for all waiver programs that use them. State describes Blueprint for Success strategy to move away from sheltered workshops. But there is no other detail on how state will identify other settings that would have to undergo HS, nor its plans for transitioning individuals out of non-compliant settings (that aren't sheltered workshops).</p>	90 days after phone conversation	Not specified.

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
MD	11/05/2015	<p>CMS asks for clarification why state has presumed “shared living” is compliant without further review, even though this could involve three or more participants. Similar questions for adult foster care. Praises “comprehensive plan” for site-specific assessments, but does ask for clarification on follow up for providers who do not complete and return the self-assessment tool, the validation process for self-assessments that claim full compliance, the sampling methodology, and the state’s choice to accept 86% compliance as acceptable, and questions the late completion date for compliance reports (Dec. 2017) <b>CMS recommends targeting late 2016 or early 2017 for completion.</b> If the state will use NCI for site-specific compliance, it will need to link to specific sites. State will have to report aggregate outcomes by compliance status. Ongoing monitoring process is unclear. STP must clarify what specific remediations will be needed for state regulations and policies. Similarly, the plans for site-specific remediation and compliance oversight must be clarified and should move up the dates to ensure time for necessary transitions. State must develop a plan for smooth relocations, and an estimate of how many relocations will be necessary. State’s HS process is not well developed.</p>	Early Jan 2016	Not specified.
ME	9/24/2015	<p>State provided detailed tables for standards crosswalk and settings assessment. CMS requests more detail on Private Non-Medical Institutions (PNMIs) (who uses them, how they are funded, will they be HS?). More detail requested on “non-disability specific” settings. Settings assessment basics are provider self-assessment, beneficiary surveys, and validation using on-site review (5% sample). More detail on how the sample and advisory group will ensure accuracy of self-assessments. <b>Does not question composition of advisory group or role of beneficiary surveys.</b> State needs to improve the timeline and provide more detailed steps for bringing providers into compliance. 2018 is too late to begin provider training (suggested prior to self-assessments). HS process is identified, and lists 7 PNMIs and 3 Adult day centers as candidates for HS. CMS requests projected date for submitting HS settings for review. <b>CMS does not really identify specific shortcomings in ME’s process, but does ask for more clear explanation.</b></p>	Maybe, pending NORC call.	Maybe, pending NORC call.

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MI	8/7/2015	Lacks clarity in its list of HCBS settings. Some inconsistency in milestones and activities for different individual waivers (e.g. stakeholder education). Children’s waivers need and ongoing monitoring process, esp. for potential new settings. State needs to put future public comment periods into timeline, ensure proper notice for next comment periods, and revise STP to include a summary of public comments received with information on how state responded to public comments received. Letter includes a confusing description of the standards assessment process that instead discusses settings types and compliance. More specific timeline for standards remediation is needed. Timeline for assessment results, remediation, and relocation (if necessary) does not appear to align correctly and is too general and vague. More information required on heightened scrutiny process and relocation protections/process.	Not specified	Yes.
MN	10/08/2015	Lack of evidence showing compliance with public comment process requirements. STP must identify setting types that go with each HCBS waiver. STP should include results from systemic assessment, including a crosswalk with specific state policy citations, compliance status, and specific necessary remedial actions to change state policies and regs. Timeline for site-specific assessments is unclear, as it claimed the process would finish 6/2015, but left only one month for validation activities. STP is unclear when on-site assessments will be performed and for what purpose. Validation check is not developed, nor is the process for analyzing results. Final site-specific results must be reported by groups (compliant, compliant after changes, not able to comply, and subject to HS). STP unclear on ongoing monitoring process. Timeline needed with specific milestones for remedial action on policies and standards that need to change. Same for the site-specific remediations. The final compliance check scheduled for Jan-Mar 2019 must detail what activities will be involved and must be connected to relocation process (and appears too late in the game.) CMS questions discussion state includes on payments for services in institutions (esp. services provided in IMDs.) More detail is needed on the relocation process (notice, estimate of # of transfers, choice process, service continuity protections. HS process needs to be clearly developed.	75 days after call with CMS	Not specified.

