



Federal Home and Community Based Settings Rule Arizona's State Transition Plan Addendum

November 2022

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Purpose

The purpose of this document is to provide an update on the progress of Arizona's Home and Community Based Settings Rule (HCBS Rules) State Transition Plan. The Addendum also serves as a tool to summarize the remaining information that is required in order to achieve final approval of the Plan by the Centers for Medicare and Medicaid Services (CMS). The Arizona Health Care Cost Containment System (AHCCCS) obtained public input on the progress update prior to submission to CMS for approval. Public comments received were considered and informed revisions to the final version of the document as well as summarized for general inclusion.

Background

On January 16, 2014, CMS released final Rules regarding requirements for Home and Community-Based Services (HCBS) operated under section 1915 of the Social Security Act. The HCBS Rules mandate certain requirements for residential and non-residential settings where Medicaid members receive long term care services and supports. Specifically, the Rules establish requirements for settings to ensure that individuals receiving services are integrated into their communities and have full access to the benefits of community living.

The AHCCCS Arizona Long Term Care System (ALTC) HCBS program is operated under section 1115 of the Act and CMS requires compliance with those regulations for all long-term care home and community-based settings. CMS provided official notice to Arizona on May 20, 2015, regarding required compliance with the Rules and submission of Arizona's Statewide Transition Plan with its 1115 Waiver renewal submission. Subsequently, on September 30, 2016, CMS approved Arizona's 1115 Waiver renewal request. All HCBS residential and non-residential settings must come into compliance by March 2023¹ in order to continue to serve Medicaid members and receive payment for services rendered.

In Arizona, these requirements impact the ALTC program members receiving services in the following residential and non-residential settings:

Residential

- Assisted Living Facilities
- Group Homes
- Adult and Child Development Homes
- Acute Behavioral Health Treatment Facilities²
 - Behavioral Health Residential Facilities
 - Rural Substance Abuse Transitional Facilities

¹ CMS extended the deadline of compliance from March 2022 to March 2023 in response to the COVID-19 Public Health Emergency.

² AHCCCS is currently in negotiations with CMS to re-classify these settings as solely acute care behavioral health services versus also being classified as a home and community-based, alternative residential facilities in Arizona's 1115 Waiver because it is client, treatment-based and transitional in nature. This reclassification will remove the HCBS Rules compliance requirement from these settings where ALTC members might receive services.

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Non-Residential

- Adult Day Health Programs
- Day Treatment and Training Programs
- Center-Based Employment Programs
- Group-Supported Employment Program

More detailed information about Arizona's Systemic Assessment and Transition plan can be found on the AHCCCS website at www.azahcccs.gov/hcbs.

Transition Plan Development

Between November 2014 and May 2015, AHCCCS conducted a systemic assessment of Arizona's HCBS settings to determine its current level of compliance, provide recommendations for identified variances, and outline a process for continuous monitoring. The systemic assessment processes included a review of Arizona Revised Statutes, Arizona Administrative Code (i.e., Licensing Rules), and AHCCCS and Contractor policies and contracts.

AHCCCS engaged various stakeholders in the assessment process and in the development of the transition plan. A total of 10 stakeholder meetings were held. The purpose of the meetings was to establish a dialogue with and solicit input from stakeholders about the preliminary assessment findings and draft recommendations to ensure compliance with the HCBS Rules. AHCCCS made revisions to the Assessment and Transition Plan based upon the input received. The meetings also served as an orientation for stakeholders, and a strategy to support stakeholders in providing informed public comment in August 2015. Following the stakeholder meetings, AHCCCS enacted an official public comment period from August 1 – 31, 2015 which included eight public forums hosted by AHCCCS throughout the state. After review and consideration of all public comments, AHCCCS finalized the Assessment and Transition Plan and submitted it to CMS for approval in October 2015.

Throughout 2016, AHCCCS partnered with a multi-stakeholder/multi-disciplinary workgroup to develop assessment tools and processes to conduct exploratory on-site reviews of a statistically significant sampling of the following settings statewide to determine if the setting types automatically, by their very nature, qualified them for CMS' "Heightened Scrutiny" process. CMS instituted the Heightened Scrutiny process to allow states to preserve settings that are presumed to have institutional qualities and, therefore, presumed not to be compliant with the HCBS Rules. The exploratory assessments were conducted in October – December 2016.

- **Farmstead Community** – Defined as working ranches in rural areas on large parcels of land.
- **Memory/Dementia Care Units/Communities** – Defined as settings that provide supervisory and personal care services to persons who are incapable of recognizing danger, summoning assistance, expressing need, or making basic care decisions.

In CYE 2017, AHCCCS focused on preparing a revised Statewide Systemic Assessment and Transition Plan in response to CMS feedback and recommendations. AHCCCS received "initial approval" for the Plan in September 2017. For the period of September 2017 – February 2019, AHCCCS engaged in multiple meetings and/or correspondence with CMS, to inform outstanding revisions to the Plan requirements in order to obtain "final" approval of the Transition Plan.

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In February 2019, CMS confirmed the current revisions to the Transition Plan to-date were satisfactory. However, CMS will not officially approve Arizona's Systemic Assessment and Transition Plan until after the first round of site-specific assessments have been completed, a public comment period is held, and the State's reports to CMS are satisfactory.

Site Specific Assessment and Tools, Resources and Process

Assessment Tool Suite

In the months of March through May 2019, AHCCCS held a public comment period including seven statewide stakeholder forums to provide information on updates made to the Transition Plan and solicit comments that were used to help inform the implementation of the Transition Plan. During the public comment period, AHCCCS recruited stakeholders to participate in setting-specific workgroups to advise on the compliance assessment tools. Workgroups were formed to represent each unique setting type and initial meetings started in August 2019.

Between August 2019 and March 2020, AHCCCS facilitated the workgroups to create the assessment tool suite to be used by the Managed Care Organizations (MCOs) to assess a setting's compliance. The following tools, combined, make up the Assessment Tool Suite.

- **Provider Self-Assessment** – Purpose is to gather information directly from the provider on the extent to which the provider may or may not be currently applying practices consistent with the HCBS Rules. It is important to note, the provider self-assessment includes both the documented self-assessment from the provider perspective and documentation of the MCOs validations of the provider's self-assessment after a joint review of the self-assessment with the provider and the MCOs completion of the additional tools in the Assessment Tool Suite.
- **Observations and Community Interviews** – Purpose is to validate the Provider Self-Assessment by observing the location, environment and community engagement of the provider to identify characteristics that may or not be consistent with the HCBS Rules and to gather information directly from community members, who have an association with the provider, about the provider's level of interaction with members receiving services and strategies the provider employs to maximize community engagement.
- **Person Centered Service Plan Review** – Purpose is to review member case files for fidelity to the person-centered plan.
- **Member Surveys** - Purpose is to validate the Provider Self-Assessment by gathering information directly from the members (or their representatives) regarding the member experience with the provider, which may or may not be consistent with the HCBS Rules.

In January and February 2020, AHCCCS held two provider training sessions to orient providers to the purpose and use of the assessment tools and the quality monitoring process to be employed by the MCOs beginning March 2020.

The quality monitoring process that was planned for March 2020 was put on hold due to the COVID-19 Public Health Emergency (PHE). In lieu of starting the compliance assessments, AHCCCS and the MCOs

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agreed to use this time to perform desk audits on those settings that may have institutional characteristics and, therefore, are potential candidates for "Heightened Scrutiny" based upon self-reported survey results and MCO quality monitoring history. Beginning October 2020 to March 2021, the MCOs performed desk audits, for the targeted provider audience, using the provider self-assessment tool to obtain preliminary information on these settings that would support the scheduling prioritization of the future assessments and timely reporting of Heightened Scrutiny candidates to CMS.

