



Colorado's Protocol for Managing Compliance with the HCBS Settings Regulation

Draft June 2015



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Section I. Purpose

In January 2014, the Centers for Medicare & Medicaid Services promulgated a final federal rule (CMS-2249-F and CMS 2296-F) to ensure that individuals receiving long term services and supports (LTSS) through home and community based services (HCBS) programs under 1915(c) and 1915(i) have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.

Colorado developed a transition plan pursuant to 42 CFR 441.301(c)(6) that contains the actions the State will take to bring all Colorado waivers into compliance with requirements set forth in 42 CFR 441.301(c)(4-5). This protocol is an internal document intended to guide Colorado activity toward compliance with the transition plan and adherence to the HCBS settings regulation. The protocol includes;

- ▶ A description of the assessment process;
- ▶ Establishment of standards for HCBS settings;
- ▶ Application of standards to compliance;
- ▶ Remedial action by tier;
- ▶ Communication and ongoing monitoring strategies; and
- ▶ Sample tools and processes for compliance management.

This protocol envisions phases to Colorado compliance. Phase 1 included a regulatory analysis and assessment survey process which is almost complete. Phase 2 takes the information gained from Phase 1 and begins to apply a set of strategies to remediate potential areas of non-compliance noted during Phase 1 activity. This protocol seeks to provide Colorado with a set of processes and tools to use during Phase 2 within a recommended 18-month time-period.

Exhibit 1 illustrates a recommended approach to compliance with HCBS Setting requirements.

Exhibit 1: Phased Approach to HCBS Settings Compliance

Phase	Purpose	Estimated Time Period
1	Regulatory Analysis and Assessment of Settings	18 months (May 2014 through November 2015)
2	Remedial Action	18 months (December 2015 through May 2017)
3	Heightened Scrutiny	12 months (June 2017 through May 2018)
4	Ongoing Monitoring	June 2018 forward

A. Vision and Values

Colorado has developed a positive and constructive framework for compliance with HCBS settings requirements. Colorado's commitment to its' citizens is built upon a unifying commitment to "ensure that Coloradans who need LTSS get the right services, at the right time,



in the right amount, for the right length of time, in a place of their choosing” (Community Living Advisory Group Report, September 2014). This protocol extends the commitment and supports the shared principles that provide a foundation to any remedial action needed to meet HCBS settings requirements. These shared principles are;

1. Coloradans have the right to live, work, play, and learn in communities of their choice as fully participating, contributing and valued members of society.¹
2. Coloradans have the right to live a life based on inclusion, not segregation.¹
3. The Colorado LTSS system should be fundamentally person-centered and built on the foundation of consumer choice, cultural competency, dignity, respect, and freedom.¹
4. Coloradans who receive LTSS deserve to chart their own destinies – regardless of age or disability.¹
5. Colorado has a deep commitment to the core principles of person-centeredness and the related principles of self-determination and consumer direction.¹
6. Colorado embraces the intent of the HCBS settings rule through action. Colorado is committed to;
 - (a) enhancing the quality of HCBS;
 - (b) providing additional protections to individuals receiving HCBS; and
 - (c) ensuring that these individuals have full access to the benefits of community living.
7. Colorado invests in HCBS provider understanding and compliance with the HCBS settings requirements.
8. Colorado supports HCBS provider transition to compliance in a manner that is constructive and reciprocal.
9. Colorado seeks continual feedback from providers, advocates, and more importantly, individuals and families and acts on the feedback timely.
10. Colorado invests in a system of continual improvement always moving toward a vision and values that result in higher quality services and supports for older adults and individuals with disabilities.

B. Boundaries

Boundaries exist within any movement toward change in a service delivery system. Because the HCBS settings requirements impact individuals, boundaries are especially critical to changes needed to come into compliance. These boundaries are;

1. This protocol is a living document expected to change as Colorado gains greater understanding and begins to implement remedial actions.
2. Any changes to Colorado HCBS must be viewed within Colorado’s regulatory framework. Certain key changes to Colorado regulation must occur within system parameters and may take time to implement.

¹ Community Living Advisory Group Report, September 2014



3. Remedial actions, at all times, will always focus on what is best to meet the unique needs and preferences of individuals receiving HCBS services. Any disruptions (e.g. relocation) to service delivery are supported by Colorado due process provisions.



Section II. Assessment Process

A. Colorado Regulations and Standards

In May 2014, Colorado contracted with The Lewin Group to guide development of a transition plan pursuant to 42 CFR 441.301(c)(6) that contains the actions the state will take to bring all Colorado waivers into compliance with requirements set forth in 42 CFR 441.301(c)(4-5). Lewin staff carefully reviewed the new federal regulations and all supporting guidance released by CMS as contained in the Settings Requirements Compliance Toolkit located at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html> and developed a two page “Summary of Regulatory Requirements for Home and Community Based Settings” to guide analysis. Additionally, as a result of staff interviews, Lewin conducted a special review of rule applicability to children and provided a “side by side” analysis for inclusion.

Lewin then compiled a comprehensive inventory of waiver services and provider types across all populations and created a qualitative data set. The Lewin review team captured all relevant language from waiver applications, state regulatory documents, surveys and checklists on compliance and quality, and provider trainings. Relevant categories by source included, but were not limited to: Definitions of services and settings; Certification and licensing (as applicable); Participant rights; Participant choice of provider; Care planning processes; Enrollment procedures; Environmental standards; Restrictive interventions; and Staff training.

An analysis of source language against federal regulatory requirements was then completed. The Lewin review team synthesized the qualitative data for each setting and compiled areas of compliance and non-compliance. Settings that may potentially isolate individuals and might be considered in potential violation of the new federal rules were included within the list of recommendations for potential change. In addition to the data set, the Lewin team drew upon the in-person interviews of key Colorado staff, as well as years of Lewin experience in the LTSS field to identify strengths and areas for potential Colorado growth. Findings were summarized and included in a report along with a draft statewide transition plan and waiver specific transition plans for waivers serving Older Adults, Persons with Physical Disabilities, Persons with Mental Health Needs, and Person’s with Intellectual and Developmental Disabilities operated by the Department of Health Care Policy and Financing, and waivers serving children operated by the Department of Human Services, Child Welfare Services.

B. Provider

The provider survey process is intended to help Colorado review the current array of home and community based settings, both residential and non-residential to identify;

1. Which settings meet the requirements;
2. Which settings do not meet the requirements;
3. Which settings may meet the requirements with changes; and
4. Which settings Colorado presumes to not be compliant and plans to submit under CMS “heightened scrutiny” review.



The provider survey process, when blended with other methods for identifying variances to the settings requirements, provides a broad-based approach to the development of Colorado’s transitional process. Colorado is implementing a two-level provider survey approach which provides a Colorado specific “heightened scrutiny” process, provides only the data Colorado needs, and minimizes provider burden.

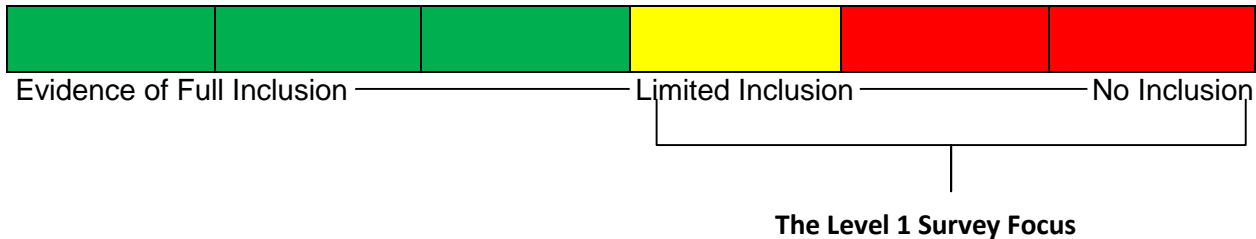
Initial Survey

The initial survey is a macro level survey that directs questions to the organization lead with the core purpose of identifying provider variances from the settings requirements. The questions build upon the [Regulatory Requirements for Home and Community Based Settings](#) and are constructed to measure provider compliance with full community inclusion with a particular focus on flagging those settings that meet the lower threshold along the community inclusion continuum.

For example,

On a typical weekend, are individuals away from their residence?

Almost all waking hours, greater than 8 hours a day	Most of the time, 6 to 7 hours a day	Usually, 4 to 5 hours	Sometimes, 2 to 3 hours	Rarely, 0 to 1 hour	Never
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To minimize provider and state time, only questions to identify variances were included. The survey collected data on which services each provider offered, under which waiver providers received payment, whether they provide residential and/or non-residential services, and if services were offered to only adults, only children, or to all age groups. To identify areas of potential noncompliance, the survey included data elements discussed in the HCBS Settings Final Rule. These data elements allow for stratified analysis to complement aggregate and individual-level reports on potential areas of noncompliance.

The analysis distinguishes between adult residential, child residential and adult non-residential settings because each of these categories has a set of questions including data elements discussed in the HCBS Settings Final Rule. Providers who offer services in more than one of these areas completed the survey multiple times, one for each category. For a snapshot of survey indicators, see [Exhibit 2](#). The full survey can found at https://www.research.net/s/Colorado_HCBS.