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MS	8/13/2015	<p>Notes that person-centered planning regs are already in effect and are not subject to a transition period. STP must list all settings types (and how many). The standards assessment needs to be more specific, with more milestones in the timelines and clear statements about what remediation is needed for each policy and when that will be completed. Site-specific assessments must identify how many settings are compliant, need changes, or will be phased out. State needs to provide assurances that private homes it is assuming to be compliant are not in fact disability-specific setting that isolate residents from the broader community.</p> <p><b>Strong language requiring state to assure that no private residences show characteristics that may have effects of isolating HCBS recipients: “CMS wants to make sure that Mississippi understands that its classification of ‘private home dwellings’ may not automatically meet the characteristics of home and community-based settings if they are settings where all or the majority of services are rendered in that setting, or on the grounds of that setting, or where a group of individuals with disabilities or a specific type of disability (or their families) have purchased the setting and reside in the setting.” (at 2).</b> State needs to develop/detail the relocation process &amp; protections, including the number of potentially affected individuals. Beneficiary survey sample must be representative. Sampling methodology for on-site visits is unclear, as is the process for a follow up on-site visit. The remediation timeline seems not to line up with assessment results. NCI data is not sufficient for ongoing monitoring or assessment validation unless it provides valid site-specific information. No description of heightened scrutiny process.</p>	Mid Sept. 2015	Yes, but after assessment results are completed.
MO	8/13/2015	<p>STP must describe all settings types associated with each waiver. Standards assessment must include specific citations as well as compliance data (yes, no or silent) and remediation needed. Next STP revision should include a crosswalk. More detail is needed on remediation required and timelines for changes. Site-specific setting assessment results must detail how many settings are compliant, compliant w/changes, subject to heightened scrutiny or will be phased out. State should provide better description of the Audit and Compliance staff conducting on-site reviews. The on-line participant survey needs more detail and a mechanism to reach participants who don’t have computer access. STP needs more detail and better timeline for provider remediations. Requests that the state will use provider recertification to validate provider self-assessments, and requests that state not use self-assessments alone for ongoing monitoring. State notes it will use GIS to identify clustered settings for heightened scrutiny, but there should also be a mechanism to identify other settings that have potential to isolate.</p>	Yes, but not specified	Yes, but not specified.

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MT	8/26/2015	STP had no information on how specific settings comply with new regulations, so public had no opportunity to comment on this. Some key settings (retirement homes) were not included and no comprehensive review appears to have been done. A complete list of setting types for each waiver is needed. The state's standards assessment must identify specific state regulations and provide clear interim milestones. Detailed crosswalk of STP with compliance assessment (Yes, no, or silent) and any needed changes should be included in next revision (Should be completed by Sept. 2015.) Should include timeline with milestones for standards remediation. STP needs to provide rationale for making no revisions after receiving public comments. State must clarify if provider self-assessments are mandatory, and if not, how the state will assess providers who don't reply. Member surveys must provide site-specific data if they will be used as validity check. More detail on on-site review sampling process is needed, and the timeline is a little slow (summer 2016 completion) for site assessments. Settings need to be categorized by compliance results. Heightened scrutiny process is not provided. Nor is an on-going monitoring process or relocation plans/protections. More detail on remediation processes and review of provider compliance plans is needed.	Nov. 15, 2015	Yes. Sept./Oct. 2015
NC	8/7/2015	Lacks information on number and type of specific settings per waiver (by compliance status); include any foster homes. Standards assessment and remediation timeline is needed. Assessment phase should be complete by Sept. 2015. More detail on the site-specific assessment validation process is needed (sample size, methodology, validation approach). Questions about state approach to evaluating supported employment settings. Questions re: potential of financial interest/COI if local agencies are evaluating providers. CMS concerned the provider perspective is outweighing participant perspective in assessment process. How will state link participant satisfaction surveys to specific sites? More details and milestones needed for remediation plans. Ongoing monitoring process is unclear, including the monitoring of required changes to come into compliance. Heightened scrutiny process is unclear (but seems to include public comment for each setting potentially submitted).	Early Sept. 2015	Yes, but after the Sept. revision, once outcomes are available.
ND	No date	<b>This letter approves three homes and two apartments on the campus of an ICF that ND submitted for heightened scrutiny, encompassing 10 HCBS participants.</b> It denies approval for a day care setting on the same campus (but separately licensed) due to staffing overlap with ICF and insufficient community integration. The letter discusses CMS's review activities (interviewed each participant, two site visits, etc.) Also notes a few minor modifications that will be necessary and requires reapproval if current conditions (or # of residents) change. Revised STP will also need to confirm ongoing monitoring process will also apply to heightened scrutiny settings. Also more clarification on how other settings that would require heightened scrutiny will be identified.	Sept 2015	Not specified

