



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

ELIZABETH HERTEL
DIRECTOR

December 1, 2022

Ms. Ondrea D. Richardson
Project Officer
Centers for Medicare & Medicaid Services (CMS)
Center for Medicaid & CHIP Services
Disabled & Elderly Health Programs Group
Division of Long-Term Services & Supports
7500 Security Boulevard
Baltimore, Maryland 21244-1850

RE: State of Michigan Request for Corrective Action Plan implementation of the HCBS settings regulation

Dear Ms. Richardson,

The Michigan Department of Health and Human Services (MDHHS) is requesting a Corrective Action Plan for the Home and Community Based Services (HCBS) Statewide Transition Plan Implementation for the behavioral health Habilitation Supports Waiver (HSW) and Managed Specialty Supports and Services (MSS&S) waivers.

MDHHS requests additional time to address the following criteria:

- A. Provide additional opportunities to complete discussions with CMS regarding our Heightened Scrutiny (HS) submissions.
- B. A six-month transition period consistent with the process identified in our Statewide Transition Plan for waiver participants whose settings are deemed not home and community based. This transition period will run consecutively with CMS's response to HS submissions.
- C. Relocate waiver participants who were placed in HS settings due to the Public Health Emergency (PHE) and will require transition to an HCBS compliant setting.
- D. Continue to strengthen our provider network in compliance with the HCBS rule.

The PHE and its impact on the direct care worker shortage, and subsequent closures of specialized residential settings has had a significant impact on the ability of MDHHS to complete HS reviews, implement remediation efforts and support settings in their efforts to come into compliance.

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MDHHS continues to address these barriers to a timely completion of our implementation plan in the following ways:

- A. MDHHS has completed most of our final HS reviews and submission is pending. We anticipate that the small number of remaining settings will be submitted to CMS at the end of December 2022.
- B. MDHHS is prepared to implement our transition process for settings once we have final determinations from CMS regarding HCBS status of submitted settings.
- C. MDHHS is prepared to implement our transition process for waiver participants in settings identified as PHE placements once we have final determinations from CMS regarding HCBS status of submitted settings.
- D. MDHHS is addressing the workforce shortage and subsequent closure of settings through a leadership workgroup focused on these workforce challenges. MDHHS has also implemented a \$2.35 increase in hourly wages for direct care staff in an effort to attract and maintain direct care workers in HCBS settings.

Please see *MDHHS CAP Expectations* document which provides the required information to confirm the actions taken to meet the expectations identified by CMS to confirm eligibility for the Corrective Action Plan has been met.

Thank you for your time and consideration of this request.

Sincerely,

Farah Hanley
Chief Deputy Director for Health

Enclosures (1)

cc: Michelle Mackenzie, CMS
Amanda Hill, CMS
Jacqueline Coleman, MDHHS
Kristen Jordan, MDHHS

Jeff Wieferich, MDHHS
Erin Emerson, MDHHS
Belinda Hawks, MDHHS

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Michigan Department of Health and Human Services submits the following information to confirm that the expectations identified by the Centers for Medicare and Medicaid as precursors to the development of a Corrective Action Plan have been met.

Expectation: The state will have received final approval of their Statewide Transition Plans (STPs) by the end of the transition period.

- Michigan has initial approval of our STP. Michigan’s STP version 5.3 will be submitted to CMS upon completion of internal review on or before December 14, 2022. This latest version includes changes requested by CMS.

Expectation: All states and settings will be fully compliant with the following regulatory settings criteria that are not impacted by the COVID-19 PHE, including its exacerbation of the workforce shortage, by the end of the transition period.

- Privacy, dignity, respect, and freedom from coercion and restraint; and
- Control of personal resources

Expectation: All states and provider-owned and controlled residential settings will be fully compliant with the following regulatory settings criteria that are not impacted by the COVID-19 PHE, including its exacerbation of the workforce shortage, by the end of the transition period

- A lease or other legally enforceable agreement providing similar protections.
- Privacy in their unit, including lockable doors, and freedom to furnish or decorate the unit.
- Access to food at any time.
- Access to visitors at any time.
- Physical accessibility; and
- Person-centered service plan documentation of modifications to relevant regulatory criteria

Standard:	Assessment Process	Remediation/Monitoring
Control of personal resources	Settings are assessed to ensure the standard is being met	Settings found deficient related to this standard have been remediated. Ongoing monitoring will ensure continue compliance
Privacy, Dignity, Respect, freedom from Restraint and Coercion	Settings are assessed to determine compliance with the standard	Any settings found deficient in this area have been remediated. Ongoing monitoring will ensure continued compliance
Lease or other enforceable agreement	Settings are assessed to ensure this standard is met.	Settings were assessed to determine compliance those settings identified as deficient were remediated. Ongoing

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		monitoring will ensure that this standard continues to be met.
Privacy in their unit, including lockable doors, and freedom to furnish or decorate the unit	Settings are assessed to ensure this standard is met.	Settings are required to have lockable doors that are also non-locking against egress. Any settings that did not have this feature have been remediated and ongoing monitoring will occur to ensure that lock requirement continues to be met.
Access to food at any time	Settings are assessed to ensure this standard is met.	Settings are required to ensure waiver participants have access to food that they like at all times. Any settings that did not have this feature initially have been remediated. Monitoring is being conducted to ensure that this access continues
Access to visitors at any time	Settings are assessed to ensure this standard is met.	Settings were assessed to determine if there were any restrictions on visitors. Any settings that were not compliant initially have been remediated and ongoing monitoring will ensure this standard continues to be met.
Physical accessibility	Settings are assessed to ensure this standard is met.	Any settings that were deficient in this area have been remediated. Monitoring will ensure this standard continues to be met
Person-centered service plan documentation of modifications to relevant regulatory criteria	Settings are assessed to ensure this standard is met.	IPOS were reviewed to ensure that any restrictions on individuals' freedoms were consistent with the HCBS modification requirements and those identified by MDHHS that allow restrictions only when supported by evidence of a health and/or safety need. Ongoing monitoring of IPOS' will ensure this standard continues to be met.