Exhibit 2: Initial Survey Indicators

Key: Red font = indicators of isolation

I. Residential Settings:

1. Located on the property or adjacent to an institution
2. Individuals must share a home and do NOT have choice of roommates/housemates
3. People with disabilities and paid staff only
4. Medicaid-only resident population
5. May not be able to leave property 4+ hours/day- weekends
6. May not be able to leave property 4+ hours/day- weekdays
7. No financial control (e.g. checking account, access to their own funds when they choose, and/or receive assistance to manage finances)
8. Individuals do NOT have full access to ALL areas of the setting
9. Individuals do NOT have a legally enforceable agreement or residency agreement
10. Individuals do NOT have full access to food until scheduled meal times or snack times
11. Provider rules that restrict empowerment and community inclusion

II. Non-Residential Settings:

1. Segregated setting where the majority of individuals do NOT work in integrated competitive employment and earn sub-minimum wage or do NOT engage in activities with the general community
2. Employment settings/services that do NOT pay individuals minimum wage
3. Adult Day settings/services that do NOT offer opportunities for individuals to engage in activities with non-disabled community members, other than paid staff
4. Employment settings/services that do NOT provide financial/benefits planning
5. Employment settings/services that do NOT offer opportunities for individuals to volunteer or to receive support in finding competitive employment, training (i.e. job coaching) or postsecondary education
6. Adult day services/settings that do NOT offer individualized supports that enable individuals to choose activities of their own interests (within a group or individually) and restrict or limit engagement in community activities that align with interests
7. Employment and adult day services/settings that do NOT offer individualized support based on need, opportunities for community relationships or natural supports, interaction with community members, access to age appropriate activities, knowledge of community resources, and the ability to choose/refuse activities based on choice

III. Child Settings:

1. Located on the property or adjacent to an institution
2. May not be able to leave property 4+ hours/day- weekdays
3. May not be able to leave property 4+ hours/day- weekends
4. Medicaid-only resident population
5. No full access to ALL areas (other than rooms of other residents) of the setting and such a restriction is NOT outlined within a person centered plan
6. Children do NOT have access to transportation to public school and receive education on the grounds of the residential center
7. Youth do NOT receive supports to transition to adult programs and access to competitive employment opportunities
8. Children do NOT have the opportunity to exercise personal choice (e.g. haircut and style, preferred clothing, personal items in rooms) and such limitations are not outlined in a person centered plan

The web-based survey was open for two collection periods: June-July 2014 and March 2015. In



2014, the State of Colorado sent the survey via email to a list of 580 providers. Ten percent of the provider emails were returned as “undeliverable.” The survey response rate was low; less than 20% of providers completed the survey. In March 2015, the state held an all-provider webinar in order to explain the purpose of the survey, encourage providers to complete it, and notify them that not completing the survey would trigger noncompliance follow-up. The same day of the webinar, emails were sent to 320 providers who provided their email address as part of the webinar registration. Two days following the first email, a reminder email was sent. Two weeks later, an email was sent to 397 providers for which email addresses did not appear on completed surveys. The survey closed on March 27, 2015 with 420 responses between the 2014 and 2015 collection periods representing 356 providers, some of whom responded separately for different service settings. Given uncertainty regarding the number of providers that offer both residential and non-residential services and limited ability to track duplicative provider responses for the same service type, the response rates are good faith estimates. Based on information provided by HCPF, Lewin estimates that 50.3% of adult residential service providers, 38% of adult non-residential providers and 20% of child residential providers completed the survey.

Secondary Survey

Because the initial survey is a macro level survey, the ability to gather detailed information on each setting is limited. To mitigate this limitation, a secondary provider survey was developed. The micro level survey is person-centered and includes additional outcomes oriented questions pulled from the [Exploratory Questions to Assist States in Assessment of Residential Settings](#) and the companion Children’s version to help Colorado determine those settings that may require changes and/or for which Colorado may choose to submit under CMS’ “heightened scrutiny” process. The entirely web-based survey was open for three weeks in April-May, 2015. The Secondary Provider Survey received 529 responses, generally representing different locations and services, from 204 unique email addresses as of May 11, 2015. Of the 529 responses, 491 completed the survey in full and 38 completed partial responses. For a snapshot of survey indicators, see [Exhibit 3](#). The full survey is located at <https://www.research.net/s/COHCBSSurvey2>.

Exhibit 3: Secondary Survey Indicators

Key: Red font = indicators of isolation

I. All Settings

1. The setting is designed or reserved specifically for individuals that have a disability.
2. There are restrictions on any individual’s access to public or private transportation in this setting not included in a service plan.
3. There are provider rules that restrict community access for any individual in this setting not included in a service plan.
4. Individuals do not have the opportunity to interact with family, friends, and people outside of the setting frequently.
5. Individuals in this setting are restricted in their interactions with people outside of the setting, and this is not part of a service plan.
6. Individuals do not have full access to and choice of food, and any restrictions are not part of a service plan.
7. Individuals in this setting cannot speak with friends and family at all times, and any restrictions are not



part of a service plan.

8. Individuals in this setting cannot have visitors at all times, and any restrictions are not part of a service plan.
9. Individuals in this setting have restrictions on their basic rights, and any restrictions are not part of a service plan.
10. Individuals in this setting are required to take "time outs" or "quiet time" with no human contact allowed.

II. Residential Settings

11. Individuals do not have a choice of where they live
12. Individuals do not visit other settings before making his or her choice
13. Individuals are not offered the choice to live in a single occupancy room
14. Individuals do not have a choice whether they share a bedroom
15. Only individuals receiving services and staff live in the setting.
16. Individuals in this setting are restricted from decorating their bedrooms as they choose, and any restrictions are not part of a service plan.
17. Individuals in this setting are restricted from keeping personal items in their rooms, and any restrictions are not part of a service plan.
18. Individuals do not spend time out in the community, visiting family or friends, or at work, and any restrictions are not part of a service plan.
19. Individuals do not have independent access to all areas of the setting, and any restrictions are not part of a service plan.
20. Individuals in this setting have restrictions on sending or receiving mail, and any restrictions are not part of a service plan.
21. Individuals in this setting have restrictions on managing their financial resources, and any restrictions are not part of a service plan.

III. Non-Residential Settings

1. The setting is comprised mostly or exclusively of individuals receiving services and relevant staff.
2. Individuals do not have a say in the number of hours they work.
3. Information about hours are not included as part of a service plan.
4. Information about wages are not included as part of a service plan.
5. Individuals do not have a say in their work schedule.
6. Information about schedules are not included as part of a service plan.

C. Individuals/Families/Advocates

To enhance the opportunity for ongoing feedback on Colorado compliance, a survey was developed for completion by individuals, families and advocates. The simple 10 minute survey is available in a web-based and paper-based format that includes the indicators outlined in **Exhibit 4**. The survey is intended to be fielded initially and ongoing to provide the opportunity for individuals and families to provide feedback on improvement to services and supports within HCBS settings.

Exhibit 4: Individuals, Families, Advocates Survey Indicators

Key: Red font = indicators of isolation

I. Residential Settings

1. The home is not in the community among other homes and apartments or businesses.
2. Individuals do not have a say in where they live.



3. Individuals do not choose roommates or housemates
 4. Individuals have limited or no interaction with neighbors
 5. Individuals do not have friends and relationships with persons other than paid staff or family
 6. Individuals do not receive information about activities that happen outside of the home.
 7. Individuals have limited access to places outside of the home.
 8. Individuals have limited access to places within the home.
 9. Individuals do not have access to food at all times.
 10. Individuals do not have access to the telephone at all times.
 11. Individuals do not have access to visitors at all times.
 12. The staff in the home do not treat them with respect.
 13. Individuals do not have access to a safe place for belongings.
 14. Individuals cannot leave the home at will.
 15. Individual does not have control over own finances.
- II. Non-Residential Settings**
1. Individuals cannot go where they want during the weekday, such as to a volunteer position, a paid job, or a day program.
 2. Individuals do not work or attend day programs in the community.
 3. Individuals are unhappy with how much money they make.
 4. Individuals feel they work too many and/or too few hours.
 5. Individuals do not have input on their work schedule, break/lunch times, and benefits at their job.
 6. Individuals work in settings that do not provide information about public transportation, such as buses or taxis.



Section III. Discovery and Understanding

A. Establishing Standards

Standards promote continual improvement and provide a framework for compliance with HCBS settings requirements. CMS exploratory questions on residential and non-residential settings were used to construct the standards illustrated in [Exhibit 5](#).

Exhibit 5: Standards for Home and Community Based Settings

RESIDENTIAL AND NON-RESIDENTIAL SETTINGS STANDARDS

Key: **Red font = Indicators of potential “isolation”**

I. The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community.

The Setting:

- a) **Is located within the community among other private residences and businesses, retail businesses, doctor’s offices etc.**
- b) **Affords opportunity to seek employment and work in competitive integrated setting**
- c) **Encourages and supports community life**
- d) **Enables individuals to live/receive services with community members not receiving Medicaid HCB services and participate fully in meaningful non-work activities.**
- e) **Provides opportunities to participate in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid funded HCBS to include work schedules, break/lunch times and leave/medical benefits.**
- f) **Encourage independent movement within the setting and outside of the setting.**
- g) Enables control of personal resources
- h) Have written agreements that include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant laws.
- i) Ensure that individuals are protected from eviction and afforded appeal rights in the same manner as all persons in the State who are not receiving HCBS.

II. The setting is selected by the individual from among setting options including non-disability specific settings.

The Setting:

- a) Is selected by the individual after review of informed choices.
- b) Affords opportunity to choose roommates and housemates.
- c) Reflects individual needs and preferences.
- d) **Provides opportunities to receive supports in non-disability specific settings.**
- e) Is identified and documented in the person-centered plan.



III. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.

The Setting:

- a) Is a place where individuals are comfortable discussing concerns and know how to file a complaint.
- b) Ensures flexibility to dress and groom based on personal preferences and wear clothes that fit, are clean, and are appropriate for the time of day and weather.
- c) Provides flexibility to arrange furniture, decorate and organize the home to meet personal preferences.
- d) Employs staff who are trained in person-centered services and supports.
- e) Ensures privacy as desired by the individual (e.g. ability to close and lock bedroom or bathroom doors, provide permission for staff and other housemates to enter living and bedroom space) and promote the security of personal belongings.
- f) Prevents coercion and restraint, documents positive interventions and supports and uses less intrusive methods to meet individual needs.
- g) Ensures that any modifications to the settings requirements are supported by an assessed need and justified in a person centered plan.

IV. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence.

The Setting:

- a) Incorporates individual choices (e.g. what and when to eat, how and what to wear, where to go).
- b) Provides freedom of movement and choice in community interaction.
- c) Uses person centered practices to identify and provide services and supports in a manner that supports personal needs and preferences.
- d) Accommodates requests for services and supports as opposed to ignoring or denying them.
- e) Schedules planning meetings at a time and place convenient for individuals to attend
- f) Affords choice in services, providers and settings.
- g) Empowers individuals to make decisions and exercise autonomy.