COVID-19 Transition Plan

As a result of the PHE, AHCCCS, with input from the MCOs, setting-specific workgroups, and stakeholders representing members and families, created modified assessment tools that accommodated providers efforts to mitigate COVID-19 and included a requirement for them to develop a plan regarding how they will transition to full compliance after the PHE. The COVID-19 Transition Plan was a standard requirement for site-specific assessments during the first year of site-specific compliance assessments from March through December 2021.

The COVID-19 Transition Plan was introduced to maintain compliance with the HCBS settings regulation in the forefront and prioritized community integration and engagement of members by:

- Revising the assessment tools and process to accommodate for practices that had to be curtailed to mitigate risk,
- Adding assessment elements to ensure providers made plans to resume compliant practices when Centers for Disease Control guidelines said it was safe to do so, and
- Challenging providers to plan for new programs or practices that strengthen compliance with the HCBS Rules and/or improve members' experiences with their services and supports.

AHCCCS also challenged providers as part of the COVID-19 Transition Plan to continue to support self-determined member choice and community engagement to the extent possible during the PHE. For example, providers were asked to describe the measures they were employing to support individuals and their family members including:

- How are you teaching individuals to advocate for themselves and determine what risks they are willing to take?
- How are you teaching individuals to mitigate risk?
- How are you communicating what safety measures your staff are taking?
- How are you helping individuals to connect with friends and family in a safe way?
- Developing a communication plan to keep members informed about their current practices and future plans to help members make plans.

As of December 2021, the COVID-19 Transition Plan is now optional if a provider's operations remain substantively impacted by the ongoing PHE.

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Heightened Scrutiny

CMS has created a process entitled “Heightened Scrutiny” for states to use to preserve settings that are initially presumed to have institutional qualities and, therefore, presumed not to be compliant with HCBS Rules. If States want to preserve settings that are presumed institutional in nature and the State asserts the setting complies with the HCBS rules, the States must submit evidence to CMS to make a final determination. CMS determines whether the evidence supports that the setting is or can become compliant with the HCBS Rules by March 2023. In the event the State asserts the setting does not currently comply with the HCBS Rules, the State must first work with the setting to develop and begin implementation of a remediation plan that would support the setting to come into full compliance before initiating a Heightened Scrutiny review.

There are three categories of residential or non-residential settings that are presumed to have the qualities of an institution:

- Settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment,
- Settings that are in a building located on the grounds of, or immediately adjacent to, a public institution, and
- Any other settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

To determine settings that would meet the Heightened Scrutiny criteria pertaining to having the effect of isolating individuals receiving HCBS services from the broader community, AHCCCS re-convened the setting-specific stakeholder workgroups to develop standard criteria and a threshold for flagging a setting that is presumed to have this quality of an institution. The workgroups identified which requirements, if not compliant, could be a contributing factor to a member's isolation from the broader community. These requirements are noted in bold text on the Provider Self-Assessment Tool³. Furthermore, a threshold was set that if (after the MCO validation of the provider self-assessment) three or more of the contributing factors of isolation resulted in a finding of non-compliance, the setting would be flagged for Heightened Scrutiny. Table 1 below shows the Heightened Scrutiny results for the first year of assessments. Details about the assessment process and outcomes are provided in a subsequent section.

³ The Provider Self Assessment Tool can be found on the AHCCCS website at www.azahcccs.gov/hcbs

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Table 1

HCBS Assessment Results					
Setting	Total Settings	Settings that are located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.	Settings that are in a building located on the grounds of, or immediately adjacent to, a public institution	Any other settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.	% of Heightened Scrutiny
Residential Settings					
Assisted Living Facilities	661	3	12	35	7.6%
Group Homes	664	0	0	20	3.0%
Adult and Child Developmental Homes	1744	0	0	3	0.2%
Individually Designed Living Arrangements (IDLAs)	17	0	0	0	0.0%
Residential Total	3086	3	12	58	2.4%
Non Residential Settings					
Adult Day Health Facilities	37	0	0	0	0.0%
Day Treatment and Training Programs	458	0	7	5	2.6%
Other Day Programs	0	0	0	0	0.0%
Center-Based Employment Programs	27	0	0	0	0.0%
Group-Supported Employment Programs	131	0	0	2	1.5%
Other Employment Programs	5	0	0	0	0.0%
Non-Residential Total	658	0	7	7	2.1%
Grand Totals	3744	3	19	65	2.3%

All settings that met one of the three institutional qualities requiring Heightened Scrutiny have been determined to be able to overcome their institutional presumption based on the assessment and on-site audit. There are very few settings that met multiple criteria for Heightened Scrutiny including two Assisted Living Facilities (ALFs) that met both of the location institutional qualities. There is also one ALF that meets both a location and isolation institutional quality.

As part of the Heightened Scrutiny process, CMS requires a public comment opportunity for the identified settings. The public comment period for the settings noted above was held from February 2, 2022, through March 14, 2022, and from June 6, 2022 through July 6, 2022. AHCCCS communicated the purpose of the public comment opportunity and how to participate through the HCBS email list that the public can sign up for on the AHCCCS HCBS Rules web page (www.azahcccs.gov/HCBS). The notice was also shared with the AHCCCS tribal stakeholders and consultation email list, MCO member councils, Arizona Developmental Disabilities Planning Council, ALTCS Advisory Council, and the Statewide Independent Living Council.

Please note, the public comment process for the Heightened Scrutiny settings did not yield comments directly about specific settings or Heightened Scrutiny, but AHCCCS did receive some overall program-related public comments and comments generally related to the HCBS Rules, outlined immediately below.

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Date Received	Stakeholder Type	Comment	AHCCCS Response
2/2/2022	Provider	<p>Room and Board currently does not cover actual room and board costs so an increase in transportation support would be needed as well for specific volunteering and employment activities if this is expected. What distinction will AHCCCS provide to ensure members have choice? The distinction of residential is that residential support provides the individual with a home environment, we do not naturally expect employment to happen residentially, and many people choose not to volunteer. Your home time is your home/recreational time and there should not be any type of expectation that you have to work or volunteer once you are at your residence.</p>	<p>The HCBS Rules outline practical standards for residential providers on how to afford members a home environment that is normative (i.e., access to food at any time, opportunities to have friends and family visit, etc.). To clarify, residential settings are not expected to provide employment or volunteer opportunities, but rather be an active part of the service team planning process to support member engagement in these activities by sharing employment/volunteer interests expressed by members and developing options for transportation and other supports necessary to support the member in achieving their goals.</p>
2/4/2022	Family Member	<p>My son, [redacted], is in an IDLA home, which is important to continue. He learns to make decisions, how to complete projects and excellent communication skills. While I do appreciate where he is at, I firmly believe that I should be open to interviewing additional IDLA homes and/or companies that staff such homes. Currently, they are limiting expansion of this service, but as some have changed their own business structure, I am significantly limited by your refusal to expand such services. Please let additional businesses offer to staff IDLA homes</p>	<p>Thank you for your comment. It has been shared with the Department of Economic Security, Division of Developmental Disabilities (DES/DDD) who manages the network of Individually Designed Living Arrangement settings.</p>
2/5/2022	Family Member	<p>Perhaps this is not a comment relating to the email but I strongly recommend that more Assisted Living Facilities be contacted to see if they would be interested in contracting with the Dept of Developmental Disabilities to accept</p>	<p>AHCCCS is exploring placement opportunities for individuals who have intellectual/developmental disabilities and who are aging. Currently, some placements options</p>