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NE	9/24/2015	URL for STP not included. More direct listing of settings types needed. Outcomes of the systemic standards analysis need to be included, including which elements are already complete. This should include a crosswalk of specific standards and compliance status. <b>Letter doesn't mention listing required remediations.</b> STP needs a narrative description of setting assessment methodology, along with estimates of compliance status for different settings. Sampling and other methodology for on-site review validation must also be included. Completion date and schedule for posting results and getting public comment is also needed. Specific clarifications on remediation process requested. More details required to evaluate adequacy of ongoing monitoring process. <b>State responded to comments noting that "many existing settings are institutional in nature and do not meet the compliance standards identified in the HCBS rule."</b> More detail on relocation scope and process required. CMS expresses concerns with the state's incorporation of a "severability" provision on p. 8 of the STP. CMS will allow a different pace in the transition process between different waiver programs in the state, but STP must be a singular plan. CMS wants more narrative.	After assessment results completed.	Yes, after assessment results.
NH	10/01/2015	STP must include all settings covered by the states HCBS programs. The state's internal review outcomes (list of providers, inventory of state standards) are not included in STP. Systemic assessment needs a crosswalk with specific regs and policies tied to the fed reg requirements, along with compliance status and needed changes. <b>NH included a third party legal review of state policies (interesting).</b> State must also clarify when the review will be complete (in time for March 2016 public comments?) Site-specific assessment results must be sorted into compliance categories (complies, needs changes, cannot comply, subject to HS). STP includes no details on the site assessment process, nor of the composition of the two advisory groups that will review assessment activities. State must detail what happens if a provider does not return the self-assessment. Description of validation process, sampling, etc. is all lacking. More milestones needed for the site-specific remediations. CMS asks for details on the ongoing monitoring process, and the composition, role and meeting frequency of the Advisory TF and the Transition Framework Team. Satisfaction surveys will have to be linked to specific provider sites. No discussion at all of relocation process or planning	March 2016, possibly earlier	Yes

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NJ	10/01/2015	<p>CMS notes it as a “progressive plan,” but needs some clarification. State needs to explain what a “private residential facility for individuals with DD” is, as it does not appear to be an authorized setting under the 1915(c) waiver. State suggests some settings on the campus of an institution will relocate. CMS suggests they would be subject to HS (<b>but perhaps not, if they are relocating</b>). Does the STP include all non-residential settings where services are provided under the 1115 demo? Systemic assessment is thorough, but must include the specific state policies and regs that will need to be changed. State should remove references to person-centered planning, which should already be in effect. Site-specific assessment process should be explained for each group of settings the state reviews. Sampling methodology must be explained, as well as the content and process for on-site reviews. CMS praises state for stakeholder involvement in assessment process for 1915(c) waivers, but asks for more details on which agency is responsible for the reviews and how the assessment tools will be used. Ongoing monitoring process is not clearly developed, especially for non-licensed settings. Will the state use a licensing entity to monitor licensed settings? On remediation of state policies and regs, the state must provider more detail on 1115 policies that will have to change as well as a detailed timeline. On site-specific remediation, state needs to provide more specificity on the process and how the process will be connected to licensing standards, if at all. Relocation planning is lacking. CMS notes the state removed an action on plans to relocate DDD settings on the grounds of institution...but this has been removed. CMS provides more specific details on its expectations for HS requests in this letter: <b>“Please indicate in the STP an estimated date for submission of such evidence, including for settings in the 1115 demonstration, and identify: 1) each specific setting presumed not to be home and community-based, 2) the step-by-step process for identifying these settings, and 3) a specific timeline with exact dates for each step of the process. CMS strongly suggests that New Jersey choose a date that allows adequate time for settings to come into compliance following feedback from CMS in any heightened scrutiny request, or that allows time to relocate consumers if the evidence cannot overcome the institutional presumption.”</b></p>	Maybe, pending CMS call	Maybe, pending CMS call