B. Applying Standards to Compliance

CMS proposed examples of settings that may be presumed non-compliant which may require a heightened scrutiny process. Settings could include;

- ▶ Settings where there are multiple residential sites on the same piece of property, operationally related using shared staff and resources, resulting in individuals primarily associating with other disabled individuals or paid staff.
- ▶ The location of the residential site does not allow for access to neighbors, businesses, and the local community of individuals who do not receive HCBS, i.e., people who live in the home primarily only associate with other people who are also disabled and/or paid staff.
- ▶ If the setting is set up and operated in such a way that individuals do not have experiences outside the setting, then the setting has the effect of isolating people, regardless of its location.
- ▶ The residential site appears to look clinical and institutional both inside and out.
- ▶ Settings that generally could lead to isolation like farmsteads, gated/secured communities, and residential schools.



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- ▶ Large settings (number undetermined) without meaningful interaction with the broader community particularly when a high percentage of the setting's residents are persons with disabilities.

To create an efficient framework for remedial action, the standards are translated into a scoring system using CMS “heightened scrutiny” or “presumed non-compliant” settings as the category of greatest concern. For the sake of this protocol, “presumed non-compliant” settings are;

1. Those that are located in a publicly or privately operated facility that provides inpatient treatment or is located on the grounds of or immediately adjacent to a public institution; or
2. Settings that have the effect of “isolating” individuals from the broader community are also “presumed non-compliant”.

Standards highlighted in **red** font within **Exhibit 5** are those standards that may potentially lead a provider to have a score in the “presumed non-compliant” range. Scores assigned to the standards that touch these two groups are assigned a higher remedial action level. Scores are then applied to the remaining standards based on the possibility of compliance through less intense remedial action (e.g. training, change in policies and procedures).



Section IV. Translating Discovery into Action

Each provider setting is scored against the standards in three ways;

1. Responses received through the initial and secondary assessment survey.
2. Feedback generated through the individual/family/advocacy assessment.
3. Data available through historical and current quality assurance, certification, or licensure efforts.

Exhibit 6. reflects the questions within the initial, secondary, and individual, family and advocacy survey tools that correspond to compliance categories.

Exhibit 6: Survey Questions by Compliance Category

Compliance Category	Questions in Initial Survey	Questions in Secondary Survey	Questions in I/F/A Survey
ALL SETTING TYPES			
Presumed Non-compliant – Location	None	None	None
Presumed Non-compliant – Isolating Effect	None	1,3,5,7,8	None
Rights, Autonomy and Choice	None	2,4,6,9,10	None
ADULT RESIDENTIAL			
Presumed Non-compliant – Location	1	None	None
Presumed Non-compliant – Isolating Effect	3,4,5,6	15,18	1,4,5,6,7,11
Rights, Autonomy and Choice	2,7,8,9,10,11	11,12,13,14,16,17,19,20,21	2,3,8,9,10,12,13,14,15
CHILD RESIDENTIAL			
Presumed Non-compliant – Location	1	None	None
Presumed Non-compliant – Isolating Effect	2,3,4,6,7	None	None
Rights, Autonomy and Choice	5,8	None	None
NON-RESIDENTIAL			
Presumed Non-compliant – Location	None	None	None
Presumed Non-compliant – Isolating Effect	1,3,6,7	1	1,2
Rights, Autonomy and Choice	2,4,5	2,3,4,5,6	3,4,5,6,7



Exhibit 7: Summary of Scores across the Initial Survey

	Presumed – Non-compliant Locations	Presumed –Non – Compliant Isolation	Rights, Autonomy, and Choice
ADULT RESIDENTIAL	1	4	6
CHILD RESIDENTIAL	1	5	2
NON-RESIDENTIAL	0	4	3

Given that the Initial Survey is the only source of data available to measure potential non-compliance with the HCBS Settings regulation during this phase, the application of the scoring to determine remedial action starts first with this data set. To apply the score, take the scores available for the provider setting and count up the frequency of variances to compliance. The scoring key illustrated in **Exhibit 7** places greater value on indicators of isolation and is used to assign a provider to a remedial level. Compliance within this framework is viewed within graduated levels of remediation. Indicators of Rights, Autonomy and Choice are additive and applied to levels 1 and 2 within the scoring key. For example, **Exhibit 8** below reflects the responses for 123 Home Street.

Exhibit 8: Residential Provider – 123 Home Street, Denver Colorado

EXAMPLE	Potential Variance from Compliance	Total % Variance from Compliance
<i>Presumed Non-compliant – Located adjacent or on the property of an institution</i>	A ‘yes’ answer to #1 in Exhibit 2	1/1 = 100%
<i>Presumed Non-compliant – Isolating Effect</i>	A ‘yes’ answer to question #’s 3,5,6 in Exhibit 2	3/4 = 75%
<i>Rights, Autonomy and Choice</i>	A ‘yes’ answer to question #’s 2,9,10	3/6 = 50%

Once a score is applied, the below key proposes a level of remedial action that can be employed to address the compliance need. This example reflects a Level 4 Remedial Action. Any additional information such as responses to the secondary survey and/or the individual/family/advocate survey can be used to confirm the initial assigned score. Additionally, any quality assurance data available from previous years can be used to move a provider across remedial action levels. For example, if a provider scored as a level 1, but previous year QA data reflects recent issues with protecting the rights and preferences of persons, Colorado could choose to bump the provider into the Level 2 remedial action level.



Exhibit 9: Remedial Level Scoring Key

Remedial Level	Indicators of Isolation	Indicators of Rights, Autonomy & Choice
4	Setting located on the grounds or immediately adjacent to an institution	
3	Greater than 50%	
2	50% or less	Greater than 50%
1	50% or less	Less than 50%

A. Remediation

Remedial action is a menu of options available to Colorado based on provider scoring *to be implemented during an 18 to 24 month period following the collection of data across the three survey tools*. These actions are constructed to minimize state staff and provider time and maximize compliance potential. Additionally, the remedial actions are transitional actions sustained ongoing through state quality assurance processes as established through the description in **Section VI**. Non-response to the survey results in a separate set of remedial actions with the understanding that once the provider completes the initial survey, a remedial action level will be assigned.

The core foundation to compliance with HCBS settings requirements is the individual therefore person centeredness is a fundamental element to success woven throughout all remedial actions. Remedial actions can be system (e.g. regulatory change, training) versus setting (e.g. site visit, provider transition plan) versus mixed; both systemic and setting focused (e.g. individual/family assessment survey dissemination across all programs and targeted by setting). **Exhibit 10** illustrates the potential options available by level.



Exhibit 10: Potential Remedial Actions by Level

Remedial Action Levels	State Remedial Actions	State Supported Provider Remedial Actions
4	<ul style="list-style-type: none"> ▶ Site Visit – 100% of settings ▶ Meeting with provider to identify potential solutions for compliance, provide technical assistance and support toward Provider Transition Plan ▶ Initiate targeted Individual/Family survey ▶ Regional stakeholder action groups to identify innovations and problem solve challenges ▶ In-person training ▶ Webinar training ▶ Fact sheets, frequently asked questions document, slide decks, website with innovation corner ▶ Modifications to regulations and policies 	<ul style="list-style-type: none"> ▶ Notice and Provider Transition Plan for 100% of settings ▶ Adherence to Site Visit Findings and modification of the Provider Transition Plan as needed ▶ Attendance at Colorado sponsored events ▶ Sharing of innovations and information ▶ Participation in stakeholder driven solutions
3	<ul style="list-style-type: none"> ▶ Site Visit – 50% sample of settings based on an internal review of QA data (including review of policies obtained through the secondary survey) and a cross-section of provider types ▶ Meeting with provider to identify potential solutions for compliance, provide technical assistance and support toward Provider Transition Plan ▶ Initiate targeted Individual/Family survey ▶ Regional stakeholder action groups to identify innovations and problem solve challenges ▶ In-person training ▶ Webinar training ▶ Fact sheets, frequently asked questions document, slide decks, website with innovation corner ▶ Modifications to regulations and policies 	<ul style="list-style-type: none"> ▶ Notice and Provider Transition Plan for 100% of settings ▶ Adherence to Site visit Findings which may request a Provider Transition Plan. ▶ Attendance at Colorado sponsored events ▶ Sharing of innovations and information ▶ Participation in stakeholder driven solutions
2	<ul style="list-style-type: none"> ▶ Site Visit – 25% sample cross section of provider types. ▶ Initiate targeted Individual/Family survey ▶ Regional stakeholder action groups to identify innovations and problem solve challenges ▶ In-person training ▶ Webinar training ▶ Fact sheets, frequently asked questions document, slide decks, website with innovation corner ▶ Modifications to regulations and policies 	<ul style="list-style-type: none"> ▶ Adherence to Site visit Findings which may request a Provider Transition Plan. ▶ Attendance at Colorado sponsored events ▶ Sharing of innovations and information ▶ Participation in stakeholder driven solutions



Remedial Action Levels	State Remedial Actions	State Supported Provider Remedial Actions
1	<ul style="list-style-type: none"> ▶ Cover letter with provider sign-off confirming compliance ▶ Site Visit – 10% sample cross section of provider types to identify innovations ▶ Regional stakeholder action groups to identify innovations and problem solve challenges ▶ In-person training ▶ Webinar training ▶ Fact sheets, frequently asked questions document, slide decks, website with innovation corner ▶ Modifications to regulations and policies 	<ul style="list-style-type: none"> ▶ Attendance at Colorado sponsored events ▶ Sharing of innovations and information ▶ Participation in stakeholder driven solutions
<i>Non-Response</i>	<ul style="list-style-type: none"> ▶ Analysis to identify key contact for setting or group of settings followed by a call from state agency overseeing program area ▶ Cover letter with request to complete the secondary survey ▶ Site visit for continued non-response 	<ul style="list-style-type: none"> ▶ Provider completion of the assessment survey. ▶ Attendance at Colorado sponsored events

B. Heightened Scrutiny

Settings initially designated as a “presumed non-compliant” verified through site visit to be a “presumed non-compliant” will be categorized into two categories; 1.) Non-compliant: Settings determined non-compliant by Colorado with a request for a Provider Transition Plan or 2.) CMS Review: Request CMS review to accept the setting as potentially compliant. The steps Colorado will take to address either category are enumerated below. These categorical steps are expected to begin following the 18 month Remediation period referenced in **Section I**.