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		residents who have a level of cognitive impairment whereby they could become a resident of their facility. Right now to my knowledge there is not an Assisted Living Facility in Chandler AZ that contracts with DDD. There is one in Scottsdale and one in Tucson.	are limited by the 1115 Waiver and Arizona Administrative Code.
2/9/2022	Family Member	The new MCO is providing what we need to care for my wife at home and I see continued improvement as they learn. The person-centered initiative is finally coming into play.	Thank you for your comment.
7/4/22	Provider	<p>My name is [redacted] and I was an ADHS Rules Analyst in the mid-1990s through early 2000s and it was my privilege to work with ADHS, AHCCCS, and many other stakeholders to develop Arizona's first Assisted Living Facility licensing rules in 1998. The 1998 Assisted Living Facility rules significantly expanded Arizona's HCBS services and capacity. I was again privileged to be the ADHS Rules Analyst for the 2001 re-write of Behavioral Health Service Agency licensing rules. The 2001 behavioral health licensure rules were part of a significant expansion of Medicaid covered behavioral health services, particularly support and rehabilitation services. In 2004, I joined the northern RBHA as the Network Development Director until my retirement in June 2021.</p> <p>It is wonderful to see AHCCCS and Stakeholders develop such a thoughtful and thorough review process ensuring fidelity to the values and principles of Home and Community Based Services for AHCCCS ALTCS populations, particularly for people who may not be able to recognize danger, summon assistance, or make basic care decisions and need, "Directed Care Services."</p>	<p>This comment has been shared with the AHCCCS Division of Community Advocacy and Intergovernmental Relations (DCAIR) to contact the commenter for additional follow-up and to better understand specific examples of conflicts of interest and identify new strategies to support access to community living. AHCCCS would also encourage the commenter to review and provide input on the Olmstead Plan (www.azahcccs.gov/Olmstead).</p>

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Date Received	Stakeholder Type	Comment	AHCCCS Response
		<p>I wanted to offer a little history in the development of Arizona's first Assisted Living Facility licensing rules. In 1997 the Arizona Republic published its, "Homes without Hope" investigative series documenting serious problems in Arizona's Adult Care Home industry and the weak oversight of Arizona's residential care facilities. ADHS convened a 28-member statewide Task Force to guide and oversee the development of Arizona's first Assisted Living Facility licensing rules. Though the licensing rules have been updated, they are substantially the same now as they were when they were originally published in the State Register on October 23, 1998 (Volume 4, Issue #43, page 3296). It was the 1998 rulemaking that established "Directed Care" as an allowable service of an Assisted Living Facility with standards for staff training, programming, and a physical secure premises were developed. It was Dutton Teague the Executive Director of Arizona's Alzheimer's Association who coined the term, "Directed Care" as the Alzheimer's Association were strong partners on the Statewide Task Force. Prior to the 1998 Assisted Living Facility rules, most Arizonans with Alzheimer's Disease or related dementias were cared for in locked units of skilled nursing facilities. Directed Care allows care for people with dementia to receive care in the least restrictive setting capable of meeting the person's needs. Arizona now has almost 25 years of experience in delivering HCBS Directed Care in secure Assisted Living settings – likely more experience than any other state in the nation. One of the important distinctions/standards in Arizona's Assisted Living Facility rules that I did not see discussed is the requirement for</p>	

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		<p>access to outside space in assisted living facilities. It is the Assisted Living premises (facility plus outside space) that is “secure” not just the facility. Unfortunately other Az residential settings do not require access to outside space despite people living in such settings for long periods of time. Specifically, Behavioral Health Residential Facilities and Group Homes for Individuals who are Developmentally Disabled are not required to provide outside space for residents at this time.</p> <p>I fully support and applaud the AHCCCS efforts and activities to review HCBS settings that require “Heightened Scrutiny” to protect people’s rights to live in the community in the least restrictive setting capable of meeting service needs. It is clear that a great deal of AHCCCS time, energy, and resources have gone into ensuring Equality Through Choice (ETC) for ALTCS members and ensuring Arizona is in compliance with the Federal regulations related to Conflict-of-Interest(COI)-free care and related rights for community living.</p> <p>Unfortunately the AHCCCS Plan for ensuring COI-free care and related rights for community living does not include AHCCCS members seeking behavioral health services who are not part of the ALTCS program. There are glaring Conflicts of Interest in Arizona’s Behavioral Health System that limit timely access to care, ignore Member rights to choose providers within a Network, ignore State laws that prevent RBHAs from owning service providers, and prevent Behavioral Health recipients from full enjoyment of community life. Arizona’s AHCCCS behavioral health</p>	

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Date Received	Stakeholder Type	Comment	AHCCCS Response
		<p>populations need similar monitoring and protections as those being extended to ALTCS members.</p> <p>People seeking Behavioral Health Services often have many of the same characteristics as people in the ALTCS Program yet rights protections are not extended to AHCCCS members seeking behavioral health services, including people determined to be Seriously Mental Ill. AHCCCS members seeking behavioral health services often receive services for a long period of time, require case management to navigate complex systems, and are often at an “institutional” level of care while receiving community-based services – just like ALTCS members.</p> <p>Despite the similar characteristics between people in the ALTCS program and people seeking behavioral health services, AHCCCS does not monitor rights for members seeking behavioral health services. There is no systematic oversight of COI and related rights for behavioral health recipients despite stunning and ongoing violations of AHCCCS state law (ARS 36-3410C), AHCCCS contracts, and AHCCCS policy. Conflicts of Interest in AHCCCS behavioral health systems in governance structures, provider funding, service planning and service delivery, and oversight patterns have resulted in provider self-dealing, secret wait lists for services, lack of timely access to care, and violations of the “fiduciary” relationship with the Member.</p> <p>Clearly a great deal of thought and investment has been made in AHCCCS programs such as, “Equality Through Choice” that seek to protect the rights of</p>	

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		<p>ALTCS members receiving HCBS. Unfortunately, the same rights violations that led to the Federal regulation that AHCCCS is addressing for the ALTCS population is occurring among some behavioral health populations right now. Without AHCCCS protecting the rights and choices of behavioral health recipients, there can be no equality.</p>	
7/5/22	Provider	<p>I am writing on my own behalf, because we did not have enough time to gather a vote of the ALTCS Committee of the Arizona Assisted Living Homes Association (ALTCS.org) regarding this comment period. However, I am aware that the consensus of our members is that assessment comments such as provider must develop policies for assisting members with employment or community outings. They have activities but all are in the home. Technical assistance offered with updating policies and procedures for assisting members with outing to the community or employment/volunteer opportunities if requested." – should not apply to the licensed residential assisted living home setting of 10 beds or less in AZ.</p> <p>The provider home addressed in this comment can likely implement the policies, but it could be an undue burden for small business-owner providers, and a potential safety issue for a resident to be allowed to explore community employment/volunteer opportunities, or other community activities, particularly if the resident has dementia. How does APS fit into these rules with respect to disoriented residents? Licensed assisted living homes do not have enough staff available to accompany one resident on</p>	<p>The HCBS Rules apply to all provider-owned and controlled settings. The HCBS Rules outline practical standards for residential providers on how to afford members a home environment that is normative (i.e., access to food at any time, opportunities to have friends and family visit, etc.). To clarify, residential settings are not expected to provide employment or volunteer opportunities, but rather be an active part of the service team planning process to support member engagement in these activities by sharing employment/volunteer interests expressed by members and developing options for transportation and other supports necessary to support the member in achieving their goals. Questions and concerns related to rates, workforce challenges and timely claims payment should be directed to the commenter's contracted Managed Care Plan.</p>