State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
NM	10/29/2015	<p>CMS notes the STP lists services, not setting types, for several state waiver programs, and asks for more details on the types of settings where several services are delivered (home health outside home, employment supports, intense medical living, specialized therapies). State’s systemic assessment crosswalk leaves several areas blank, and CMS asks for clarification and specific remediation timelines. Site-specific assessments must identify settings by compliance category (Yes, yes w/changes, no, or subject to HS). STP suggests the assessments will be distributed to consultant agencies and vendors, because there are too many direct care providers to get valid responses (and that vendors are “close enough” to providers) in the states “Mi Via” Consumer-directed care waiver. CMS asks how state will handle settings that do not respond to self-assessments. Validity check is scheduled to take a full year (CMS asks why and whether the state will notify providers of problems as it conducts the check or only at the end of the period.) State needs to clarify DD waiver sampling methodology for on-site visits. CMS asks if state will assess all Centennial Care Demo providers (under the Agency-based Community Benefit) or a subset (and asks for a sampling methodology if it’s a subset.) (Does that mean the state does not have to review each and every setting?) Details on the validation process and how to deal with non-responding providers needed for Centennial Care Waiver and the Medically Fragile waiver. State must explain the purpose of the participant surveys. If the state uses NCI or a member survey for validation purposes, it must be linked to specific settings. Similarly, NCI is not appropriate for ongoing monitoring unless it is setting-specific. State seems to be relying on “provider attestations” for compliance in the Mi Via waiver. CMS wants to know how these attestations will be validated (independently or by the Medical Assistance Division and DOH). State also appears to farm out compliance monitoring to MCOs in the Centennial Care waiver...CMS asks what state role in oversight will be. Numerous clarifications on remediation plans, including one DD waiver strategy suggesting that participants will be given a form to select a new provider. How will the state ensure capacity? Which providers will be shut down? The timeline for completing remediations is unclear. STP does not suggest any setting presumed institutional, though comments identified likely settings (ALF with secured Memory units). Relocation planning process needs more development (estimate of # of participants, as well as protections).</p>	45 days after CMS call	Yes, but only after assessment outcomes have been completed.
NV	7/9/2015	<p>Incomplete response to pub comments. Not enough detailed milestones in plan. Identifies a specific setting likely subject to heightened scrutiny in an individual waiver doc but that setting is not clearly in statewide plan. Not enough detail on how the state will identify heightened scrutiny settings. Note: nothing here on their provider/beneficiary assessment tool.</p>	Mid-August 2015	Not specified.



