

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



Medicaid Benefits and Health Programs Group

June 23, 2023

Elizabeth Matney, Medicaid Director
Iowa Medicaid Enterprise
1305 E. Walnut Street
Des Moines, IA 50319

Dear Director Matney:

This letter and accompanying attachment represent the Centers for Medicare & Medicaid Services (CMS) approved corrective action plan (CAP) for the State of Iowa 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 CAP is effective 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 Amanda Hill at Amanda.Hill@cms.hhs.gov or 410-786-2457.

Sincerely,

Melissa Harris, Deputy Director

Attachment

cc: Wendy Hill Petras, Acting Director, Division of HCBS Operations and Oversight,
CMCS, CMS

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

Medicaid authorities subject to the CAP

1915(c) HCBS Waivers:

- AIDS/HIV Waiver, IA.0213;
- Brain Injury Waiver, IA.0299;
- Children’s Mental Health Waiver, IA.0819;
- Elderly Waiver, IA.4155;
- Health and Disability Waiver, IA.4111;
- Intellectual Disability Waiver, IA.0242; and
- Physical Disability Waiver, IA.0345.

1915(i) State Plan:

- HCBS Habilitation Services, IA-21-0010.

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
Heightened Scrutiny Activities		
Identify all presumptively institutional settings.	March 18, 2023	July 31, 2023
Post presumptively institutional settings for public comment.	August 1, 2023	August 31, 2023
Submit the list of settings identified by settings type and category of institutional presumption to CMS.	September 1, 2023	September 15, 2023
Submit information to CMS on presumptively institutional settings selected by CMS for a sampled heightened scrutiny review.	Date CMS pulls the appropriate list of settings and sends the list of settings to the state.	Within 30 days of receipt of the listing from CMS.
Address heightened scrutiny 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.	Six months post the date CMS issues findings to the state.
Assessment and Validation Activities		
Validate the results from the special Focused Review of SFY17-18 which assessed all nonresidential HCBS settings and add assessment results from any additional nonresidential HCBS settings not previously assessed that began service provision before the end of the transition period on March 17, 2023.	June 1, 2023	August 31, 2023

Milestone	Begin Date	Completion Date
Update the Residential Assessment tool to ensure crucial data points for validating the number of residential HCBS settings assessments completed and the results of the assessments. The update will also include the addition of specific guidance questions to ensure the assessment represents all standards for HCBS settings.	March 18, 2023	December 31, 2023
Train/retrain case managers who administer the Residential Assessment to ensure consistent and meaningful results.	—	December 31, 2023
Require case managers to complete the updated Residential Assessment with all members at their next quarterly “face-to-face” meeting.	January 1, 2024	March 31, 2024
Follow through with any remediation needed as identified through the updated Residential Assessments. Any remediation that results from the Residential Assessments will occur immediately during this phase of ensuring all members receive an updated Residential Assessment. Remediation might entail revising a person-centered plan, educating/re-training staff, changes to the physical space, or updates to provider policies and procedures, etc.	January 1, 2024	April 30, 2024
Furnish notices to disenroll non-compliant settings and provide notice to participants.	January 1, 2024	April 30, 2024
Aggregate validation data and compliance findings from the results of the updated Residential Assessments.	May 1, 2024	June 30, 2024
Complete public comment period for aggregate validation data and compliance findings as an addendum to the state’s Statewide Transition Plan (STP).	July 1, 2024	August 1, 2024
Complete relocation of participant to compliant HCB settings or secure alternative funding. (30-90 calendar days from the notice, depending on the number of members and type of services impacted.)	May 1, 2024	August 31, 2024
Submit validation date results as an STP addendum to CMS.	September 1, 2024	September 30, 2024

Milestone	Begin Date	Completion Date
Statewide Compliance		
Final compliance statewide with HCBS Settings rule.	—	The later of September 30, 2024 or six months post the date CMS issues heightened scrutiny findings to the state.