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		<p>an outing, while maintaining certified caregivers for the remaining residents.</p> <p>Although not specific to ER03, HCBS Rules in general, do not recognize that staffing is limited in the residential assisted living setting, and requirements to provide alternate staffing in some situations, is simply not feasible. The time that some providers have had to take out of their normal operations just in order to participate in these HCBS assessments (and be threatened by independent contractors hired by the program administrators if the provider does not provide answers within set time frames) has not sat well in the ALTCS ecosystem where providers can only submit claims a month in arrears, and then have to wait 30-45 days for reimbursement. In several cases, providers have had to challenge the administrators in order to be paid the reimbursements that they are entitled do many months after services have been provided. Ironically, licensed Centers, which these HCBS rules are intended to address in terms of non-institutionalization, receive higher per diem reimbursements than the licensed assisted living homes that are situated inside of community neighborhoods, although they are all expected to comply with the same rules.</p> <p>Moreover, a member of my committee has indicated that she was told she has to take down the name of her home from her vehicle and exterior "because you don't advertise where you live." Are centers going to have to take down their monument signs and cover up the sides of their transport vans? If Centers do not have to give residents access to their institutional kitchens, why should homes</p>	

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		<p>be required to? What about CMS rules to prevent contamination and infection control ? We don't need a fix by the providers; we need a fix by the rulemakers."</p> <p>Assisted Living Homes (10 beds or less) should not be mandated to comply with the same HCBS rules that apply to larger facilities who are provided ALTCS funding that can support transportation to outside activities and facilitate volunteer or outside work activities for their residents if their health permits. These homes are already in neighborhoods and the family-like setting allows appropriate interaction with individuals who come into the homes to visit and provide activities and services.</p> <p>Volunteer/employment activities are not relevant to this demographic (unlike perhaps DDD or employment-based setting programs).</p>	

Provider Resources

To prepare providers for upcoming assessments and re-engage the provider network around compliance with the HCBS Rules, between March and April 2021, AHCCCS facilitated a total of six training sessions including a general training session about the COVID-19 Transition Plan and five setting-specific sessions. The sessions were designed to facilitate peer to peer discussion for providers to share innovative programming ideas to support compliance with the HCBS Rules during and outside the PHE. The sessions also helped to highlight topics for another round of sessions in 2022, focusing on the provider's role in the person-centered service planning process and strategies to support family members who inadvertently limit their loved one's ability to be an active participant in the community.

Assessment Findings and Remediation Activities

In March 2021, MCOs began assessing all settings subject to the HCBS Rules for compliance. The MCOs provided AHCCCS with a detailed plan for their first year of assessments to help monitor their ongoing progress. A survey tool was developed for the MCOs to report their progress to AHCCCS as the audits were completed. AHCCCS has used this data to report quarterly progress to CMS, including compiling

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the list of settings that meet the criteria for Heightened Scrutiny (addressed in another section). AHCCCS began submitting quarterly reports to CMS in December 2021.

It is important to note that any non-compliant finding on the Provider Self-Assessment requires a Corrective Action Plan (CAP). The CAP dictates that the MCOs provide technical assistance on the deficient items and requires follow up with the provider in a timely or regular manner to ensure the provider's compliance with the HCBS Rules by March 2023.

As shown in Tables 2 and 3 below, the HCBS assessments have confirmed initial findings from the Arizona Systemic Assessment that AHCCCS' HCBS settings, on the whole, either are or are in a position to comply with the HCBS Rules. Table 2 contains the numerical total of the settings and the status of the outcome of the assessment while Table 3 displays the same information by percentage. Tables 2 and 3 have the results broken out into the following compliance categories:

- Fully Compliant -The setting was compliant with all items in the assessment,
- Can Come into Compliance – The setting was issued a Corrective Action Plan for non-compliant standards, but due to the nature of the finding, expected to be in a position to comply by March 2023, and
- Not Compliant – The setting is not in a position to comply with the HCBS Rules by March 2023 due to the nature of the findings that cannot be overcome by a CAP within the specified time period.

Table 2

HCBS Assessment Results				
Setting	Fully Compliant	Can Come Into Compliance	Not Compliant	Totals
Residential Settings				
Assisted Living Facilities	250	411	0	661
Group Homes	611	53	0	664
Adult and Child Developmental Homes	1712	32	0	1744
Individually Designed Living Arrangements (IDLAs)	16	1	0	17
Residential Total	2589	497	0	3086
Non Residential Settings				
Adult Day Health Facilities	37	0	0	37
Day Treatment and Training Programs	428	30	0	458
Other Day Programs	0	0	0	0
Center-Based Employment Programs	24	3	0	27
Group-Supported Employment Programs	115	16	0	131
Other Employment Programs	5	0	0	5
Non-Residential Total	609	49	0	658
Grand Totals	3198	546	0	3744

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Table 3

HCBS Assessment Results by Percentage				
Setting	Fully Compliant	Can Come Into Compliance	Not Compliant	Totals
Residential Settings				
Assisted Living Facilities	6.7%	11.0%	0.0%	17.7%
Group Homes	16.3%	1.4%	0.0%	17.7%
Adult and Child Developmental Homes	45.7%	0.9%	0.0%	46.6%
Individually Designed Living Arrangements (IDLAs)	0.4%	0.0%	0.0%	0.5%
Residential Total	69.2%	13.3%	0.0%	82.4%
Non-Residential Settings				
Adult Day Health Facilities	1.0%	0.0%	0.0%	1.0%
Day Treatment and Training Programs	11.4%	0.8%	0.0%	12.2%
Other Day Programs	0.0%	0.0%	0.0%	0.0%
Center-Based Employment Programs	0.6%	0.1%	0.0%	0.7%
Group-Supported Employment Programs	3.1%	0.4%	0.0%	3.5%
Other Employment Programs	0.1%	0.0%	0.0%	0.1%
Non-Residential Total	16.3%	1.3%	0.0%	17.6%
Grand Totals	85.4%	14.6%	0.0%	100.0%

Please note Tables 2 and 3 did not specifically highlight the number of settings presumed institutional under the Heightened Scrutiny criteria. However, the settings are accounted for in the “Can Come into Compliance” column. The setting-specific data in Tables 4- 11 do highlight the number of settings presumed institutional under the Heightened Scrutiny criteria. Each table includes both the general number and the associated percentages.

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The full report containing each setting's assessment and outcome is available in Attachment A. The report tabs are separated by setting type. The setting's Heightened Scrutiny status and compliance findings are available in columns L-P. The numbered items correspond to the Provider's Self-Assessment, which can be found on the website at www.azahcccs.gov/HCBS, under Provider Tools. The numbered items in bold are what has been determined should flag a Heightened Scrutiny review for the criteria specific to isolating members from the broader community. Please note, if a setting does not meet three or more of the bolded criteria, it is flagged for Heightened Scrutiny. All settings must have a corrective action plan (CAP) for any item in the assessment that is not met. All settings that meet the criteria for Heightened Scrutiny are highlighted in yellow.

Assisted Living Facilities

Assisted Living Facilities (ALFs) are residential care institutions primarily for the ATCS population of individuals who are elderly and/or have physical disabilities (ALCS-EPD population), that provides or contracts to provide supervisory care services, personal care services, or directed care services on a continuous basis. ALFs include assisted living centers, assisted living homes, and adult foster care homes.

Table 4

Setting	Fully Compliant	Can Come into Compliance	Cannot Comply	Totals	Presumed Institutional ⁴
Assisted Living Facilities	250	411	0	661	50
Total	38%	62%	0%	100%	8%

Group Homes

Group homes are residential facilities primarily for the ALCS population of individuals with intellectual or developmental disabilities (ALCS-DD population) for no more than six residents.

Table 5

Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ⁵
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⁴ These settings are accounted for in the "Can Come into Compliance" column.

⁵ These settings are accounted for in the "Can Come into Compliance" column.

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Group Homes	611	53	0	664	20
Total	92%	8%	0%	100%	3%

Adult and Child Developmental Homes

Adult and child developmental homes are an alternative residential setting primarily for the ALTCS-DD population for no more than three members who are under the age of 18 (child) or 18 and older (adult).

Table 6

Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ⁶
Adult and Child Developmental Homes	1712	32	0	1744	3
Total	98%	2%	0%	100%	0%

Individually Designed Living Arrangements (IDLAs)

IDLAs are a home or apartment owned or leased by members in the ALTCS-DD population who live alone or with roommates also receiving Medicaid-funded habilitation services.