State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
NY	9/16/2015	<p>Requirements for 30-day public comment not adhered to. STP only describes a preliminary systemic standards analysis, and lacks any detail on specific standards. Crosswalk is needed with compliance status and suggested remediations. Plan outlines provider surveys and on-site visits for setting assessments, but lacks key details (which sites, which respondents, enforcement of response, content of surveys). State should explain how it decided some settings were partially vs. fully compliant, and after assessments are done should estimate number of settings by compliance status (including 1115 settings). CMS questions NY's review of foster care homes, and also notes that state's justification that adults with TBI "chose" partially compliant settings is not sufficient:</p> <p style="color: red;">The state notes that nine individuals in the Traumatic Brain Injury (TBI) waiver "chose to live in a setting that may be partially compliant from among other options, which the regulation allows." CMS notes that beneficiary choice of the setting does not mitigate the requirement for the setting to comply with all provisions of the settings rule. Please describe how the state will assure this compliance.</p> <p>More detail on ongoing monitoring required. Remedial actions section has no meaningful detail, and must include all settings. Needs detailed HS process description, and Jan 2018 is too late to submit evidence.</p>	Early Nov. 2015	Yes.
OH	7/23/2015	<p>Timeline for assessment will push into 2017 (too late). Questions on validation of survey results (sample size, non-residential). Site-specific outcomes are needed, and more on the process of evaluating the survey results. Lacks detail on ongoing monitoring, such as how NCI will be linked to specific sites. Heightened scrutiny process is insufficiently described.</p>	not specified	likely, but not specified
OK	9/24/2015	<p>STP does not list setting types for each waiver. Systemic standards analysis needs a detailed crosswalk that includes compliance status (support/contradict/silent) and state needs to clarify link between rules and regs and policy manuals, and process for bringing them into compliance. On settings assessment, state has already completed provider survey by March 2015. State needs to identify how it addressed providers who did not return the self-assessment. Needs to include details on sampling methodology and validity checks for the surveys. STP suggested that CMS's standard for quality compliance was 85%, and that it used that threshold for its settings assessment. CMS responds that: "All settings must comply with the regulation; therefore the threshold must be 100% compliance." State needs to estimate numbers of settings by compliance status (compliant, compliant w/changes, HS possible, subject to closure). If state wants to use NCI data for ongoing monitoring, it must have a mechanism to link NCI data to individual settings (and a big enough sample). Generally more detail needed for ongoing monitoring, time frames for remediation activities. State did not include projections for the scope and process for individuals who need to transfer.</p>	Approx. Dec. 2015	Yes.

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
OR	8/20/2015	STP does not list employment services and related settings (number and type), assurance needed that “own home” settings are also community integrated. Global Scorecard was helpful, but should include non-residential regulations and detail how public can view results. More specific crosswalking of OR standards to HCBS regs is needed, and also the compliance level for each setting type. Site-specific assessments results need enough information for public to provide meaningful comments. Participant surveys should be matched to specific sites, or state must develop another method for determining site-specific compliance. Time frames for incorporating public comments on assessment results for specific sites seem overly compressed. Role of the quality monitoring system is unclear – will this be for ongoing monitoring or part of the transition process? More detail on relocation protections is needed. <b>OR is one of few states that described a heightened scrutiny process.</b> Next STP must have public comment after posting of assessment results and include settings that state will submit for HS (with evidence). <b>CMS requests explanation for compliance of Adult Foster Homes specifically.</b>	Late Sept. 2015, also July 2016	Yes, but only prior to July 2016.
PA	9/16/2015	CMS raised question about overall timeline and how elements fit together. Waiver specific transition plans included details that were omitted from or contradicted the information provided in the STP. State needs to include all HCBS settings from 1915(c) waivers. Plan lacks details on the standards assessment process. State will need to develop a detailed crosswalk with compliance status. Also a list of settings by compliance status based on this initial review. The site-specific setting assessment process is also lacking descriptions of the validation process and mechanism to account for providers who fail to respond (or enforce their response). State says it will combine self-assessment with on-site review of potentially non-compliant settings, and will complete assessment by Oct. 2015, but not report results until August 2018 (??). Remediation may require more time than that. More details needed on ongoing monitoring, including provider tracking tool, and assurance that it will be ongoing past 2019. Beneficiary surveys will need to be linked to specific settings. More detail needed on corrective action plans (who develops, approves, timeline, focus on provider or on individual settings, and process for site visits to verify CAP compliance.) Lacks plan for relocating individuals (scope, protections, process). State needs to describe its HS process.	Needed, but no date specified.	Not specified.

