



Minnesota Department of Human Services
Health Care Administration
540 Cedar Street
PO Box 64983
St Paul, MN 55164-0983

February 24, 2023

Michele MacKenzie
Technical Director, Division of Long Term Services and Supports
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. MacKenzie:

Enclosed with this letter is Minnesota's amended corrective action plan (CAP) to assure ongoing compliance with the settings rule for home and community-based services. Minnesota submitted its original CAP on December 1, 2022, following guidance from CMS.

This amended CAP seeks to mitigate Minnesota's risk of federal compliance action once the settings rule's transition period ends March 17, 2023, if Minnesota does not have a final determination or direction related to the following:

- 1) all settings Minnesota submitted for heightened scrutiny review;
- 2) the six settings that CMS visited in June 2022; and
- 3) the process for heightened scrutiny of new HCBS settings.

We have completed all the milestones set forth in our approved Statewide Transition Plan and we entered supporting evidence into CMS' tracking system.

If you have questions about our submission, please contact Mark Siegel in our Federal Relations unit at mark.siegel@state.mn.us.

Sincerely,

A solid black rectangular box redacting the signature of Cynthia M. MacDonald.

Cynthia M. MacDonald
Assistant Commissioner and State Medicaid Director

Minnesota's Amended Corrective Action Plan for HCBS Settings Rule February 24, 2023

The Minnesota Department of Human Services (DHS) is submitting an amendment to its corrective action plan (CAP) for the HCBS settings rule.

1) All settings submitted for heightened scrutiny review

Between 2019 and 2022, MN submitted evidentiary packages for CMS's heightened scrutiny review:

[MN Evidentiary Packages Batch 1](#)

[MN Evidentiary Packages Batch 2](#)

[MN Evidentiary Packages Batch 3](#)

These are pending with CMS. CMS provided questions concerning a sample of settings that were submitted for heightened scrutiny. DHS responded to these questions in April 2022. If CMS's determines remediation is required for individual settings after their review, DHS will implement remediation plans with the provider(s) (see site visited settings below for example), along with specific timelines to complete remediation plans.

2) Site Visit Remediation Plan

DHS submitted the State's [Site Visit Remediation Plan](#) to CMS in January 2023. Below, we are including our site visit remediation plan for individual settings visited as part of our CAP based on recent instruction provided by CMS in an email from Amanda Hill sent on January 30, 2023.

Settings 1 and 2: Isabelle's House at Parmly on the Lake/Vindauga View Assisted Living

Concerns identified: See CMS's site visit findings dated December 6, 2022.

Provider remediation plan: DHS provided remediation plans to Isabelle's House at Parmly and Vindauga View on January 16, 2023, to direct these settings to comply with regulatory requirements. The remediation plans addressed the following requirements for which CMS found the settings to be out of compliance:

- 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, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
- Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.
- Staff must be oriented to and understand the settings criteria and their role in person-centered planning.

Timeline to remediate: Action plans were developed and submitted to DHS within 30 days of receipt of the provider remediation plan. Action plans will be implemented within 60 days of the receipt of the remediation plan. Evidence of implementation will be collected (e.g. policies, training, pictures, calendars of events).

DHS is currently providing targeted support to these providers to assist them to comply with their remediation plans prior to the end of the HCBS settings transition period (March 17, 2023).

Settings 3, 4 and 5: Centennial Villa Assisted Living, Memory Care and Congregate Apartments

Concerns identified: See CMS’s site visit report of findings dated December 6, 2022.

Provider remediation plan: DHS provided remediation plans to the Centennial settings on January 16, 2023, to direct these settings comply with regulatory requirements. The remediation plans included the following requirements for which CMS found the settings to be out of compliance:

- 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, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Staff must be oriented to and understand the settings criteria and their role in person-centered planning

Timeline to remediate: Action plans were developed and submitted to DHS within 30 days of receipt of the provider remediation plan. Action plans will be implemented within 60 days of the receipt of the remediation plan. Evidence of implementation will be collected (e.g. policies, training, pictures, calendars of events).

DHS is currently providing targeted support to these providers to assist them to comply with their remediation plans prior to the end of the HCBS settings transition period (March 17, 2023).

Setting 6: Ebenezer Ridges Adult Day Center

Concerns identified: See CMS’s site visit report of findings dated December 6, 2022.

Provider remediation plan: DHS provided a remediation plan to Ebenezer Ridges Adult Day Center on January 13, 2023, to assure it will comply with regulatory requirements. The remediation plans included the following requirements for which CMS found the setting to be out of compliance:

- Any modification of the additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.
- Staff must be oriented to and understand the settings criteria and their role in person-centered planning

Timeline to remediate: An action plans were developed and submitted to DHS within 30 days of receipt of the provider remediation plan. Action plans will be implemented within 60 days of the receipt of the remediation plan. Evidence of implementation will be collected (e.g. policies, training, pictures, calendars of events).

DHS is currently providing targeted support to this provider to assist them to comply with their remediation plan prior to the end of the HCBS settings transition period (March 17, 2023).

3) New settings and Heightened Scrutiny

DHS will continue to follow existing procedures for evaluating new settings on or after March 18, 2023, or until we receive approval of the settings submitted for heightened scrutiny and additional guidance regarding the process for approving such settings.