Table 7

Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ⁷
Individually Designed Living Arrangements (IDLAs)	16	1	0	17	0
Total	94%	6%	0%	100%	0%

Adult Day Health Programs

Adult day health programs are a service, primarily for the ALTCS-EPD population, that specializes in sensory-motor, cognitive, communicative, social interaction, and behavioral training to promote skill development for some portion of a day.

Table 8

⁶ These settings are accounted for in the "Can Come into Compliance" column.

⁷ These settings are accounted for in the "Can Come into Compliance" column.

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Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ⁸
Adult Day Health Facilities	37	0	0	37	0
Total	100%	0%	0%	100%	0%

Day Treatment and Training Programs

Day treatment and training programs are a service, primarily for the ALTCS-DD population, that specializes in sensory-motor, cognitive, communicative, social interaction, and behavioral training to promote skill development for some portion of a day.

Table 9

Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ⁹
Day Treatment and Training Programs	428	30	0	458	12
Total	93%	7%	0%	100%	3%

Center-Based Employment (CBE) Programs

CBE programs provide, primarily for the ALTCS-DD population, a controlled and protected work environment, additional supervision, and other supports for individuals engaged in remunerative work either in a sheltered workshop or in the community.

Table 10

Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ¹⁰
Center-Based Employment Programs	24	3	0	27	0
Total	89%	11%	0%	100%	0%

Group-Supported Employment (GSE) Programs

GSE programs are a long-term, ongoing support service, primarily for the ALTCS-DD population, that provides on-site supervised work environment in a community employment setting.

Table 11

⁸ These settings are accounted for in the "Can Come into Compliance" column.
⁹ These settings are accounted for in the "Can Come into Compliance" column.
¹⁰ These settings are accounted for in the "Can Come into Compliance" column.

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Setting	Fully Compliant	Can Come Into Compliance	Cannot Comply	Totals	Presumed Institutional ¹¹
Group-Supported Employment Programs	115	16	0	131	2
Total	88%	12%	0%	100%	2%

Non-Compliant Settings

As identified in the Arizona HCBS Rules Assessment and Transition Plan, the five group homes co-located on the Arizona Training Program at Coolidge (ATPC) – the State’s Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) in Coolidge, Arizona are institutional in nature and unable to serve members as an HCBS setting. The Department of Economic Security, Division of Developmental Disabilities (DES/DDD) implemented the action plan prescribed in the HCBS Rules transition plan including re-evaluating the members living in the group homes for medical necessity for an Intermediate Care Facility (ICF) level of care. For those members meeting the medical necessity criteria and for whom the guardian approve, DES/DDD is in the process of transitioning the members from the group homes to other facilities on the campus while accounting for individual preferences. Members not meeting the medical necessity criteria will be supported to find a community-based placement that will meet their needs and preferences. To date, two of the five group homes have been closed. One closed in March 2021 and the second closed in March 2022; a total of five members were transitioned to a different/existing ICF on the campus. The remaining three group homes (housing nine members) are estimated to close by August 31, 2022. This date is dependent on the receipt of licensure by the Arizona Department of Health Services (ADHS) for the newly remodeled ICF where the nine remaining members will reside. One member has moved off campus. Please note, these settings are not represented in Tables 1, 2, 3, and 5 as AHCCCS determined very early on that they would not be able to comply with the HCBS Rules and, therefore, continue operations beyond March 2023.

AHCCCS Responsibilities for Compliance

To support the HCBS Rules as the new standard for compliance, moving forward both existing and new residential and non-residential providers coming into the network must comply with the HCBS Rules. AHCCCS is currently undergoing a process to align the requirements in the AHCCCS Medical Policy Manual with the Rules and making changes to the Provider Participation Agreement to assure that new providers coming into the network attest and are monitored for compliance prior to the onset of service delivery. The AHCCCS policy changes are currently in process with the goal of finalizing and releasing the policy updates no later than January 2023. The policy changes will go through a separate public comment period process. Interested parties should sign up to receive notices about these public comment opportunities on the AHCCCS website (<https://www.azahcccs.gov/shared/MedicalPolicyManual/>).

¹¹ These settings are accounted for in the "Can Come into Compliance" column.

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For more details on specific progress on the state's compliance with the HCBS Rules, please visit the HCBS Rules website (www.azahcccs.gov/hcbs) and select the HCBS Transition Plan Timeline and Progress Report; details may be found in the Arizona's Systemic Assessment and Transition Plan section.

Ongoing Monitoring

The HCBS Rules Assessment Tool Suite has been formally incorporated into the ongoing quality monitoring process and tools required by the MCOs for HCBS settings. The HCBS Assessment tool suite will remain the standard of compliance for HCBS settings moving forward. It is also important to note that MCOs will be required to assess HCBS Rules compliance during the initial credentialing process to ensure new providers in the network are compliant prior to the onset of delivery. In order to maintain oversight of the MCOs, AHCCCS is in the process of instituting HCBS Rule standards into the Operational Review audit tool for the MCOs beginning with the next review cycle starting in 2023.

Due to the significance of the role of the Person-Centered Service Plan (PCSP) to ensure and support members to have full access to the benefits of community living, AHCCCS chose to conduct a separate and distinct process to enhance the State's mandated PCSP standards while simultaneously developing a transition plan to come into compliance with the PCSP requirements as they pertain to the HCBS Rules. The new standards will support the successful implementation and monitoring of the State's compliance with the HCBS Rules on an individual member level. The HCBS Rules afford members basic rights in the provision of long-term care services and supports. The PCSP is the vehicle to limit access to those rights in the event that any right may jeopardize the health and safety of the member and/or others. The Rules stipulate that in order for the rights to be limited, specific steps must be taken and documented as part of the PCSP process. AHCCCS implemented the new PCSP process and forms for use starting in June 2021.

AHCCCS will also be giving the community members an opportunity to play an integral role in ongoing monitoring of compliance. If community members have a concern about a specific setting's ability to comply with the HCBS Rules, AHCCCS encourages any individual to provide that information using an online portal. The portal website also provides information on how to share those concerns with AHCCCS via phone or email. The information will be used to inform the health plan's assessment of the setting's compliance with the HCBS Rules. The portal is available directly on the [AHCCCS website](#).

To support outreach and education concerning the member's role in ongoing monitoring of compliance, AHCCCS will work in partnership with stakeholders (members, families, advocates, and providers) to create and disseminate a document that will clearly outline the changes members can expect to see in their settings as a result of the HCBS Rules implementation. This document will be available as a resource for members to assess whether or not their rights under the HCBS Rules are being hindered by the setting and determine if they should share that information with AHCCCS by using the online portal.

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¹² Change made as a result of public comments

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Public Comments

The public comment period for the draft State Transition Plan Amendment was held from October 11, 2022, through November 14, 2022. AHCCCS communicated the purpose of the public comment opportunity and how to participate through the HCBS email list that the public can sign up for on the AHCCCS HCBS Rules web page (www.azahcccs.gov/HCBS). AHCCCS also held two public stakeholder forums on October 25 & 26, 2022 to explain the updates provided in the State Transition Plan Amendment as well as how to review the data provided to support stakeholders to make informed public comments. These webinars were also recorded and posted on the AHCCCS web page for those individuals who were unable to attend a session. A total of 35 stakeholders attended the October 25th session and 97 for the October 26th session respectively.

After review and consideration of all public comment, AHCCCS finalized the assessment and transition plan in order to submit to CMS for approval. Revisions to the Transition Plan in response to public comment are expressly noted.