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
RI	11/05/2015	<p>CMS asks state to confirm that settings list is complete. Systemic assessment needs a detailed crosswalk. State should also <b>include the consent decree with DOJ re:employment settings</b>, and how that will overlap with the systemic assessment and remediation. State piloted its assessment tool over a 10% sample, but did not provide the sample number or results. State must clarify how the second stage assessment will proceed (sample or all-site review...but CMS asks state to justify using a sample given the DOJ consent decree.) Ongoing monitoring process includes provider training, an inter-dept'l team to monitor compliance, which CMS recognizes as innovative, but state must provide more details on how it will ensure compliance. CMS suggests involving licensing entities. CMS identifies conflicting timelines in remediation process, and some remediations are scheduled for too late in the process (Jan 2019). State needs more detail and robust process for smooth relocation, particularly given the shift to supported employment that is part of DOJ consent decree. HS process is not described.</p>	Early Dec. 2015	Not specified
SC	8/7/2015	<p>Next STP must include summary of public comments and specific response from state on incorporating comments. Standards assessment must delineate which settings types are governed by each standard. Assessment must include compliance status (yes, no, silent) with HCBS regs. On site-specific assessment, state must describe a validation process for provider self-assessments, must identify how it will review providers that did not respond to the survey, and must more clearly describe the sampling methodology, including how it will ensure that providers have assessed each setting they operate. Results must identify how many settings are compliant, compliant after changes, not compliant or presumed institutional. Also, how will state respond to settings assessed non-compliant or presumed to be institutional. This STP lacks information on the remediation process for both state standards and provider compliance, and needs to incorporate clear milestones in the timeline. Inadequate description of ongoing monitoring, relocation protections, and heightened scrutiny processes.</p>	Late Sept. 2015, then again in Spring 2016	Yes, but only for the Spring 2016 revision

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
SD	10/15/2015	SD must provide more detail on the types and number of settings for each waiver program; appears now incomplete. State may not presume “private” homes are compliant if the settings were purchased or established in a manner that isolates individuals from the community. State must clarify if supported employment is provided in disability-specific settings that may isolate. Systemic analysis must include a specific crosswalk that correlates state policies and standards to the federal reg, as well as compliance status. Site specific assessments must include settings sorted by compliance categories (complies, complies w/changes, doesn’t comply, or HS). CMS specifically asks for clarification on process that found all adult day settings already comply. Asks for explanation of sampling methodology for on-site reviews, as well as the process for reviewing provider settings that did not respond to the self-assessment. CMS notes the 86% compliance threshold is insufficient (100% must be the standard). State must clarify validation process for provider self-assessments, including the respective roles of participant interviews and on-site reviews by state staff. Ongoing monitoring by CQL, NCI, and the Systemic Monitoring and Reporting Technology must be clearly linked to the HCBS settings regulations. State must include details on specific and overall remedial action plans. Relocation plans must also be developed and included in STP. Process for identifying HS settings must be included. State must seek public comment on any HS settings.	Not specified	Yes.
TN	7/23/2015	Requires additional detail and specificity on state policy review. Requires complete list of settings and site-specific results from self-assessment surveys. No validation process described. Needs more detail on ongoing monitoring, relocation process, identification of heightened scrutiny settings, and results from provider assessments.	Late August 2015. Additional submission for Dec. 2015	Yes. Fall 2015.

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
TX	9/4/2015	CMS notes this is a fairly comprehensive plan with some details required. STP says systemic standards assessment is complete, but does not include results, instead directing people to the TX web-site. Outcomes should be included with the STP for future public comments. Standards assessments did not list all HCBS settings types, and the analysis of specific waivers, such as the YES waiver, appeared to be incomplete (missing settings, missing regulatory review.) Outcomes did not include remediations needed to come into compliance. The next update should include outcomes with a crosswalk, including all settings by waiver programs, and including the 1115 settings. The settings assessment proposes reviewing a representative sample of settings, but no detail on the sampling methodology or size. <b>This letter does not mention language in other letter that requires all settings to be reviewed in some way. Letter seems to confuse random sample and “representative” sample (representative should be randomized, but size of sample is key).</b> The validation process will be a representative sample of participant surveys (but also no sampling methodology.) CMS asks how the participant surveys will be linked to provider self-assessment and to specific settings. The timelines for participant/provider surveys do not align. STP lacks description of HS process, estimated number of HS settings, and evidence submission target date. No description of remediation strategies and little detail on ongoing monitoring. State assumes that no relocations will be required, but CMS asks to reevaluate after setting assessment results are in. Also some discrepancies in timeline need to be corrected.	Late Nov. 2015	Yes.
UT	10/08/2015	STP must list settings by setting types and numbers, not provider types. State must develop a timeline with milestones for completion of systemic assessment, as well as a detailed crosswalk. STP lacks detail on the site-specific assessment process. The state’s evaluation tools appear to only kick in if the provider self-assesses any issues with compliance. CMS notes the state must also validate self-assessments from providers who attest they are compliant. State must describe how it will respond to providers who do not return the self-assessment. CMS notes that state must assess ALL settings, where individual HCBS participants live as well as non-residential settings where they receive services. <b>CMS asks for explanation on how state found 100% compliance with new regulations.</b> The timelines for ongoing monitoring should not include an end-date, and CMS asks if the on-site compliance reviews are ongoing or ended in Jan 2015, as the STP suggests. Remedial action plans for systemic and site-assessments are lacking. State has no timeline for relocating HCBS participants who need to move. HS process is not detailed.	Not specified.	Yes.