Steps Colorado can take to address “Non-compliant” Settings:

1. Colorado verifies that the setting is non-compliant.
2. Colorado seeks a Provider Transition Plan to move the setting toward compliance using pre-determined criteria and guidance on how the provider can potentially overcome the presumption of non-compliance.
 - (a) If the provider chooses not to comply, Colorado will begin relocation efforts.
 - (b) If the provider chooses to comply, Colorado will work with the provider to construct a Provider Transition Plan that will meet CMS required timelines. The Plan may, if determined appropriate, include relocation supports. If relocation is needed, due process will be afforded.
3. Management and oversight of the transition plan process will be documented and tracked via an administrative provider transition plan scorecard.

Steps Colorado can take to seek CMS review:



1. Colorado verifies that the setting actually meets CMS regulatory requirements.
2. Colorado gathers evidence and completes the internally developed Heightened Scrutiny Narrative Form which provides available data on the setting, results from the site visit and Colorado's rationale for seeking CMS review of the setting as a compliant setting.
3. Management and oversight of the transition plan process will be documented and tracked via an administrative provider transition plan scorecard.

Determinations on settings in either category will be made on a case-by-case basis. Plans to relocate participants will occur only after all attempts to assist providers to become compliant with the settings requirement have been exhausted, or the provider has declined to make changes to come into compliance. Due process provisions will, in all cases, be provided to individuals affected by compliance with the HCBS Settings regulations. Additionally, person-centered planning processes will be used to identify other options in compliant settings.

C. Tools and Processes

There are various tools and processes Colorado could take to not only remediate compliance issues, but also communicate what the settings requirements are, how Colorado meets or does not meet the requirements and progress made through Colorado's statewide and waiver specific transition plans. These tools are summarized below and where appropriate located in appendices to this protocol.

Tools and Processes included within Appendices

Provider Transition Plan Template: If a provider is required to submit a plan of action to remediate compliance issues regardless of compliance need, this template provides a framework for consistent application across providers and will result in a set of consistent data that can be used to construct an administrative scorecard. Data elements will include, but not be limited to, provider name, setting address, summary of compliance issues noted through survey and site visit, action steps the provider plans to take, timeline, and how the provider will monitor for quality and completion.

Process to capture provider remediation innovations: Through assessment, Colorado will identify settings that are compliant and potentially non-compliant. Recommended remedial action includes site visits to both groups with the intent to identify and share what is working, but also provide support to providers who may need assistance implementing action to come into compliance. This appendix will provide some recommendations for how information can be obtained and used in a cycle of continuous quality improvement with a focus on positive models and innovations that are already happening across the state. As innovations are identified, constructing a place to share with others is critical to dissemination. Colorado could use a component of the website or a section of a newsletter to highlight successful strategies, trends and practices.

Site visit protocol: This protocol envisions site visits as a key remedial action. The purpose of the site visit and process for conducting the visit will be outlined in this protocol. A template report structure will also be provided.

Regional stakeholder action group process: As a component of communication and to identify



innovations and possible remedial action, holding regional stakeholder action groups could prove beneficial. This appendix will outline a process for stakeholder action groups including potential questions to ask and how to best use the information gathered.

Cover letter templates: Colorado will need a cover letter to confirm compliance with the requirements and address non-compliance. These cover letter templates will be directed to providers and used to formally implement remedial action.

Relocation protocol building upon MFP experience: The MFP program in Colorado has already developed a transition process. Despite the reality that this transition process is geared toward institution to community transition, the lessons learned and protocols developed could inform a relocation protocol. A small workgroup is recommended to identify the elements that could be applied to a relocation protocol and develop additional strategies needed to ensure a smooth transition process (including due process) for individuals impacted by the HCBS settings requirements.

Heightened Scrutiny Narrative Process and Form: The process will include specific criteria for triggering heightened scrutiny and a narrative form organized by setting address. The form will serve as a template Colorado could use to outline the detail needed for CMS to review settings for approval. The form will enable Colorado to have a consistent process and a set of data elements to use when monitoring the status of settings over time.

Additional Tools and Processes (Not Included within Appendices)

Fact Sheet: An initial fact sheet outlining the HCBS settings requirements will help provide a foundation to the communication strategy. Topic specific fact sheets can then be developed as Colorado learns more through assessment and site visit.

Frequently Asked Questions: As Colorado engages in dialogue with providers, individuals, families, advocates and others, a series of frequent questions will emerge. As these questions are answered, a running list can be developed and housed on the Colorado Transition website.

Slide Decks: Colorado is beginning to develop a webinar series to highlight the HCBS settings requirements in general and by topic area. These slide decks and recordings will provide a solid foundation to ongoing understanding of requirements and can be consistently updated on the Colorado Transition website.

Scorecard—Provider and Administrative: Colorado is using the data obtained from the assessment surveys as well as existing data available on provider types to organize a series of scorecards. These scorecards can be used to monitor progress over time on settings characteristics and on administrative progress toward compliance.

HCBS Settings Website: Colorado could continue to develop the transition website page (<https://www.colorado.gov/hcpf/home-and-community-based-services-settings-final-rule>) by adding a “corner” to identify innovations and separating general resources from audience specific resources. Additionally the website could include links to the assessment surveys as well as access to progress made through the use of the provider scorecards.



Section V. Communicating Results

The communication plan outlines the potential audiences and materials needed to convey information about the HCBS Settings requirements and purposes.

Exhibit 11: Communication Plan

Audience	Frequency	Materials
<i>Providers</i>	Bi-monthly: March 2015 – ongoing	<ul style="list-style-type: none"> ▶ Slide Decks on components of the HCBS regulation ▶ Fact Sheet ▶ FAQs ▶ Provider Scorecard ▶ Website ▶ Innovations Corner ▶ Help Desk ▶ Cover Letter confirming Compliance ▶ Cover Letter seeking a Provider Transition Plan ▶ Cover Letter approving a Provider Transition Plan ▶ Site Visit Protocol and Report
<i>Providers – Non-Response</i>	Initiate July 1 through September 30, 2015	<ul style="list-style-type: none"> ▶ Cover letter seeking completion of the assessment survey
<i>Individuals/Families</i>	Begin assessment survey July 1 through March 2019	<ul style="list-style-type: none"> ▶ Assessment Survey – method for ongoing input and targeted assessment for potentially non-compliant providers ▶ Slide deck on HCB Setting regulation and findings from surveys
<i>State Operations (e.g. Leadership, Licensure, Enrollment, QA)</i>	April 2015 – ongoing	<ul style="list-style-type: none"> ▶ Provider and Administrative Scorecards ▶ In-Person Workgroup Activity ▶ Ongoing Monitoring Action Plan ▶ Provider and Administrative Scorecards
<i>Local Administrators (e.g. SEP/CCB Administrators)</i>	Quarterly: July 1, 2015 - ongoing	<ul style="list-style-type: none"> ▶ Slide decks on components of the HCBS regulation ▶ Fact Sheet ▶ FAQs ▶ Provider Scorecards ▶ Website
<i>Legislators</i>	Semi-Annually: October 2015 – ongoing	<ul style="list-style-type: none"> ▶ Fact Sheet ▶ Provider and Administrative Scorecards
<i>CMS</i>	Quarterly and as needed	<ul style="list-style-type: none"> ▶ Quarterly updates ▶ Provider and Administrative Scorecards ▶ Heightened Scrutiny Narrative Form
<i>General Stakeholders</i>	Naturally occurring opportunities, website and assessment	<ul style="list-style-type: none"> ▶ Assessment Survey – method for ongoing input



Audience	Frequency	Materials
		<ul style="list-style-type: none">▶ Slide deck on HCB Setting regulation and findings from surveys▶ Slide decks on components of the HCBS regulation▶ Fact Sheet▶ FAQs▶ Provider Scorecards▶ Website▶ Results from Regional Stakeholder Action Groups▶ Program Specific Stakeholder Meeting agendas and materials (e.g. ACF stakeholder meeting)



Section VI. Ongoing Monitoring

A key component to the overall transition plan is the development of an ongoing monitoring plan for Colorado’s transition to compliance with the HCBS Settings requirements. Through the September 2014 Community Living Advisory Group report, a series of key recommendations were formulated. Improving LTSS quality and performance data is one key recommendation. A state level workgroup initiated through the June 2015 In-Person event could develop a process for ongoing monitoring that recognizes the role of the HCBS settings requirements within this larger framework of LTSS system transformation and leveraging existing resources and innovations. Through an internal workgroup, standards, sources of information and methods/frequency could be developed. The overall intent of such an ongoing quality assurance process is to measure the person’s experiences in the setting as well as how well the setting meets the person’s needs and preferences. This ongoing monitoring could be initiated by a site visit that could include release of the individual/family survey targeted to individuals residing in the particular setting followed by interviews and review of records. See the Site Visit Protocol in **Appendix C** for detail on how a site visit could be conducted.

Exhibit 12 illustrates a framework to integrate HCBS settings requirements into the existing quality assurance system by starting first with an inventory of how well the current system measures settings requirements. This exhibit is meant to be used as a tool to help Colorado work through the detail to embed measures within existing systems. The exhibit may not include all potential standards Colorado may ultimately want to assess. **Exhibit 12** does align with the standards in **Exhibit 5** and were built in part from the QA model used in New York (http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/hcbs-settings-toolkit).

