

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

March 17, 2023

Dr. William Gui Woolston
State Medicaid Director
Connecticut Department of Social Services
55 Farmington Avenue
Hartford, CT 06105

Dear Dr. Woolston:

This letter and accompanying attachment represent the Centers for Medicare & Medicaid Services (CMS) approved corrective action plan (CAP) for the State of Connecticut to bring settings into compliance with the federal home and community-based services (HCBS) regulations found at 42 CFR §§ 441.301(c)(4)-(5) and 441.710(a)(1). The effective date for the CAP is March 17, 2023.

The CAP provides the state with additional time to bring settings into compliance with the regulatory criteria directly impacted by the COVID-19 public health emergency. For remaining HCBS settings regulations not subject to the CAP, the state and all settings are expected to be fully compliant by the end of the transition period on March 17, 2023.

The state will report to CMS on progress with activities, milestones, and timeframes outlined in the attachment. Full compliance is achieved when all Medicaid-funded HCBS is rendered in a compliant setting. Closure of the CAP will be granted after the state completes the activities described in the attachment, at which point the state will be in full compliance with all HCBS settings provisions of the regulation.

It is important to note that CMS approval of a CAP solely addresses the state's compliance with the applicable Medicaid authorities. CMS approval does not address the state's independent and separate obligations under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act or the Supreme Court's *Olmstead v. LC* decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the *Olmstead* decision is available at: http://www.ada.gov/olmstead/q&a_olmstead.htm.

Thank you for your efforts in establishing a CAP and completing this work to ensure all settings are in compliance with the federal HCBS regulations. If you have questions or need further assistance, please contact Ondrea Richardson at Ondrea.Richardson@cms.hhs.gov or (410) 786-4606.

Sincerely,

Ryan Shannahan, Deputy Director
Division of Long-Term Services and Supports

Attachment

cc: George Failla, Director, Division of HCBS Operations and Oversight, CMCS, CMS

MEDICAID HOME AND COMMUNITY-BASED SERVICES SETTINGS REGULATIONS
CORRECTIVE ACTION PLAN FOR THE STATE OF CONNECTICUT

Medicaid authorities subject to the CAP

1915(c) HCBS Waivers:

- Connecticut Home Care Program for Elders Waiver, CT.0140;
- Acquired Brain Injury Waiver I, CT.0302;
- Acquired Brain Injury Waiver II, CT.1085;
- Personal Care Assistance Waiver, CT.0301;
- Comprehensive Supports Waiver, CT.0437;
- Employment & Day Supports Waiver, CT.0881;
- Individual & Family Supports Waiver, CT.0426;
- Autism Lifespan Waiver, CT.0993; and
- Mental Health Waiver, CT.6053.

1915(i) State Plan HCBS:

- Connecticut Home Care Program for Elders.

Regulatory criteria subject to the CAP

All settings:

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS at 42 CFR §441.301(c)(4)(i) (entire criterion except for “control personal resources”),
- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and for residential settings, resources available for room and board at 42 CFR §441.301(c)(4)(ii),
- Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact at 42 §CFR 441.301(c)(4)(iv), and
- Facilitates individual choice regarding services and supports, and who provides them at 42 §CFR 441.301(c)(4)(v).

Provider-owned or controlled residential settings:

- Individuals sharing units have a choice of roommate in that setting at 42 CFR §441.301(c)(4)(vi)(B)(2), and

— Individuals have the freedom and support to control their own schedules and activities at 42 CFR §441.301(c)(4)(vi)(C) (entire criterion except for “have access to food at any time”).

The applicable regulatory criteria at 42 CFR §441.710(a)(1) are also subject to the CAP.

State milestones and timeframes under the CAP

Milestone	Begin Date	Completion Date
Respond to CMS request for additional information related to heightened scrutiny evidentiary package.	April 27, 2022	April 17, 2023
Conduct training and onsite visits to validate compliance and as applicable identify further remediation for settings not subject to heightened scrutiny review.	December 1, 2022	June 1, 2023
Continue monitoring of efforts to increase workforce and impact on members’ access to greater community.	—	September 30, 2023
Continue outreach efforts related to direct workforce issues.	—	September 30, 2023
Ongoing remediation activities and compliance activities with a goal of building a robust network of HCBS providers.	—	September 30, 2023
Conduct final visits to validate compliance for settings that required further remediation that are not subject to heightened scrutiny review to be compliant with HCBS settings regulation.	September 1, 2023	October 31, 2023
Settings not subject to heightened scrutiny review to be compliant with HCBS settings regulation.	—	November 30, 2023
For providers who are not in compliance with the settings rule and are enrolled providers, provide final notice of failure to comply and notify impacted individuals.	—	November 30, 2023
Disenroll providers who have failed to remediate identified noncompliance and complete relocation of individuals to compliant settings.	December 1, 2023	February 28, 2024
Final compliance statewide with HCBS settings rule for settings not subject to heightened scrutiny review.	—	February 28, 2024
Address findings related to CMS’ heightened scrutiny review including, as applicable, remediation of all similarly situated settings that utilize a similar service delivery model and, as applicable, any overall assessment processes of all providers of HCBS in the state to ensure that all providers are being assessed appropriately against the regulatory settings criteria.	Date CMS issues findings to the state	6 months post the date CMS issues findings to the state

Milestone	Begin Date	Completion Date
Final compliance statewide with HCBS settings rule.	—	The later of February 28, 2024 or 6 months post the date CMS issues findings to the state