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
VT	10/29/2015 12/30/2015	Vermont combined its STP with a broader Quality Strategy document. CMS asked the state to clarify the HCBS components of its more general quality strategy to ensure that meaningful public comment is possible in future iterations. Also, CMS asks if the states systemic assessment crosswalk was put up for public comment, as it was appended after the comment period closed. CMS notes that settings must comply with HCBS fed regs if the services were “originally provided under the state’s 1915(c) waivers.” <b>(Note: the wording here asks the state to distinguish services by the authority under which they were previously administered...but everything we’ve been told before suggests that HCBS provided under an 1115 waiver should be subject to the rules. This appears to contradict that claim by suggesting that services previously covered under 1905(a) would not be subject to the new regs, even if they are now covered under an 1115 demo.)</b> CMS notes that respite care provided in foster homes is generally “provider-controlled” and so subject to those regulations. The systemic assessment crosswalk must identify compliance status of state standards, cite to specific state regs/policies and identify needed changes. It must also have specific milestones in the timeline for implementing the needed changes. State must clarify if the “self-assessment” tool will be conducted by providers or by the managed care entity. State must identify a validation process if it is using provider self-assessments. The STP provides conflicting timelines and information on how the assessment will proceed. State needs to clarify the exact role the MCE will play in monitoring compliance with HCBS settings regulations, and ensure these activities will continue after March 2019. Not enough detail on what “corrective action plans” will look like and if they will apply to all HCBS setting types. CMS notes state must be in full compliance by March 2019, not the end of 2019. HS process is not clearly described. Description of relocation plan is lacking.	End March 2016	Not specified.
VA	8/20/2015	STP includes response to individual comments, but not an overall summary of the comments. Overall, more coordination needed in STP, not just each individual waiver listed separately. Unclear how state arrived at preliminary assessment results. State must include a crosswalk with specific state standards linked to HCBS regs, compliance status (yes or no <b>(does not mention “silent”)</b> ), and needed changes. State must list all settings by waiver (type, number, # beneficiaries). Specific detail on compliance of children’s residential settings under the EDCD waiver. STP has only partial descriptions of site-specific assessment outcomes. The sampling methodology must be clearly described, and NCI data, if used, must be cross-walked to specific sites. State will have to justify how it used NCI. More information needed on ongoing monitoring process, timeline and process for remediation (sites and regs), relocation protections, and heightened scrutiny process. State should include findings from Alzheimer’s ALF assessment as well as more detail on how DOJ settlement may impact the STP.	Late Sept. 2015, and again in late spring 2016	Yes, but only for late spring 2016

