

**Home and Community-Based Services (HCBS) Settings Rule
Corrective Action Plan
December 1, 2022**

The Home and Community Based Services (HCBS) Settings Rule ensures that individuals receiving services and supports through Medicaid's HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting.

Under the HCBS Settings Rule, the setting should have the following qualities:

- ***Is integrated in and supports access to the greater community***
- ***Provides opportunities to seek employment and work in competitive integrated settings, engage in community life and control personal resource***
- ***Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS services***
- ***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***
- ***Ensures an individual's rights of privacy, dignity, respect and freedom from coercion and restraint***
- ***Optimizes individual initiative, autonomy and independence in making life choices***
- ***Facilitates individual choice regarding services and supports and who provides them***

States are expected to be in full compliance by March 17, 2023.

However, CMS understands that the pandemic has impeded state progress in assessing and bringing HCBS systems into full compliance with the HCBS settings final rule.

Therefore, Time-limited Corrective Action Plans (CAPs) are available to states to authorize additional time to achieve full compliance with settings criteria that are directly impacted by Public Health Emergency (PHE) disruptions, when states document the efforts to meet these requirements to the fullest extent possible, and are in compliance with all other settings criteria.

Louisiana:

Louisiana received final approval of the Statewide Transition Plan on October 4, 2022. The State is committed to coming into full compliance with the HCBS Settings Rule criteria. It is also understood that the PHE has created challenges for some providers and settings for coming into compliance with certain areas of the regulation. As such, we would like to request a Corrective Action Plan (CAP) to extend our transition deadline and provide additional flexibility for our providers and the State to come into full compliance.

CMS will authorize CAPs to continue federal reimbursement of HCBS beyond the end of the transition period, if states need additional time to ensure full provider compliance with the regulatory criteria listed below:

- **Access to the broader community**
- **Opportunity for employment**
- **Option for a private unit and/or choice of a roommate**
- **Choice of non-disability specific settings**

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Louisiana's Goal:

Louisiana will be compliant with all areas of the HCBS Settings Rule criteria, including those affected by the PHE, by December 31, 2024. An application process will be implemented for providers/settings requiring a CAP extension. Settings unable to demonstrate compliance by this date, will be dis-enrolled as an HCBS waiver provider and individuals will be transferred to a compliant setting.

Louisiana's Approach and Implementation:

One of the significant barriers providers have expressed is the ability to hire and retain staff. Although this has been a concern in the past within the waivers, it was made worse by the pandemic and several weather related events that occurred. Louisiana has already begun working to improve the hiring and retention of staff through a rate increase to Direct Support Professional (DSP) wages and retention bonuses and through recruitment and retention payments and value-based incentive payments for other HCBS providers.

Another barrier provider agencies have expressed is their ability to effectively integrate into the broader community. This has been due to the staff shortages but for others it's because individuals and their families are still fearful of going into the community and choose to receive services in their homes rather than receive services through a non-residential provider agency in the community. In addition to this, the PHE has effected businesses in some communities through closures, eliminating programs/activities and/or limiting business hours.

The State has one non-residential setting that offers day habilitation services and it will need to be lifted for heightened scrutiny and this has been delayed due to the setting not being fully operational for approximately two years. There is possibly one other setting that has not re-opened to serving waiver participants and therefore, cannot be lifted for heightened scrutiny until it re-opens.

The State will continue to provide training, technical guidance and support to the provider agencies to ensure compliance in all areas of the HCBS Settings Rule. The State will continue to work through the DSP shortages through the DSP initiatives our state has begun. The State will work with the two settings to lift for heightened scrutiny.

The additional time permitted by the CAP will allow time for provider agencies to re-open, repair buildings, hire and train staff and for the State to validate that compliance for the settings has been reached and to lift the provider agencies for heightened scrutiny.

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Timeline:

December 1, 2022- February 28, 2023- Distribute application and approve provider CAPs.

February 1, 2022- December 31, 2023- Provide technical guidance and support to settings approved for the CAP extension.

February 1, 2023- December 31, 2023- Lift setting(s) for heightened scrutiny.

January 1, 2024-June 30, 2024- Validate settings compliance.

July 1, 2024-October 31, 2024- For those who do not meet compliance, provide additional support.

November 1, 2024-December 31, 2024- Validate any final settings for compliance.

November 1, 2024-December 31, 2024- Transition individuals to compliant settings and disenrollment of providers.