Exhibit 12: Inventory of Quality Assurance Standards and Criteria

CRITERIA	ALREADY COLLECTED (Y/N) IF Y, WHERE?	SOURCES(S) OF DATA
The Setting is integrated in an supports full access of individuals receiving Medicaid HCBS to the greater community.		
The setting is not on or adjacent to an institution.		
The setting and/or site is not located in a building on the grounds of a public institution.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting/site is not immediately adjacent to a public institution.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting is not isolated from the community and does not have the effect of isolating people from the community.		
The setting is not part of a group of multiple settings co-located and/or clustered and operationally related.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting is located in the community among private residences, retail businesses, banks, etc. to the same	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	



CRITERIA	ALREADY COLLECTED (Y/N) IF Y, WHERE?	SOURCES(S) OF DATA
degree as other homes in the community.		
The setting is not labeled or identified in a way that sets it apart from the surrounding private residences.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
There is sufficient transportation to support choice in activities and schedules.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting where the individual resides supports full access to the greater community.		
The individual is encouraged and supported to have full access to the community based on his/her interests/preferences/priorities for meaningful activities to the same degree as others in the community.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual regularly participates in unscheduled and scheduled community activities in the same manner as individuals not receiving HCBS.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual is satisfied with his/her level of access to the broader community as well as the support provided to pursue activities that are meaningful to him/her for the period of time desired.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
Staff facilitate and support the individual to pursue and maintain relationships that are important and meaningful to him/her.		
The individual is encouraged and supported to foster and/or maintain relationships that are important and meaningful to him/her.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual is supported to have visitors of his/her choosing at any time.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual regularly interacts with people who are important to him/her (who are not paid to spend time) and he/she is satisfied with the type and frequency of these interactions.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting has written agreements that include language that provides protections to address eviction processes and appeals.		
The individual has, and understands, the lease or other written agreement that provides eviction protections and due process.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	



The individual is satisfied with his/her choice of setting and has a choice of roommate (when applicable)		
The individual is satisfied with his/her roommate and housemates and if unsatisfied, there is evidence the agency is proactively working to find an alternative based on individual's needs and preferences in a timely manner.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting reflects the needs and preferences of the individual.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting was selected by the individual among an array of setting options including non-disability specific settings.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The Setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.		
The individual is free from unnecessary restrictions and rights modifications and coercion.		
When interventions restrict and/or modify rights; -The written plan includes a description of the assessed need and/or behavior as well as positive and less intrusive approaches that have been tried. -The individual is subjected to restrictions only with informed consent. -There is evidence the modification is periodically reviewed for effectiveness and necessity.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual is aware of his/her rights and knows and is supporting in addressing needs, concerns and preferences.		
The individual is provided with information about his/her rights in plain language and accessible.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual knows how to file a complaint.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual feels comfortable discussing concerns and seeking changes in services and supports.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual has privacy in the setting.		
The individual has privacy in his/her sleeping and/or living unit including the right to lock his/her bedroom or unit door.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual can make private phone calls and other communications.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	



The setting optimizes, but does not regiment, individual initiative, autonomy, and independence.

The individual has freedom within the setting and access to all parts of the setting.

The individual's setting is individualized to meet personal preferences in furnishings and décor.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual has access to food 24-7 and is supported to purchase and store food/snack choices for use at any time.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The individual has a key to the doors and can come/go as s/he chooses.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
The setting reflects the preferences and physical accessibility needs of individuals.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	
There are no blanket house rules (or policies and procedures) that limit rights, autonomy or independence.	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Where: _____	



Appendix A. Provider Transition Plan Template

If a provider is required to submit a plan of action to remediate compliance issues regardless of compliance need, this template provides a framework for consistent application across providers and will result in a set of consistent data that can be used to construct an administrative scorecard. Data elements include, but do not need to be limited to, provider name, setting address, summary of compliance issues noted through survey and site visit, action steps the provider plans to take, timeline, and how the provider will monitor for quality and completion.



HCBS Setting Provider Transition Plan Version # _____

Provider Name:		Setting Address:		Number served:	(enter number)		
Waiver Type:		Service Type:		Provider ID:			
Provider Main Point of Contact		Email:		Phone Number:			
Provider ID		Individual/Family Survey Areas of Noncompliance (if applicable)					
Date Initial Provider Survey was completed	(date)	Number of Potential Areas of Noncompliance Identified	(enter number)	Date Secondary Provider Survey was completed	(date)	Number of Potential Areas of Noncompliance Identified	(enter number)
Estimated Site Visit Date:		Site Visit Lead (CO HCPF) Name and Contact Information					
Compliance Issue	Issue Source (Surveys, Site Visit, or Both)	Action Steps	Timeline	Person Responsible	Provider Notes		
1.		1.					
		2.					
		3.					
2.		1.					
		2.					
		3.					
3.		1.					
		2.					
		3.					
4.		1.					
		2.					
		3.					
5.		1.					
		2.					
		3.					



Process for Monitoring Quality and Completion		Additional Notes/Comments	
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TRANSITION PLAN CHANGE TRACKER

(Providers may update the transition plan as progress is made and/or as new remedial actions are developed. Please record changes made to the plan and re-submit to <insert submission contact> along with any supporting materials.

Change in transition plan:	Date change made:	Why?

State Use only

Approved?	Reviewed by:	Date:	Notes:
<input type="checkbox"/> Yes <input type="checkbox"/> No			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
<input type="checkbox"/> Yes <input type="checkbox"/> No			
<input type="checkbox"/> Yes <input type="checkbox"/> No			

Instructions for HCB Setting Provider Transition Plan:

1. The first three rows will be pre-populated using mail merges from data files including:
 - A. Individual/Family Survey data (if available)
 - B. Initial Provider Survey data
 - C. Second Provider Survey data
 - D. Data file of providers supplied by the Department
2. Please confirm, update and/or correct the correct information for the first two rows:
 - E. Provider Name
 - F. Setting Address
 - G. Provider Main Point of Contact
 - H. Email
 - I. Phone Number
3. The row with information related to Initial and Second Provider completion and areas of noncompliance can be prepopulated using a mail merge from the surveys' Excel data files. These can change only when an incomplete response or nonresponse is corrected.
4. Please fill in the date and the Department lead for site visits (if applicable)
5. Please list each *Compliance Issue* in the numbered rows (6-11). The list should come from information provided in communications from the Department from the surveys and/or the site visit. If you have fewer than six compliance areas to mitigate, leave additional rows blank. If you have more than six compliance areas to mitigate, please complete the plan for the first six compliance areas, save the document, and create a new document that includes remaining compliance areas.
6. For each compliance issue, please list the *Issue Source* (Surveys, Site Visit, or Both). If unknown, please list "unknown".
7. Please list *Action Steps*, *Timelines* and *Person Responsible* for each compliance issue. If there are more than three main action steps, please list these in the "Provider Notes" column.
8. You may include additional insight or commentary on each compliance issue in the "Provider Notes" column.
9. Please provide an outline that addresses your setting's *Process for Monitoring Quality and Completion* of the compliance issues your setting needs to mitigate. This should include information about how you plan to track completion of action items and monitor required settings outcomes as outlined within the HCBS Settings Final Rule. More information on the final rule can be found at <https://www.colorado.gov/hcpf/home-and-community-based-services-settings-final-rule>.
10. Additional insight or commentary on your setting's entire transition plan can be included in the *Additional Notes/Comments* section.

Appendix B. Process to capture provider remediation innovations

Through assessment, Colorado will identify settings that are compliant and potentially non-compliant. Recommended remedial action includes site visits to both groups with the intent to identify and share what is working, but also provide support to providers who may need assistance implementing action to come into compliance. This appendix provides some recommendations for how information can be obtained and used in a cycle of continuous quality improvement with a focus on positive models and innovations that are already happening across the state. As innovations are identified, constructing a place to share with others is critical to dissemination. Colorado could use a component of the website or a section of a newsletter to highlight successful strategies, trends and practices.

1. Successful HCB Settings Strategies Documents

A series of “Successful HCB Settings Strategies” will highlight specific innovations that are identified through site visits to the HCBS providers. The documents will be approximately 1 page in length each and will be posted to The Department’s website for other providers to view. When an innovation is identified, it will be important to collect enough information during the site visit to be able to build these short documents. Subsections within each document might include:

- (a) Vision for the Final Rule – a short description of the language from the HCBS Final Rule that is applicable to this specific innovation (e.g. CMS’ expectations around access to food at all times)
- (b) About the Provider – a short description about the HCBS provider that is featured in the document (e.g. population served, setting type, number of individuals served, services offered, location, etc.)
- (c) Realizing the Final Rule – the bulk of the document; a broader description of the specific innovation that has been identified (e.g. how a provider transformed their food delivery procedure so that food is available at all times through new, safe, and efficient processes)
- (d) Contact Information – information about who to contact at the HCBS provider for more information (e.g. email, phone number)

2. Innovations Forum

An interactive forum will be developed on The Department’s website that will allow providers to join in conversation with other providers across the states. The forum will be broken up into a number of different discussion categories (e.g. person-centered counseling, community integration, employment policies). The forum will be promoted via email and will allow provider to join the conversation anonymously if they so choose. When innovations are identified on site visits, those providers will be especially encourage to post on the forum about their progress in a specific area.

3. Workgroup Calls

The Department will hold monthly workgroup calls (“The Final Rule Workgroup”) that will be designed to quickly disseminate best practices and lessons learned via open dialogue on a conference call. Each workgroup call will be dedicated to a particular topic pertaining to the

Final Rule (e.g. employment policies). Each call will last 1 hour and will include discussion and presentations from high performing HCBS providers. The agenda for a workgroup call might include:

- (a) Welcome and Introductions (5 minutes)
- (b) Vision for the Final Rule (5 minutes) – A short description of the language from the HCBS Final Rule that is applicable to this specific topic area (e.g. CMS’ expectations around employee wages).
- (c) Featured Provider #1 (5 minutes) – A short and informal presentation from an HCBS provider that was identified during a site visit as implementing an innovation related to this topic area.
- (d) Featured Provider #2 (5 minutes) – An additional presentation from a high performing HCBS provider.
- (e) Discussion (40 minutes) - The host of the calls will engage providers by asking open ended questions related to the topic, probing workgroup members for detailed remediation plans, and soliciting reactions from workgroup members. This portion of the call will allow providers to discuss lessons learned and remediation plans amongst each other.

4. Monthly Newsletter

A newsletter will be sent via email to all HCBS providers every other week. The purposes of the newsletter will be to disseminate best practices gleaned from site visits and to promote resources available to help providers come into compliance. The newsletter might include the following:

- (a) Any relevant updates from the State or from CMS
- (b) Reminders about upcoming coaching calls or other webinars
- (c) A featured Successful HCB Settings Strategies document
- (d) A section promoting the Innovations Forum

Appendix C. Site Visit Protocol

This protocol envisions site visits as a key remedial action. The purpose of the site visit and process for conducting the visit are outlined in this appendix. A template report structure is also provided.