State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
WA	9/16/2015	<p>WA Assisted Living facilities are authorized under 1915(k) and should be removed from STP. Standards assessment should include more specificity from provider manuals, because some aspects of federal requirements seem to be missing from the crosswalk or don't match state regs (e.g. requirement to provide choice of roommate, current physical accessibility, requirement for a lease and privacy in sleeping quarters). Also, <b>state said providers must make "reasonable accommodations" to meet some federal requirements, but did not define the scope of that term.</b> The settings assessment covered only four types of settings that received site visits, and the STP needs more detail on how that process worked and how the state determined whether settings isolated participants from the community. The letter indicates the state, once it has fixed the issues with standards assessment, must identify a process for ensuring that each setting complies or does not comply with the federal requirements. And this on private residences: <b>"CMS has been notified of a single family home that has been established as an LLC with qualities similar to a farmstead. The state should evaluate this and any other similar settings and provide evidence of whether this site is isolating or whether it has qualities of a home and community-based setting. If the state is operating with a presumption that an individual's private home or private family home is meeting this requirement, the state needs to confirm that none of these settings were purchased or established in a manner that isolates the individual from the community of individuals not receiving Medicaid funded home and community-based services. If the state is operating with a presumption that an individual's private home or private family home is meeting this requirement, the state needs to confirm that none of these settings were purchased or established in a manner that isolates the individual from the community of individuals not receiving Medicaid funded home and community-based services."</b></p>	No later than mid March 2016	Yes, prior to next submission



State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
WI	10/8/2015	<p>CMS asks state to clarify certain setting types, such as “private residences that are not regulated residential settings for persons with disabilities” and “prevocational service settings,” and ensure that all setting types are included in STP. State must align waiver-specific transition plans with the overall STP. State indicates it will convert “Community Recovery Services” from 1915(i) to 1905(a) (no longer subject to settings regs). CMS says this must be done within six months (April 2016) or the settings will have to comply. Systemic assessment for adult residential settings is detailed, but compliance status must distinguish “silent on federal regulations” from “reinforces federal regulations” (state uses “no conflict,” which is ambiguous.) State must do the same for non-residential settings and settings for children. The state maintains that certain federal requirements (such as choice of setting or roommate) are responsibilities of the case management entity, not the provider. CMS responds that the provider setting must ensure these requirements have been met to be in compliance. The state seems to want to only assess setting compliance with aspects of the rule that are not already required under state standards and policies. CMS asks for clarification on what was done in the preliminary site-specific assessment. State must identify how it will ensure that a setting gets assessed if the provider does not return the self assessment, if it does not conduct an on-site review of all such settings. CMS asks how the state will ensure that on-site reviews are free from conflict-of-interest, particularly if it uses a contracted entity to conduct the on-site reviews. State needs more information on how it will update ongoing monitoring. State notes it will not change licensing standards (since they also apply to providers and settings with no Medicaid HCBS participants). Rather, it will ensure compliance through “requirements specific to HCBS waiver providers.” State will adjust HCBS waivers, service descriptions, and provider contracts to reflect the HCBS settings regs. CMS asks for clarification, sounds skeptical. State’s plan to allow providers to “opt out” and transfer Medicaid participants does not appear to leave enough time to safely relocate participants and ensure their choice of setting is preserved and their services are not disrupted. More details on remediation process and relocation planning are needed. State needs to provide more specific detail on the HS process. CMS notes that state must ensure that private residences are not actually settings that were purchased or established may actually isolate Medicaid HCBS participants from the community (e.g. majority of services provided on-site, or group of individuals with disabilities reside together in the setting).</p>	75 days after CMS call, and again after assessments are complete (August 2016)	Yes, for both.



State	CMS Letter Date	Main issues CMS identified in letter	Date for resubmission	Public comment?
WV	7/9/2015	Insufficient description of systemic policy review and lack of results (claims to be finished 11/2014). Site-specific settings review insufficiently describes, appears to rely on self-assessment with no validation process. Heightened scrutiny process lacking. Missing timeline dates and no process for ongoing monitoring. <b>Note: Language in this letter strongly requires a validation process for provider assessments, using "must" instead of "should."</b>	not specified	likely, but not specified
WY	7/9/2015	Lacks complete list of settings. Lacks report of provider assessment results (by settings). Needs better description of how it will identify settings subject to heightened scrutiny and develop relocation plans if necessary. Lacks cross-walk from regulatory review to HCBS rule. Lacks ongoing monitoring process. Something about removing certain "flags" from the provider assessment results.	mid-August 2015	Not specified.