Date Received	Stakeholder Type	Comment	AHCCCS Response
11/1/2022	Provider	<p>Although I do not have direct experience with this program, I will in the future. I do, however, suggest being sensitive to the potential anxiety that self-advocacy can cause. Also, it's imperative that staff and clients are fully aware of what the rules are so that clients know what to expect and can more accurately evaluate. Staff, especially new staff, will know what is expected of them.</p> <p>I especially appreciate being included in public comment opportunities.</p>	<p>The Transition Plan has been updated to include the development and dissemination of a document that will clearly outline the changes members can expect to see in their settings as a result of the HCBS Rules implementation. This document will be able to be used as a resource for members to assess whether or not their rights under the HCBS Rules are being hindered by the setting and determine if they should share that information with AHCCCS by using the online portal.</p>
11/14/2022	Family Member	<p>My name is [redacted] and I have a daughter who receives DDD/AHCCCS services. I spent many years working in a government agency working to implement large scale federal initiatives with public comment requirements and I know full well how difficult it can be. However, in order to solicit public feedback, complex programmatic language must be translated into something parents,</p>	<p>The Transition Plan has been updated to include the development and dissemination of a document that will clearly outline the changes members can expect to see in their settings as a result</p>

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		<p>family members, and the broader public can understand. I have not been able to find such information.</p> <p>I have tried to sift through the over 200 page report to try and ascertain what kind of changes family members and their loved ones can expect but it has been difficult. I tried notifying other parents through Facebook groups but I struggled to summarize and convey the ask.</p> <p>I tried to read through and understand some of the other opportunities to comment and attended a webinar but it was difficult. As parents of young children in the DDD system, the process of being qualified and retaining services is complicated enough. Plus many of us have multiple children and are working. We don't have lobbyists to help us navigate these opportunities to provide comment.</p> <p>Truthfully when I first heard about this rule change many years ago I was expecting dramatic changes, especially in employment services, but it doesn't appear that will be happening.</p> <p>I did note some of the concerns from family members and appreciate AHCCCS efforts to address them but may I offer a suggestion? Would it be possible to convene a task force or committee of family members with participants who are under 21? As you acknowledge in the report there are movements such as Employment First that represent a generational change in expectations. An Advisory Council could help AHCCCS continue efforts to evolve HCBS Settings rules.</p> <p>I am fully confident that the existing plan meets all federal requirements but my request is to go beyond mere compliance and outline a strategy that would place Arizona as a national leader in competitive, integrated employment and improve outcomes for people with disabilities.</p> <p>Thank you in advance for your consideration.</p>	<p>of the HCBS Rules implementation. This document will be able to be used as a resource for members to assess whether or not their rights under the HCBS Rules are being hindered by the setting and determine if they should share that information with AHCCCS using the online portal online portal.</p> <p>The AHCCCS Arizona Long Term Care System (ALTCs) Advisory Council already serves in an advisory capacity. That said, AHCCCS will work with the stakeholders who provided public comment to identify additional members and family members to invite to serve on the Council to support more diverse perspectives and inform HCBS Rules oversight activities. AHCCCS will reach out to stakeholders who submitted public comment to support recruitment for the ALTCs Advisory Council.</p>
11/14/2022	Advocate	<p>Plan Addendum: Site Specific Assessment and Tools, Resources and Process – Heightened Scrutiny</p> <ul style="list-style-type: none"> · The provider self-assessment and MCO verification process requires greater rigor and commitment to accuracy. Despite the requirement that all provider self-assessments be validated through a verification process 	<p>In alignment with the Transition Plan, as part of the Managed Care Organization Operational</p>