Site Visit Protocol for CO HCBS Providers

Introduction

In response to the CMS HCBS Settings Final Rule, the Colorado Department of Health Care Policy and Financing (the Department) developed the Protocol for Managing Compliance with the HCBS Settings Regulation (the Compliance Protocol). The Compliance Protocol is designed to outline steps to full compliance across Colorado HCBS providers by 2018 and has multiple phases, as outlined in **Exhibit 13**.

Exhibit 13: Phased HCBS Setting Compliance Approach

Phase	Purpose	Estimated Time Period
1	Regulatory Analysis and Assessment of Settings	18 months (May 2014 through November 2015)
2	Remedial Action	18 months (December 2015 through May 2017)
3	Heightened Scrutiny	12 months (June 2017 through May 2018)
4	Ongoing Monitoring	June 2018 forward

A key component of compliance monitoring and remedial action planning (Phase 2) is site visits. The Department plans to visit providers between December 2015 and May 2017. This Site Visit Protocol is designed to provide both the Department and the state's HCBS providers' an overview of how site visits will be approached and conducted.

Providers Subject to Site Visits

Phase 1 of the Compliance Protocol was designed to identify on the provider-level compliance with the HCBS Settings Final Rule across three categories:

- ▶ Location
- ▶ Isolating Effect
- ▶ Rights, Autonomy and Choice

The Compliance Protocol provides greater detail on each of these categories. Phase 1 included fielding two Provider Self-Assessment Surveys to Medicaid-funded HCBS providers in Colorado. The Initial Provider Survey was scored to stratify compliance across the above-mentioned categories into four levels of remedial action. The Department will conduct site visits to all HCBS settings that score in the highest level of remedial action (Level 4), including all settings identified as being located on the grounds or immediately adjacent to a public institution. The Department will also visit 50% of settings scoring in Level 3, 25% of settings in Level 2 and

10% of settings presumed compliant and in Level 1. Settings in levels 1, 2 and 3 will be selected based on an internal review of quality assurance data (including review of policies obtained through the Second Provider Survey) and stratified by provider type.

Site visits to settings in levels 2, 3 and 4 will confirm whether a setting’s identified potential areas of noncompliance is in fact noncompliant and to identify and plan remedial actions for those settings to come into compliance with the HCBS Settings Final Rule.

Site visits to settings in level 1 will confirm full compliance with the HCBS Settings Final Rule and identify potential innovative strategies and approaches to HCBS that could be used as a statewide model.

Exhibit 14: Criteria for Each Level of Remedial Action

Remedial Action Level	Scoring Key	Site Visit Rate
Level 4 Remedial Action	Any indication of a setting located on the grounds or immediately adjacent to a public institution	100% of settings
Level 4 Remedial Action	Indications of the “effect of isolating” greater than 50%	100% of settings
Level 3 Remedial Action	Indications with a score less than 50% and greater than 25% on “effect of isolating”.	50% of settings based on an internal review of QA data (including review of policies obtained through the secondary survey), stratified by provider type.
Level 2 Remedial Action	Indications with a score less than 25% on “effect of isolating” and a score greater than 50% on “Rights, Autonomy, and Choice”	25% of settings based on an internal review of QA data (including review of policies obtained through the secondary survey), stratified by provider type.
Presumed Compliant – Level 1 Remedial Action	Indications with a score less than 25% on “effect of isolating” and a score less than 50% on “Rights, Autonomy, and Choice”	10% of settings based on an internal review of QA data (including review of policies obtained through the secondary survey), stratified by provider type.
Non-Response	Not applicable	100% of settings with continued non-response

Site Visit Scheduling

Site visits will begin in December 2015 and continue through May 2017. Beginning in <XX 2015>, the Department will send letters to inform providers of their compliance status and which level of remedial action they fall under. All letters will be sent by <XX 2015>. At the same time, the Department will conduct a review of internal data to identify which settings in levels 1, 2 and 3 it will visit. The Department will select which settings it will visit by <XX 2015>. Site visits will generally last <2 business days>.

Once these settings are identified, the Department will reach out to each program site to begin the scheduling process. During this time, the Department will review the purpose of the site visit with each setting and discuss any needs or concerns that the site may have to be addressed during

the visit. Providers can expect to hear from the Department at least <four weeks (20 business days)> prior to a site visit being conducted.

Providers will receive all communications via the email address list used to manage the initial and secondary survey process. Providers can change the main contact email address at any time by responding to any email sent as part of the Compliance Protocol implementation.

The conversations during the scheduling process with each setting will provide insight for the Department to determine the appropriate staff member(s) who will conduct that site visit.

Each site visit will be attended by at least two Department designated contractors. The roles and responsibilities for each site visit team member are listed in **Exhibit 15**.

Exhibit 15: Roles and Responsibilities of HCPF Site Visit Staff

Site Visit Team Member	Responsibility
Department Site Visit Lead	<ul style="list-style-type: none"> ▶ Coordinate with provider to schedule site visit, plan agenda, identify and invite stakeholders. ▶ Lead the site visit discussions through proper framing of each discussion. ▶ Engage participants in discussion through duration of the visit. ▶ Ask follow-up questions or clarification, as needed. Offer guidance and recommendations, as needed.
Department Site Visit Support	<ul style="list-style-type: none"> ▶ Participate in discussions. ▶ Take notes during the site visit. ▶ Engage participants in discussion through duration of the visit. ▶ Ask follow-up questions or clarification, as needed. ▶ Offer guidance and recommendations, as needed.

Site Visit Preparation

Once the Department begins the site visit scheduling and planning process with a provider, the provider will need to participate in the site visit planning process. This includes being responsive and flexible with scheduling requests, providing support with on-site logistics (e.g., securing meeting rooms) and identifying and inviting relevant stakeholders, among others. A non-exhaustive list of tasks and a timeline for completing each task is outlined in **Exhibit 16**. Please contact <XX> with any questions about this process.

Exhibit 16: Provider Site Visit Preparation Tasks and Timeline

Key Provider Tasks	Timeline
Check calendars of key provider agency staff to determine when the appropriate individuals will be available to participate in-person for the site visit	20 business days before site visit
Identify rooms in your building or other location(s) where the Department could meet with provider agency staff, service planners, and service providers over the course of 2 days (minimum requirement is a private room that seats 10-16 people at a conference table)	20 business days before site visit
The Department will send 2-3 options for when 2-day visit could take place to the setting.	18 business days before site visit
Within two business days of receiving the 2-3 options, the setting will confirm dates for 2-day visit to the Department and hold these dates on calendars of key provider agency staff.	16 business days before site visit
Receive a draft agenda from the Department and work with the Department to finalize 2-day agenda based on available meeting space and considerations about scheduling meetings with different stakeholder groups.	14 business days before site visit
Submit to the Department a draft list of individuals that could be invited to participate (assuming some will decline) for the Department to review. This list must include: service planners, service providers, setting leadership, and individuals receiving services and their family members (as appropriate).	14 business days before site visit
Add or delete from the draft invitee lists based on the Department's feedback and send invitations to each individual asking for them to participate in a meeting, indicating the date and time of their meeting.	12 business days before site visit
If not already completed, the setting should submit any relevant documentation to the Department (e.g. internal policies).	10 business days before site visit
Arrange setting staff to assist/greet/escort stakeholder groups to and from meetings	10 business days before site visit
Send confirmation with logistical information to all who accepted invitation	8 business days before site visit
Finalize 2-day agenda	5 business days before site visit
Send reminders to those who accepted invitation	2 business days before site visit
Print and make copies of final version of 2-day agenda for setting staff	1 business day before site visit

Site Visit Agenda

During the site visit, Department staff will engage various stakeholders within each setting, including setting staff, setting management and, as appropriate, individuals receiving services and their family members. The Department will also share an agenda to each setting prior to the site visit. The following components can be expected to be included as part of each site visit, however this is subject to modification depending on the unique nature of each individual setting:

-
1. Kickoff meeting between provider leadership staff and the Department
 2. Walking tour of the site led by provider-identified staff member
 3. Discussion of provider documentation and related compliance issues
 4. Interviews with service providers
 5. Interviews with service planners
 6. Interviews with individuals receiving services and/or their family members
 7. Strategic planning session to address outstanding compliance issues:
 - (a) Location
 - (b) Isolating Effect
 - (c) Rights, Autonomy and Choice
 8. Training with provider staff (providers, planners, leadership) on how they can support compliance
 9. Debrief meeting between provider leadership staff and the Department

Each site visit will have its own agenda dependent on scheduling availability of stakeholders. As mentioned in **Exhibit 16**, all agendas should be finalized between the Department and the provider five business days before the site visit.

Each site visit could also include a checklist that includes the criteria outlined in Section IV of the “Colorado’s Protocol for Managing Compliance with the HCBS Settings Regulation”. A checklist will ensure consistent collection of information and help inform revisions to a Provider Transition Plan and/or Request for Heightened Scrutiny, if applicable. The checklist could include;

- Criteria outlined in **Section IV**;
- Whether the criteria is met;
- If not met, whether the criteria is included within the Provider Transition Plan;
- How the criteria is verified (through interview with individual, family, guardian, provider, observation, policies, procedures and records, or other method); and
- Recommended action steps including revision to a Provider Transition Plan or Request for Provider Transition plan or other potential actions applicable to the criteria (e.g. attendance at an upcoming training event, revision to a specific policy document).

Site Visit Report

The Department designated contractor will make all efforts to complete a site visit report within fifteen business days of each site visit. These reports will be shared with each setting and internally within the Department and its partners.

The site visit report will summarize discussion and findings from the visit, as well as remedial actions identified and next steps.

