

Statewide Transition Plans (STPs)

HCBS Implementation: Small Group State TA for STP Development

TA Virtual Discussion #1 of 4: Public Engagement, Systemic
Assessment & Remediation

AGENDA

- Technical Presentation of Today's Thematic Topics & Information Dissemination of Promising State Examples
- Question & Answer Session/Interactive Dialogue
- Transfer of Knowledge: Informal Dialogue among State Teams

HCBS State Transition Plans: *Status of STP Reviews*

- Currently, only one state (Tennessee) has received final approval from CMS.
- The majority of STPs are scheduled to be updated and resubmitted to CMS through September 2016 for review to determine if initial and/or final approval can be made.
- Rolling out of additional technical assistance to support states
 - Individual calls
 - Small Group State TA
 - SOTA Calls
 - Effective Models of Key STP Components

HCBS Small Group TA Series

- **Week #1:** Public Engagement, Systemic Assessment & Remediation
- **Week #2:** Site/Setting Specific Assessment, Remediation & Validation
- **Week #3:** Heightened Scrutiny; Beneficiary Impact; Ongoing Monitoring & Quality Assurance
- **Week #4:** Charting Milestones; Mapping out Remaining STP Process; Communications with CMS; Final Wrap-up Q&A & Open “Office Hours” Discussion

Week #1:

Today's Thematic Topics of Discussion

- Public Engagement
- Systemic Assessment & Remediation

HCBS Setting Requirements

Is integrated in and supports access to the greater community

Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources

Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS

Is selected by the individual from among setting options including non-disability specific settings

Ensures an individual's rights of privacy, respect, and freedom from coercion and restraint

Optimizes individual initiative, autonomy, and independence in making life choices

Facilitates individual choice regarding services and supports and who provides them

*****Additional Requirements for Provider-Controlled or Controlled Residential Settings*****

Public Engagement: *Requirements*

- *A State must provide at least a 30-day public notice and comment period regarding the transition plan(s) that the State intends to submit to CMS for review and consideration, as follows:*
 - *The public notice must be in electronic (i.e. state website) and non-electronic (i.e. newspaper) forms.*
 - *The State must at a minimum provide two (2) statements of public notice and public input procedures.*
 - *The State must ensure the full transition plan(s) is available to the public for public comment.*
 - *The State must consider and modify the transition plan, as the State deems appropriate, to account for public comment.*
- *A State must submit to CMS, with the proposed transition plan:*
 - *Evidence of the public notice required.*
 - *A summary of the comments received during the public notice period, reasons why comments were not adopted, and any modifications to the transition plan based upon those comments.*

[Citation: Page 85 of the [Federal HCBS Settings Rule](#)]

Public Engagement: *Promising State Strategies*

Promising Practice	State Examples
Full Statewide Transition Plan (STP) must be made available to the stakeholders in electronic and non-electronic forms.	All States
Providing clear, easily digestible overview of the rule and context of the state's implementation process in the STP	Pennsylvania (p. 4-5)
Virtual and in-person orientation sessions and "town-hall" like meetings across state and stakeholders. Focus groups and feedback forums early on to help inform the design of the state's HCBS implementation strategy.	Ohio
Establishment of state working groups or committees that included balanced/equal representation of various stakeholders.	Delaware
List of all relevant services, settings, descriptions being captured in the HCBS implementation process.	North Dakota (pgs. 8-15); Iowa (pgs. 20-21)
Use of multi-media to broadcast and disseminate information about public comment process(es).	South Carolina

Systemic Assessment & Remediation: *Overview*

- States are required to conduct a systemic assessment, which is:
 - “the state’s assessment of the extent to which its regulations, standards, policies, licensing requirements, and other provider requirements ensure settings are in compliance”
- This process involves reviewing and assessing all relevant state standards to determine compliance with the federal home and community-based setting regulations.
- States must review state standards related to all setting types in which HCBS is provided.

Systemic Assessment & Remediation: *Scope*

- **Examples of documents in which state standards are likely to be articulated include:**
 - Statutes
 - Licensing/certification regulations
 - Guidelines, policy and procedure manuals, and provider manuals
 - Provider training materials

Systemic Assessment & Remediation: *Requirements*

- States must ensure that the language in their state standards is fully consistent with the requirements in the federal setting regulations:
 - 42 CFR 441.301(c)(4) for 1915(c) waivers
 - 42 CFR 441.710 (a)(1) for 1915(i) state plan programs
 - 42 CFR 441.530(a)(1) for 1915(k) state plan programs
- The federal regulations set the floor for requirements, but states may elect to raise the standard for what constitutes an acceptable home and community-based setting.
- **States must assure that each element under the HCBS federal regulations is adequately addressed in every relevant state standard for which the specific federal requirement is applicable.**

Systemic Assessment: *Key Components*

List of State Standards

Crosswalk

Narrative

Systemic Assessment & Remediation: *Key Components (2)*

- **Clear listing of all relevant state standards** (including policies, regulations, statutes, procedures, and the like) that were reviewed, to include full name, code/citation, and electronic link to each document in accessible format.
- **Detailed crosswalk**
 - Each specific setting criterion
 - Each related state standard identified by specific citation(s) and the type of setting it applies to, correlated with each relevant element of the federal rule
 - Analysis of whether the relevant state standards are compliant, in conflict with, or silent with respect to the federal regulation
 - Detailed description of action to be taken by the state to rectify any gaps or inconsistencies in state standards and the timeline for completing each action

Systemic Assessment & Remediation: *Key Components*

(3)

- **Narrative providing additional context regarding:**
 - The process/approach the state took to complete the systemic assessment
 - How external stakeholders and the public were engaged in the process
 - What the state’s systemic remediation strategy looks like and clear milestones for completion of what is required in terms of accomplishing the proposed strategy
 - How this work is being aligned with any other relevant state activities (examples may include the roll-out/expansion of MLTSS; parallel work on rolling out new 1915 state plan options, waivers and/or 1115 demonstrations; amending/renewing existing 1915 state plan options and waivers and/or 1115 demonstrations)
 - Any additional pertinent information the state believes CMS should be aware of with respect to the state’s systemic assessment and proposed remediation strategies.