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		<p>led by the relevant MCO, as of late October 2022 one multi-site provider agency was designated for Heightened Scrutiny at nearly all of its service sites – group homes, employment programs, and DTA. In fact, the provider’s programs were all in compliance, but a small element of the self-assessment was completed in error. This mistake should have been identified by the MCO during verification; instead, the provider (which itself had not even received notice of the Heightened Scrutiny designation) had to bring it to the MCO’s attention.</p> <p>Group Homes – Transition Plan</p> <ul style="list-style-type: none"> · Require availability of accurate, developmentally appropriate, and individualized access to information and support related to healthy personal relationships ranging from platonic (friendships) to romantic (partnerships), including access to appropriate information about personal boundaries, acceptable behaviors, and intimacy (#5, Rule 5). <p>Developmental Homes – Transition Plan</p> <ul style="list-style-type: none"> · Increase third-party oversight of all ADH settings, including establishment of transparent and publicly accessible reporting on ADH monitoring via an online scorecard or dashboard that includes reference to the licensing provider, operational or health and safety findings, complaints filed with licensing agencies, corrective actions issued, and other pertinent information. <p>Day Treatment and Training Programs – Transition Plan</p> <ul style="list-style-type: none"> · Establish clear expectation that providers will focus on offering meaningful community-based activities, programs, and experiences rather than simply requiring providers “to foster interaction with the general community internal and external to the setting” (#2, Rule 1). Recreation and entertainment activities must be balanced with activities that provide for personal enrichment, skills development, and genuine connection to the community, including but not limited to volunteerism or other community service. · Per #7, Rule 4, ensure all postings related to members’ rights are in accessible language, are printed in an appropriate font size for persons with vision impairments, 	<p>Reviews, AHCCCS will be auditing a representative sample of the MCO’s HCBS Rules assessment to determine compliance and monitor for inter-rater reliability.</p> <p>Members may receive this individualized support through community resources or skill building services as directed by their personal goals and service planning.</p> <p>The licensing of these settings is dictated by Arizona Revised Statute and Arizona Administrative Code. More information on current licensing requirements may be found here.</p> <p>These standards are addressed in the Transition Plan found here and beginning on page 264.</p> <p>This standard is in the Transition Plan found here and beginning on page 278.</p>
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		<p>and are comprehensible to all persons. Provide necessary supports for individuals requiring additional assistance to understand the posting.</p> <ul style="list-style-type: none"> · Require availability of accurate, developmentally appropriate, and individualized access to information and support related to healthy personal relationships ranging from platonic (friendships) to romantic (partnerships), including access to appropriate information about personal boundaries, acceptable behaviors, and intimacy (#8, Rule 5). <p>Center-Based Employment – Transition Plan</p> <ul style="list-style-type: none"> · The plan needs significantly greater emphasis on oversight and scrutiny of Center-Based Employment as a pre-vocational training option rather than a long-term work solution. We recommend establishing comprehensive and publicly accessible criteria for evaluating CBE sites’ adherence to plan requirements for transitioning the “center-based employment service to a facility-based pre-employment service” (#4, Rule 1a). This should include regular reporting by CBE providers, transparency in availability of data submitted, and accountability measures to make certain the spirit and letter of the Remediation requirement are met. · Require all provider staff serving individuals in employment programs to be appropriately trained in Customized Employment (#4, Rule 1a). · Adopt and systemically embrace Employment First principles in all aspects of pre-vocational and vocational services. Explicitly cite Employment First and EF Executive Order (2017-08) in all employment-related programs under the HCBS umbrella. · Per #12, Rule 4, ensure all postings related to members’ rights are in accessible language, are printed in an appropriate font size for persons with vision impairments, and are comprehensible to all persons. Provide necessary supports for individuals requiring additional assistance to understand the posting. 	<p>Members may receive this individualized support through community resources or skill building services as directed by their personal goals and service planning.</p> <p>As stated in the Transition Plan, as part of the Managed Care Organization Operational Reviews, AHCCCS will be auditing a representative sample of the MCO’s HCBS Rules assessment to determine compliance.</p> <p>AHCCCS financially incentivizes providers to build competency of their staff through a Differential Adjusted Payment initiative. In order to qualify for an enhanced rate, they must provide training approved by the Association of Community Rehabilitation Educators. Customized employment is one of the options for training topics.</p> <p>AHCCCS also created a new Employment Policy (1240-J) that outlines standards for pre and post-employment services that can be found here.</p> <p>This standard is in the Transition Plan found here and beginning on page 305.</p>
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		<p>Group Supported Employment – Transition Plan</p> <ul style="list-style-type: none"> · Per #3, Rule 4, ensure all postings related to members' rights are in accessible language, are printed in an appropriate font size for persons with vision impairments, and are comprehensible to all persons. Provide necessary supports for individuals requiring additional assistance to understand the posting. <p>General Comments</p> <p>Effective implementation of the HCBS Settings Rule is only possible if the effort is accompanied by a focus on person-centered practices in a system that is reliable, accountable, and stable. As part of its HCBS Final Rule Transition Plan, AHCCCS must take action to increase system stability, including efforts to reduce turnover of direct support professionals and direct care workers within the provider network as well as of support coordinators within the Division of Developmental Disabilities. The extraordinary rate at which these key professionals leave their positions – whether because of excessive caseloads, inadequate compensation, lack of advancement opportunities, or any of a host of other reasons – diminishes the quality of care and services provided to members. Furthermore, this situation jeopardizes the viability of provider agencies. The current state is simply unsustainable. If Arizona is to live up to its commitments to individuals who rely upon HCBS, more will have to be done in the very near future to improve these precarious circumstances.</p> <p>The community of members, caregivers, advocates, and professionals involved in this work also must remain an integral part of the implementation and evaluation process. We strongly encourage AHCCCS to bring together, on a regular basis, stakeholders representing the various audiences served by HCBS programs to solicit their feedback and advice. A plan such as this relies heavily upon the participation and buy-in of many, many people - and most especially those who are immediately affected by it.</p> <p>Thank you for this opportunity to provide input on the transition plan.</p>	<p>This standard is in the Transition Plan found here and beginning on page 337.</p> <p>The role of the Person Centered Service Plan on HCBS Rules compliance is addressed in the Transition Plan found here and beginning on page 65. The updated PCSP can be found here under Exhibit 1620-10.</p> <p>AHCCCS is leveraging American Rescue Plan funds to address workforce shortages through a multi-pronged approach that is outlined in the HCBS spending plan linked here. The AHCCCS Arizona Long Term Care System (ALTCs) program Advisory Council already serves in an advisory capacity. That said, AHCCCS will work with the stakeholders who provided public comment to identify additional members and family members to invite to serve on the Council to support more diverse perspectives and inform HCBS Rules oversight activities.</p>
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<p>11/14/2022</p>	<p>Advocate</p>	<p>The transition plan and compliance with the HBCS rules are essential to ensure that Arizonans with intellectual or developmental disabilities can enjoy their life the way they want. While I appreciate AHCCCS trying to comply with the HBCS rules, I believe that AHCCCS's goal should be to comply and to go above and beyond basic compliance. There are three brief points I would like to address:</p> <ol style="list-style-type: none"> 1. Accessibility to the community we serve. 2. Having an outside agency look at whether the providers follow the transition plan and HBCS rules. 3. Until the transition to pre-employment services occurs, require all providers to pay at least minimum wage, which is what is meant by 'competitive' employment <p>1. Accessible to the Community We Serve Arizona state agencies need to be more transparent with the individuals they serve this includes AHCCCS. While I believe there has been improvement in this area over the last several years there still needs to be an improvement. I noticed on the addendum that comments provided on page 7: there was one provider and three family members. While these comments provide valuable input there also needs to be input from self-advocates/members. I know that AHCCCS plans to work with the Sonoran University Center of Excellence in Developmental Disabilities (Sonoran UCEDD) to facilitate the person-centered planning process which is a step in the right direction. However, I believe that every provider should make a collective effort to put information into a way that individuals with developmental/intellectual disabilities can understand an effort to make sure that members/help advocates are part of the process. This would be written as a policy when contracting with providers. I've heard from members/self-advocates that the complaint process is not always accessible and there is a belief among self-advocates that even if you complain nothing ever happens. The state agency does not listen so there is no point in complaining. That narrative needs to change individuals need to feel like they're being heard.</p> <p>2. Having an outside agency look at whether the providers/AHCCCS follow the transition plan and HBCS rules. The assessment tool is one of the tools that should be used to assess compliance I do not disagree with that. However, I would say that one of the things that should be</p>	<p>The Transition Plan has been updated to include the development and dissemination of a document that will clearly outline the changes members can expect to see in their settings as a result of the HCBS Rules implementation. This document will be able to be used as a resource for members to assess whether or not their rights under the HCBS Rules are being hindered by the setting and determine if they should share that information with AHCCCS using the online portal.</p>
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		<p>added to go above and beyond compliance is having an independent agency assessing whether providers/AHCCCS complies. This assessment should be done periodically every year or two years. Typically, the providers are always changing due to workforce demands and rules change all the time. It is always a good idea to have fresh eyes and the situation. It’s important to note that this independent agency should be an agency that understands the law. I also applaud the use of the Corrective Action Plan (CAP) but it sounds like this is an internal process as well. Some individuals might argue that having an external party come in would be too expensive. I would counter that argument by saying if you don’t have an independent party to assure that you are complying, you will end up paying more in the long run. It’s a simple concept to me and to not do that is stupidity and bad business.</p> <p>3. Until the transition to pre-employment services occurs, require all providers to pay at least minimum wage, which is what is meant by ‘competitive’ employment The plan mentions that Arizona’s Governor Ducey, per Employment First Executive Order (2017-08) declared all state agencies that provide services and support to persons who have disabilities shall implement Employment First in Arizona and shall coordinate efforts to improve employment opportunities for working-age adults who have disabilities. Employment First is a national initiative that promotes competitive, integrated employment in a setting at minimum wage or higher and is the preferred service option and optimal outcome for persons with disabilities. To me, that means that even if they work in this pre-employment service C-14 certificate system they should be paid at least minimum wage. It is important to note to me that transferring the certificate system into a pre-employment program is a way of adjusting the circumstances in which you comply. The certificates were originally designed to be a pre-employment service initially. It is my belief that they should be done away with permanently at some point.</p>	<p>At the individual level, members/families/advocate s can report concerns regarding HCBS Rules compliance directly to AHCCCS using the online portal. Compliance with the HCBS Rules is part of their quality management responsibilities and oversight of providers. As stated in the Transition Plan, as part of the Managed Care Organization Operational Reviews, AHCCCS will be auditing a representative sample of the MCO’s HCBS Rules assessment to determine compliance. Lastly, AHCCCS will be using the National Core Indicator surveys to assess systemic compliance with the HCBS Rules informed by member surveys.</p> <p>Per the AHCCCS Contractors Operations Manual, Employment Policy 447, individuals receiving a pre-vocational center-based employment service would be considered “trainees” because they the work “is designed with the intent to assist individuals to learn basic soft and/or hard work-related skills that lead towards a member’s employment goal documented in his/her service plan. Trainees are individuals who perform</p>
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			<p>work activities for the primary or personal benefit of themselves, as opposed to the benefit of the employer.” The Department of Labor governs whether or not sub-minimum wage is allowed to be paid to individuals receiving these services. For more information on employment requirements AHCCCS also created a new Employment Policy (1240-J) that outlines standards for pre and post-employment services that can be found here.</p>
	<p style="text-align: center;">Advocate</p>	<p>While ACDL acknowledges AHCCCS’ progress in ensuring individuals receiving HCBS are integrated into their communities and have full access to the benefits of community living, ACDL has several concerns with the progress of the transition. Accordingly, ACDL’s comments fall into four general categories: (1) ongoing gaps in critical services and inadequate network issues; (2) ongoing denial of eligibility for HCBS programs and services; (3) the need for specificity, accountability, and transparency in the HCBS Assessment Tool Suite; and (4) greater strides are needed to ensure independence in HCBS day programs and employment.</p> <p>1. Ongoing Gaps in Critical Services and Inadequate Network</p> <p>One critical component to the success of HCBS is the timely and sufficient provision of critical services to eligible members. Failure to timely provide medically necessary services can result in hospitalization, or other inpatient care. While the entire country is in the midst of a staffing crisis, workforce shortages in the HCBS setting have resulted in an epidemic of gaps in critical services for Arizonans receiving long term care. Workforce shortages for direct service providers and case managers, for example, has resulted in an inadequate network for many Arizonans who rely on attendant care, skilled nursing, respite care, and non-emergency medical transportation, among other services in HCBS settings.</p> <p>To address this issue, any tool used should include an assessment of, and a timeline for identifying workforce</p>	<p>AHCCCS’s plans to address access to care, and workforce shortages is outlined in the Olmstead Plan found here.</p>