Next Steps

The Protocol for Managing Compliance with the HCBS Settings Regulation includes next steps following the site visit process. These include:

- **Heightened Scrutiny:** Some providers (e.g., those located on or adjacent to an institution) may need to go through the CMS heightened scrutiny process to be approved as compliant. The Department is developing a template form for providers to use that will have a consistent process, a set of data elements to use when monitoring the status of settings over time and the level of detail needed for CMS to review settings for approval
- **Provider Transition Plan:** Providers may be required to submit a plan of action to remediate compliance issues regardless of compliance need. Data elements will include, but not be limited to, provider name, setting address, summary of compliance issues noted through survey and site visit, action steps the provider plans to take, timeline, and how the provider will monitor for quality and completion.
- **Ongoing Monitoring:** The Department will continue to monitor compliance through and beyond 2018. Specific action plans for this effort are in planning phases and will be communicated when finalized.

Site Visit Summary Report

Provider Number	Provider Name (or DBA)	Provider Lead Contact	Site Visit Dates
Setting Address		Site Visit Team Members	
High Level Summary			
Location	1. 2.		
Rights, Autonomy and Choice	1. 2.		
Isolating Effect	1. 2.		

Key Findings

Location		
Discussion Highlights	Remedial Actions	Follow Up

Rights, Autonomy and Choice		
Discussion Highlights	Remedial Actions	Follow Up

Isolating Effect		
Discussion Highlights	Remedial Actions	Follow Up

Other		
Discussion Highlights	Remedial Actions	Follow Up

draft

Appendix D. Regional stakeholder action forum process

As a component of communication and to identify innovations and possible remedial action, holding regional stakeholder action groups could prove beneficial. This appendix outlines a process for stakeholder action forums including potential questions to ask and how to best use the information gathered.

A regional stakeholder action forum is meant to serve as a learning network employing the attributes of a learning style. The goal of a learning network is to provide participants a real-time forum for sharing their experiences, learning about successful strategies, and exchanging evidence-based tools and practices to improve performance. The spread and uptake of successful strategies and evidence-based tools and practices can be facilitated by various experts in HCBS as designated by Colorado leadership.

Successful learning networks oftentimes identify champions or leaders among participants' peers. This individual is usually part of a high-performing organization with evidence-based practices, tools, and strategies to share with his or her peers. These champions and leaders help to facilitate spread and uptake by modeling the practice and motivating and serving as a coach to their peers.

During action forums, the Colorado facilitator works with attendee to discuss barriers and challenges and brainstorm ways to overcome each identified barrier. Using a learning style, the facilitator can employ a more formal and structured approach and have a more ambitious goal of yielding significant improvements in the movement toward compliance with the HCBS Settings rule.

Learning Style

Facilitates transformation in the performance of organizations capturing, spreading and promoting the uptake of knowledge about what already works

- ▶ *Use of data to drive performance*
- ▶ *Leaving in action*
- ▶ *All-teach, all-learn mode of knowledge dissemination*

Colorado could hold an action forum per pre-determined region at least one time every six months or one time a year. The action forums can initially be organized around each of the standards and questions developed in advance to facilitate dialogue. **Exhibit 17** provides an overview of a potential action forum focused on the community integration standard. Each action forum can be focused on the topic Colorado most seeks to address.

Exhibit 17: Framework for Action Forum

Audience	Providers (either residential or non-residential), advocates, individuals/families, local administrators, case managers/single entry point staff
Duration	2 hours
Potential Topics/Questions to Facilitate Dialogue	<p>Breaking down barriers to isolation:</p> <ul style="list-style-type: none"> • What causes isolation from community inclusion? • What are the challenges to full integration within the community? • How can these challenges be overcome? • What is working within local communities to more fully engage individuals/families in community life? <p>Person centered service delivery:</p> <ul style="list-style-type: none"> • What can we do to change the culture toward person-centered service delivery? • What challenges do we face in moving toward person-centered service delivery? • How can we overcome these challenges? • What person centered innovations exist in the local community that can be adopted by others?
Leaving in Action	Each attendee takes the last 15 minutes to state to the group and commit in writing to at least 2 action steps to move toward the desired goal. These action steps are gathered and used at future forums to assess progress made.
Sample Agenda for an Action Forum	<ol style="list-style-type: none"> I. Introduction and “what brings you here today?” (15 minutes) II. Ground rules for action forum (5 minutes) III. Vision, what we know about today’s delivery system (use of data as appropriate), and what Colorado seeks to attain specific to the action forum topic (10 minutes) IV. Dialogue on topic using questions to facilitate (60 minutes) V. Leaving in action (30 minutes)

Each forum will be organized to capture information on barriers and potential solutions and leaving in action steps. A table similar to **Exhibit 18** can be used to track forum actions for dissemination to others. Information from each forum can be collapsed into one file to enable Colorado to not only monitor trends across the state, but identify successes that can be applied in other areas or solutions that can be discussed at the state level for potential future change.

Exhibit 18: Stakeholder Action Forum Tracking

Challenges/Barriers	What works in our local communities today	Potential Solutions	Leaving in Action Steps
1.	1.	1.	Action Step:
2.	2.	2.	Person Responsible:
3.	3.	3.	Organization Name:
1.	1.	1.	Action Step:
2.	2.	2.	Person Responsible:
3.	3.	3.	Organization Name:
1.	1.	1.	Action Step:
2.	2.	2.	Person Responsible:
3.	3.	3.	Organization Name:

This column can be used to identify challenges/barriers that could be grouped into short versus long term actions (e.g. issues that can be addressed through training versus issues that require policy or funding support)

This column can be shared through the innovations corner, in newsletters, at future action forums, on webinars/calls, etc..

Similar to the challenges/barriers column, this column can be used to guide change either through dissemination as a successful strategy or practice, a solution that can be applied through training, or a policy/funding issues that must be discussed at the state level for potential applications. Again, these solutions may be organized by short versus long term solutions.

This column can be used to create ownership at the local level and revisited at a later forum to track progress made.

Appendix E. Cover letter templates

Colorado will need a cover letter to confirm compliance with the requirements and address non-compliance. These cover letter templates are directed to providers and used to formally implement remedial action.

draft

<COMPLIANCE LETTER>



COLORADO
Department of Health Care
Policy & Financing

[Date]

[Provider Name]

[Provider Address]

Dear [Provider]:

Thank you for supporting Colorado’s implementation of the HCBS Settings Final Rule and completing the Initial and Secondary Provider Self-Assessment Surveys. The HCBS Settings Final Rule for Medicaid-funded services marks an opportunity to build a truly person-centered service delivery system that supports people with disabilities to live as valuable and contributing members in their communities. Implementation of the rule will help thousands of older adults and people with disabilities of all ages to enjoy the full promise of community living by prioritizing the quality of each individual’s experience.

Our records indicate that your setting appears to be fully compliant with the HCBS Settings Final Rule. We have included your organization’s responses to the Initial Self-Assessment Survey. If your organization needed to complete the Secondary Provider Self-Assessment Survey, the responses to that are included as well. We ask that you please confirm that your responses are accurate by signing the attestation included along the bottom of the attached form.

Although your responses indicate that your setting is compliant, we may still conduct a site visit to your setting. The purpose of the site visit is to confirm findings from the Self-Assessment Survey and collect best practices for dissemination to other providers. Site visits will primarily be conducted with noncompliant providers, but some compliant providers will also be engaged in this practice.

Thank you again for participating in our Self-Assessment Process. Together we can prepare our entire state to come into compliance with the HCBS Settings Final Rule. If you have any questions, please do not hesitate to contact us.

Regards,

Caitlin Phillips
Long Term Services and Supports Division
Department of Health Care Policy and
Financing
303-866-6873
Caitlin.Phillips@state.co.us

Adam Tucker
Division of Intellectual and Developmental
Disabilities
Department of Health Care Policy and
Financing
303-866-5472
Adam.Tucker@state.co.us



COLORADO
Department of Health Care
Policy & Financing

Self-Assessment Survey Responses for:

<insert provider organization name>

<insert Setting address>

Self-Assessment Survey Responses

Please review for accuracy, sign the attestation at the bottom of this page and mail to the attention of <insert contact>.

<Placeholder for Survey Response Table>

I attest that the results of my self-assessment for the setting address listed above are accurate and complete.

Signature

Title

Date

I have additional comments/feedback about my self-assessment results:



COLORADO
Department of Health Care
Policy & Financing

[Date]

<NON-RESPONSE LETTER>

[Provider Name]

[Provider Address]

Dear [Provider]:

Our records indicate that you have yet to complete the HCBS Settings Final Rule Provider Self-Assessment Survey Process. You have <insert whether the provider has not completed either survey or if completed one and not the other, specify which. Also note if the provider completed only a partial survey and a new completion is requested>. The HCBS Settings Final Rule for Medicaid-funded services marks an opportunity to build a truly person-centered service delivery system that supports people with disabilities to live as valuable and contributing members in their communities. Implementation of the rule will help thousands of older adults and people with disabilities of all ages to enjoy the full promise of community living by prioritizing the quality of each individual's experience. Please complete the HCBS Final Rule Self-Assessment Survey as soon as possible by navigating to the links below. It is important to complete the initial survey first before proceeding to the secondary survey. <only include a link to the survey(s) that require completion>.

Initial Survey: https://www.research.net/s/Colorado_HCBS

Secondary Survey: <https://www.research.net/s/COHCBSurvey2>

Your setting will be assumed noncompliant if you do not complete these surveys. Please be aware that noncompliant and nonresponsive providers will receive a site visit from the Colorado Department of Health Care Policy and Financing.

Thank you in advance for participating in our Self-Assessment Process. We look forward to assisting you as you come into compliance with the HCBS Settings Final Rule. If you have any questions, please do not hesitate to contact us.

Regards,

Caitlin Phillips
Long Term Services and Supports Division
Department of Health Care Policy and
Financing
303-866-6873
Caitlin.Phillips@state.co.us

Adam Tucker
Division of Intellectual and Developmental
Disabilities
Department of Health Care Policy and
Financing
303-866-5472
Adam.Tucker@state.co.us



COLORADO
Department of Health Care
Policy & Financing

[Date]

<NON-COMPLIANCE LETTER>

[Provider Name]

[Provider Address]

Dear [Provider]:

Thank you for completing the HCBS Settings Final Rule Provider Self-Assessment Surveys. The HCBS Settings Final Rule for Medicaid-funded services marks an opportunity to build a truly person-centered service delivery system that supports people with disabilities to live as valuable and contributing members in their communities. Implementation of the rule will help thousands of older adults and people with disabilities of all ages to enjoy the full promise of community living by prioritizing the quality of each individual's experience.