Implementation with Integrity: *Considerations*

- Make sure all relevant state standards are easily identifiable and easy to find online for the public and CMS.
- States should describe the process by which the systemic assessment was completed, and also the steps taken by the state to verify the accuracy of the review of all relevant state standards.
- Systemic assessment must include a review of all relevant state standards.
 - As such, this may require the engagement of state agencies/authorities outside of the state Medicaid agency's jurisdiction (housing, licensing, etc.)

Implementation with Integrity: *Considerations* (*continued*)

- State determination of level of compliance for existing state standards must include analysis/explanation in the STP.
- Silence does not equal compliance.
- Inconsistencies/areas of noncompliance in existing state policy cannot be addressed simply by changes to the waiver document alone.
- In terms of remediation, specific language should be used to address remediating inconsistencies between the federal HCBS rule and current state standards.

Systemic Assessment: *Key Questions*

- *Did the state include the **full names, codes/citations, and links** on all relevant policies and regulations?*
- *Did the state clearly lay out both the key elements of the HCBS rule for which each statute covers, and also the specific pieces that either **comply/do not comply/or are silent**?*
- *Did the state complete **an in-depth analysis** of all policies, statutes, regulations, provider manuals, and service definitions to determine level of compliance, non-compliance, or silence in accordance with the new federal HCBS rule?*
- *Has the state provided context about how systemic remediation activities are being **aligned with other state activities** related to state plan amendments and waiver renewals?*

Systemic Assessment: Key Questions (continued)

- Did the state include specific, **detailed actions for remediating** any areas in state policy/regulation that either don't comply or are silent on the regulation and need to be updated? Are these **proposed actions sufficient** in order to bring the state's existing standards into compliance with the federal HCBS rule?
- Did the state include milestones with **specific timelines/dates** for completing each remediation action in the systemic assessment, and are these timelines reasonable for assuring full compliance within the transition period?
- What if any challenges did the state identify as **potential barriers** to their ability to complete the systemic remediation actions (i.e., State legislature session timeline, governor approval process, etc.), and what activities and milestones were identified to address the barriers?
- Did the state submit the **entire completed STP out for public comment**, and did they summarize the public comments they received related to the systemic review and include that summary within the STP?

Highlighting Effective Practices in Systemic Assessment & Remediation: *State Examples*

Effective Practice/Strategy	State Examples
Clear list of all relevant state standards reviewed in the systemic assessment, including titles, codes/citations, and links	South Carolina (pgs. 9-11); Vermont (pgs. 24-25); Iowa (pg. 9)
Detailed analysis/justification of state's determination of compliance	Vermont (Crosswalk begins on pg. 76)
Detailed remediation required, action steps and timeline	Ohio (Crosswalk with remediation required, action steps and timeline begins on or around pg. 71) Connecticut (Developed strong template language covering all aspects of the rule, to then be used uniformly to address key gaps/compliance issues across various state standards in remediation strategy)

Interactive Dialogue: Q&A

What is on your mind regarding the topics covered today as they relate to your state's approach to HCBS implementation?

Interactive Dialogue: *Knowledge Transfer*

- *How is your state assuring strong public engagement throughout the HCBS implementation process? Have you run into barriers with respect to getting the level of public engagement you desire?*
- *What is the status of your systemic assessment and remediation efforts? How are you accomplishing this work? Do you feel there are any specific strategies/effective practices you've used to complete the systemic assessment that you think other states would benefit from hearing about in the STP? What obstacles have you faced in fully completing the systemic assessment process, and how are you addressing these obstacles?*
- *How has your state laid out its milestones for HCBS implementation? How have you communicated these milestones and corresponding timelines to various stakeholders and partners? What concerns do you have about accomplishing the milestones set forth in your plan by the end of the transition period? How are you tracking progress in milestone completion?*

Resources

- <http://www.medicaid.gov/HCBS>
 - Final Rule & Subregulatory Guidance
 - A mailbox to ask additional questions
 - Exploratory Questions (for Residential & Nonresidential Settings)
- **CMS Training on HCBS – SOTA (State Operational Technical Assistance) Calls:**
<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/hcbs-training.html>
- **Statewide Transition Plan Toolkit:**
<https://www.medicaid.gov/.../statewide-transition-plan-toolkit.pdf>
- **ACL Plain-Spoken Briefs on HCBS Rule & Person Centered Planning:**
<http://www.acl.gov/Programs/CPE/OPAD/HCBS.aspx>
- **Advocacy Toolkit**
<http://hcbsadvocacy.org/>

THANK YOU!

SCHEDULE OF ADDITIONAL TA WEBINARS

- **Week #2 (7/19/16)**
 - Setting-Specific Assessment & Remediation Process
- **Week #3 (7/26/16)**
 - Heightened Scrutiny, Relocation, Ongoing Monitoring/Quality Improvement
- **Week #4 (8/3/16)**
 - Charting Milestones; Next Steps; Setting up regular communications with CMS on state’s progress
 - “Office Hours” Discussion – Wrap up of Small Group TA

Acknowledgment

CMS wants to acknowledge the partnership with the Administration for Community Living (ACL) on the role of providing technical assistance and presenting to States participating in the Small TA Group.