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		<p>shortages, and significant gaps in the range of services offered to eligible members. It is critical that AHCCCS regularly assess the adequacy of its provider networks, using internal and external data, including Electronic Visit Verification (EVV), and grievance trends. The Transition Plan should set forth timelines for the development and implementation of a corrective action plan if an inadequate network issue arises.</p> <p>Moreover, HCBS providers should be held accountable for failures to meet minimum standards. The tools should trigger a protocol whereby MCOs and AHCCCS investigate those providers who fail to meet specified minimum performance standards and suspend and/or require a corrective action plan be developed and implemented to timely correct deficiencies.</p> <p>Case manager turnover is particularly problematic for members in HCBS settings, and the tools should address turnover in these and other roles.</p> <p>As an aside, from ACDL's perspective, any solution to the workforce shortage will be ineffective unless a thorough rate study is completed that will allow AHCCCS to assess the accurate costs and rates required to retain a quality healthcare workforce that meets the critical needs of Arizonans in HCBS settings. There is an urgent need for a rate study for all critical services positions, including but not limited to attendant care, respite, transportation, and nursing. In addition to a rate study and correction to address the current recruitment and retention crisis, AHCCCS should create and implement an accountable method of maintaining competitive rates for providers to prevent future workforce crises that will lead to unacceptable gaps in critical services for Arizonans in HCBS. Such methods could include regular rate studies, or rates that, once adjusted, are regularly recalculated to account for inflationary and other economic factors.</p> <p>2. Ongoing Denial of Eligibility for Programs and Services Also critical to the provision of appropriate community-based services is Arizonans' ability to obtain eligibility for the services for which they are lawfully qualified under DDD and ALTCS. ALTCS members are regularly denied access to medically necessary services. Denial of</p>	<p>AHCCCS is leveraging American Rescue Plan funds to support two provider rate studies addressed in the HCBS spending plan linked here.</p> <p>AHCCCS will share this input with the Division of Member and Provider Services (DMPS).</p>
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		<p>medically necessary services, like attendant care, physical and occupational therapies, and skilled nursing, can cause or aggravate long term health issues, which can result in the previously unnecessary hospitalizations and institutionalizations of members – at great cost to both the members, and the State. AHCCCS should regularly audit its contractors to ensure that Arizonans in HCBS settings are not wrongfully denied medically necessary services.</p> <p>3. Specificity, Accountability, and Transparency It is critical that the tools are specific and applied uniformly to ensure both accountability and transparency for Arizonans. Each tool should also include provisions regarding grievance resolution processes, including an assessment of whether the review, investigation, and resolution of such grievances are accurate and timely. HCBS providers may have compliant policies, but if they are not following them, then the grievance process is the only mechanism for members in HCBS settings to hold the providers accountable. AHCCCS should implement timelines for assessing whether the grievance processes sufficiently permit the identification by AHCCCS of systemic issues to be resolved (whether the assessment for systemic issues is occurring manually or using automated keywords). It should be easy for members in HCBS settings to receive the medically necessary service that they require. In addition to a review of the grievance procedures and protocols, the following processes should be examined by AHCCCS to ensure that members receive a more accountable and transparent experiences in the receipt of critical services in HCBS settings:</p> <ul style="list-style-type: none"> a) Provisions of single case agreements for members lacking critical services as a result of inadequate network or workforce shortages; b) Provisions of enhanced rates for members lacking critical services as a 	<p>AHCCCS regularly performs Operational Reviews on the health plans. Further, AHCCCS convenes an Access to Care Committee that reviews grievance and appeals trends, quality of care concerns, etc. Lastly, AHCCCS is updating its Olmstead Plan (found here) to include will add an objective to the Olmstead Plan to create member-facing materials that will outline the steps for making complaints and sharing concerns including information on how and who to contact.</p> <p>AHCCCS will utilize this input to revisit, consider changes and/or monitoring contract/policy requirements for the Arizona Long Term Care System (ALTCS) program.</p>
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		<p>result of inadequate network or workforce shortages; c) Timely and appropriate resolution of quality-of-care complaints; and d) Timely and appropriate resolution of appeals. Internal timelines should be set, and followed, and agencies should face consequences for failing to meet those timelines. In addition to the foregoing, there should be more transparency and education regarding member-directed care.</p> <p>4. Greater Strides Needed to Ensure Independence in Community Day Programs and Employment Greater strides are needed to ensure that eligible Arizonans achieve independence and dignity in DTA, CBE, and GSE settings. For example, all jobs and pre-employment services should be paid, employment should be customized, and all DTA programs should be age appropriate. Sheltered or segregated environments and unpaid work does not provide meaning for workers with disabilities. Accordingly, any reference to jobs should specify that jobs should be paid, and not volunteer positions. Until the transition to pre-employment services occurs, AHCCCS should require all providers to pay at least minimum wage, which is what is meant by “competitive” employment. Customized employment options are critical to the independence and success of Arizonans in HCBS settings. Under the Direct Service Staff Qualifications in the Service Specifications, ACDL also seeks the addition of the following requirement: “The Qualified Vendor shall ensure that direct service staff is trained in Customized Employment.”</p> <p>In addition, programming in DTA services should be age appropriate, and the tools should assess whether members are receiving age-appropriate services. For questions regarding the above comments, please contact ACDL at the addresses below</p>	<p>Per the AHCCCS Contractors Operations Manual, Employment Policy 447, individuals receiving a pre-vocational center-based employment service would be considered “trainees” because they the work “is designed with the intent to assist individuals to learn basic soft and/or hard work-related skills that lead towards a member’s employment goal documented in his/her service plan. Trainees are individuals who perform work activities for the primary or personal benefit of themselves, as opposed to the benefit of the employer.” The Department of Labor governs whether or not sub-minimum wage is allowed to be paid to individuals receiving these services. For more information on employment requirements AHCCCS also created a new Employment Policy (1240-J) that outlines standards for pre and post employment services that can be found here.</p> <p>AHCCCS financially incentivizes providers to build competency of their staff through a Differential Adjusted Payment initiative.</p>
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11/17/2022	Provider Association	<p>On behalf of the Arizona Association of Providers for People with Disabilities (AAPPD), I am writing to express AAPPD's support for AHCCCS' latest HCBS State Transition Plan Amendment.</p> <p>AAPPD has appreciated AHCCCS' community outreach throughout this process, especially the ability to provide comment on how assessments will be conducted. This was especially important considering the COVID-19 Public Health Emergency. The COVID-19 Transition Plans allowed service providers to continue to implement the HCBS Rules while acknowledging that some member choice and community engagement may be limited due to federal and state recommendations or requirements.</p> <p>AAPPD also appreciates AHCCCS' and our MCO's (the Division of Developmental Disabilities), incorporation of the HCBS monitoring tools into our ongoing monitoring processes. The ability to show compliance without creating duplication in monitoring helps to conserve critical staff time during this unprecedented staff shortage we are experiencing.</p> <p>We would like to thank the AHCCCS Administration staff for their time and hard work on the ongoing implementation of the HCBS Rules, and again, for the continued communication and community outreach throughout the process.</p>	Thank you for your comment.