The survey responses for your setting identified at least one area of potential noncompliance HCBS Settings Final Rule.

A Transition Plan Template is attached. The Transition Plan Template outlines the steps necessary to ensure that your setting can come into compliance with the HCBS Final Rule. We ask that you complete the attached Transition Plan Template and begin taking action on the tasks that are outlined in your plan. Please submit your completed Transition Plan to <insert contact and address> by <insert date>.

Please be aware that your setting may also receive a site visit from the Colorado Department of Health Care Policy and Financing. The purpose of the site visit is to confirm findings from the self-assessment survey and ensure that the transition plan is acceptable and actions are initiated.

Thank you again for participating in our self-assessment process and for taking the necessary steps to compliance. Together we can prepare our entire state to come into compliance with the HCBS Settings Final Rule. If you have any questions, please do not hesitate to contact us.

Regards,

Caitlin Phillips
Long Term Services and Supports Division
Department of Health Care Policy and
Financing
303-866-6873
Caitlin.Phillips@state.co.us

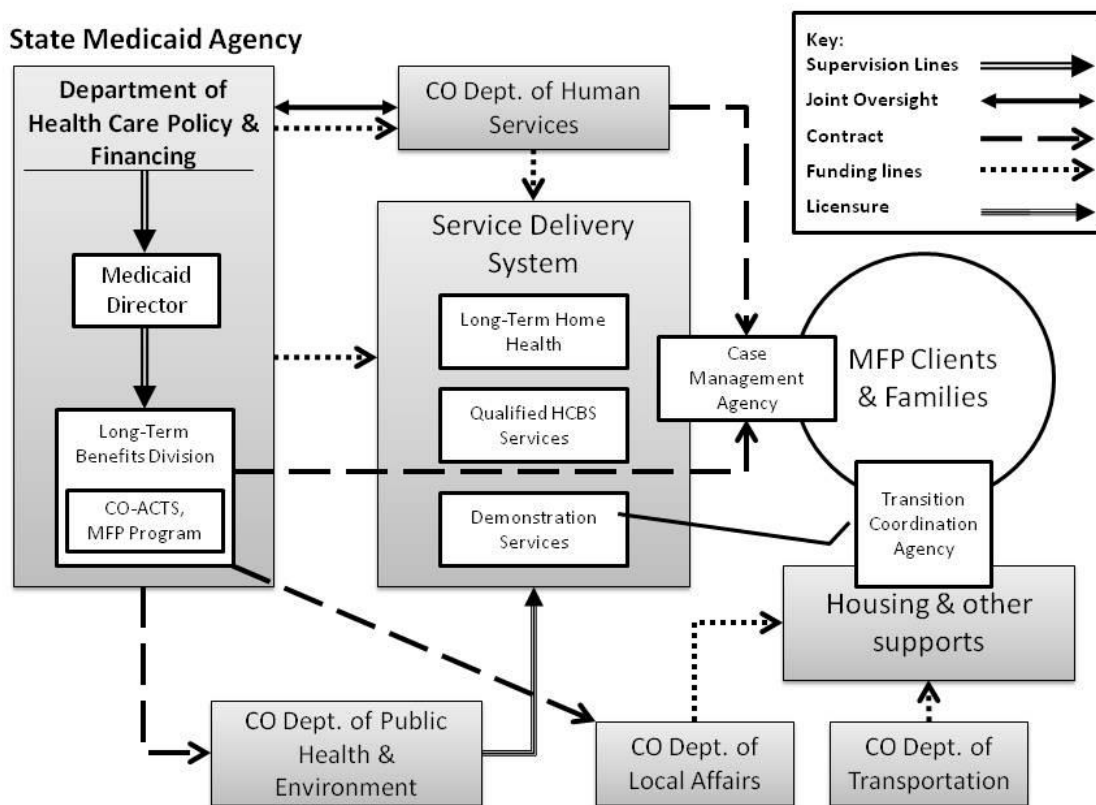
Adam Tucker
Intellectual and Developmental Disabilities
Division
Department of Health Care Policy and
Financing
303-866-5472
Adam.Tucker@state.co.us

Appendix F. Ideas for a Relocation Protocol building upon MFP experience

Colorado has an approved Money Follows the Person Demonstration which began accepting enrollment in the Colorado Choice Transitions (CCT) program in 2011. Although the CCT program is focused on transition from institutional to community settings, the lessons learned and processes used can be adapted to address any relocation needed to comply with the HCBS settings rule.

The organizational structure outlined in the 2011 operational protocol (see [Exhibit 19](#)) can be adapted as needed and MFP program staff skills and expertise used to develop an agile process for community to community transition or relocation efforts.

Exhibit 19: Colorado CCT Organizational Structure as Outlined in the 2011 Operational Protocol



Colorado can build upon the network of transition coordination agencies that began through the HCBS-EBD waiver and expanded under the CCT program. The Transition Coordination Agencies (TCA) are the agencies responsible for providing transition services and serve as the link between NFs, case management agencies and housing authorities by providing NF residents with information about their options and relocation services. The TCAs can build upon what they have learned to help individuals relocate as determined necessary through the HCBS settings process. Colorado may need to consider how to cover the cost of relocation between

community-based settings by possibly pursuing modifications to existing waiver programs including how best to address transition from ACF settings if needed. According to the 2011 operational protocol for Colorado Choice Transitions, Community Transition Services (CTS) are “Services provided by a (TCA) to help an individual relocate to a community setting upon discharge from a Long Term Care (LTC) facility. CTS include the purchase of items essential to move a client from a nursing facility and establish a community-based residence. Examples include security and utility deposits, moving expenses, one-time pest eradication, one-time cleaning expenses and essential household furnishings such as beds, linens, utensils, pots and pans, dishes, etc”. This one-on-one relocation assistance may be needed to help individuals move from non-compliant residential settings.

Colorado could also adapt the Transition Assessment/Plan used with CCT. This potential transition/relocation assessment when coupled with the full person-centered assessment and plan could provide a quick inventory of the needs, medical conditions, social supports, preferences and choices needed in a compliant setting. Additionally, development of a relocation plan could serve as a short-term addendum to the person centered plan designed to identify the immediate relocation needs of the individual upon a move from a noncompliant setting to a compliant setting.

Colorado also has a Transition Guide which includes sections on;

- ▶ My Family and Friends
- ▶ My Housing Choices
- ▶ My Medical Information
- ▶ My Personal Care Needs
- ▶ Other Things I Need Help With
- ▶ My Transportation Choices
- ▶ My Finances
- ▶ My Employment Options
- ▶ My Personal Activities
- ▶ My Priorities for Home
- ▶ My Emergency Back-up Plan
- ▶ My Rights
- ▶ Important Contact Information
- ▶ Complaint and Grievance Procedures

Colorado could adapt this guide to community to community relocation. The CCT unit has staff with expertise in outreach and housing providing an excellent foundation to development of an HCBS Settings Compliance Relocation Process.

Appendix G. Heightened Scrutiny Narrative Form

The narrative form is organized by setting address. The form serves as a template Colorado could use to outline the detail needed for CMS to review settings for approval. The form enables Colorado to have a consistent process and a set of data elements to use when monitoring the status of settings over time. The data from these requests could be tracked in an excel file and used to construct an administrative scorecard to monitor progress over time and track setting movement toward compliance.

Request for Heightened Scrutiny

Provider Organization Name	
Provider ID #	
Service Type	
Settings Address	
Size	

Based on the results of an initial self-assessment, secondary self-assessment, individual/family assessment and site visit findings, Colorado proposes this setting for heightened scrutiny based on the collective summary of findings as outlined in Table 1.

Table 1. Compliance Indicators for <insert provider name and setting address>

Compliance Indicators	Assessment	Remediation	In compliance Following Remediation?
<i>The setting does not have the qualities of an institution.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting ensures and individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting optimizes individual initiative, autonomy, and independence in making life choices.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting facilitates individual choice regarding services and supports, and who provides them.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially

Compliance Indicators	Assessment	Remediation	In compliance Following Remediation?
<i>The setting provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting is integrated and supports access to the greater community.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting provides opportunities to engage in community life.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting provides opportunities to control personal resources.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting provides opportunities to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>The setting is selected by the individual from among options including non-disability specific settings and a private unit in a residential setting.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting provides a specific unit/dwelling that is owned, rented, or occupied under legally enforceable agreement.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting provides the same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, if the tenant laws do not apply, there is an assurance that a lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting provides that each individual has privacy in their sleeping or living unit.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially

Compliance Indicators	Assessment	Remediation	In compliance Following Remediation?
<i>If provider-owned or controlled, the setting provides units with lockable entrance doors, with appropriate staff having keys to doors as needed.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting provides that individuals sharing units have a choice of roommates.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting assures that individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting assures that individuals have the freedom and support to control their schedules and activities and have access to food any time.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting assures that individuals may have visitors at any time.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
<i>If provider-owned or controlled, the setting assures physical accessibility.</i>	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially
Other	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> NA <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partially

Summary of Remedial Action(s) initiated for this setting	
Action	Outcomes
1.	
2.	
3.	

Colorado respectfully submits evidence to CMS for the application of heightened scrutiny for this setting that is presumed not to be home and community based. Colorado asserts that this setting does meet all requirements outlined in the HCBS Settings Final Rule as confirmed through our assessment and remedial actions (see Table 1 for a summary). The summary of our

assessment is based on previous quality assurance reviews, self-assessment and site visit findings and input from individuals and their families/guardians.

draft

Date of Initial Assessment	
Date of Secondary Assessment	
Dates of Individual/Family Surveys	
Date of Site Visit	

Summary of Colorado Assessment that this setting meets the HCB Setting Requirements

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The on-site assessment report is attached to provide further support for Colorado’s assertion that this setting meets the HCB Setting Requirements.