

# Nebraska's State Transition Plan

## Home and Community-Based Services

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# Governor Pete Ricketts

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## Vision:

Grow Nebraska

## Mission:

Create opportunity through more effective, more efficient, and customer focused state government

## Priorities:

- Efficiency and Effectiveness
- Customer Service
- Growth
- Public Safety
- Reduced Regulatory Burden

## We Value:

- The Taxpayer
- Our Team
- Simplicity
- Transparency
- Accountability
- Integrity
- Respect

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# What is the Final Rule?

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- The Centers for Medicare and Medicaid Services (CMS) published a final rule for Medicaid Home and Community Based Services (HCBS) effective March 17, 2014. The final rule requires states to ensure individuals receiving Medicaid home and community based services have the benefits of community living. Additionally, each state is required to submit to CMS a statewide transition plan which includes a review of its policies, practices, and settings where HCBS are provided.

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# What is the Final Rule?

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## The final rule focuses on:

- Person-centered planning
- Conflict-free case management
- Provider-owned settings where HCBS are provided

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# What is the Final Rule?

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## Settings that are not HCBS:

- Nursing facilities
- Institutions for mental disease
- Intermediate care facilities for individuals with intellectual/developmental disabilities
- Hospitals

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# Final Rule Compliance

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## Characteristics Required for HCBS Settings:

- Maximized opportunity for individuals (for example, employment, community engagement, and control of personal resources)
- Access to community living and participation
- Choice, dignity, and privacy

## Additional Characteristics Required of Provider-Owned/Operated Setting:

- Legally enforceable rental agreement
- Lockable doors and freedom to decorate unit
- Choice of roommate
- Control of schedule, including access to food

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# Heightened Scrutiny

For settings **presumed** to have institutional qualities, CMS requires a process called “heightened scrutiny” to determine if the setting has characteristics of a HCBS setting and not an institutional setting.

## **Settings subject to Heightened Scrutiny:**

- Settings in a publicly or privately operated facility that provides inpatient institutional treatment;
- Settings on the grounds of, or adjacent to, a public institution; or
- Settings with the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS

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# Affected Nebraska HCBS Waivers

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## 1915(c) Waivers

- Aged and Disabled (AD) Waiver
- Traumatic Brain Injury (TBI) Waiver
- Comprehensive Developmental Disabilities (CDD) Waiver
- Developmental Disabilities Adult Day (DDAD) Waiver

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# Affected Nebraska HCBS Settings

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## AD Waiver

- Assisted Living
- Adult Day Health
- Extra Child Care for Children with Disabilities
- Respite

## DD Waivers

- Extended Family Home
- Group Home
- Centers for the Developmentally Disabled (CDDs)
- Workshop
- Adult Day
- Other Day Settings

## TBI Waiver

- Assisted Living

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# Nebraska's State Transition Plan

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## **States must have a plan for transitioning settings to meet requirements.**

- Each state had to submit an initial plan explaining how it would update policies and regulations, determine if service settings are meeting requirements, and remedy instances where settings are not meeting requirements
- The State Transition Plan must be available for public comment for at least 30 days
- Submit revised STP plan to CMS by June 2019

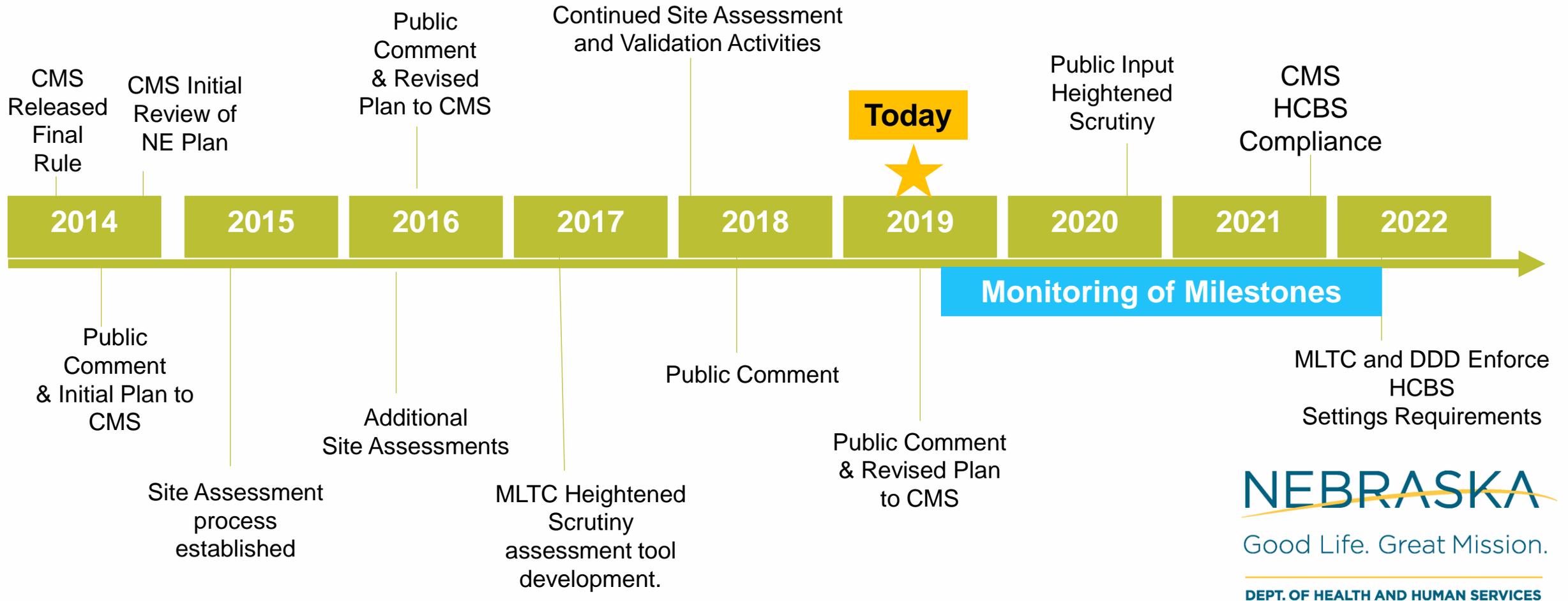
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# Nebraska's State Transition Plan Timeline



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# Nebraska Settings Assessment

MLTC and DDD have notified providers of assessment results. The following chart shows the number of in-person, on-site assessments completed.

Waiver	Assessments Completed
AD and TBI Waiver Residential	221
AD Waiver Non-Residential	121
DD Waiver Residential	630
DD Waiver Non-Residential	124

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# Next Steps

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- Providers who need to make changes will submit remediation plans
- New approved providers (since 2017) are immediately compliant
- MLTC and DDD will monitor progress on provider remediation plans
- DDD continue monitoring of assessments of settings
- MLTC and DDD will provide technical assistance
- Providers make progress, monitored by MLTC and DDD

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# Next Steps

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- Settings subject to heightened scrutiny are required to complete and submit the *HCBS Heightened Scrutiny Evidence Worksheet* with supporting documentation to DHHS
- Both the worksheet and supporting documentation will be reviewed by DHHS staff for initial approval
- Heightened Scrutiny packets will then be sent to CMS
- CMS will make the final determination regarding what settings meet HCBS criteria

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# Next Steps

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## **MLTC and DDD are committed to:**

- Working with individuals, families, providers, and partners
- Sharing technical assistance and good service models
- Supporting providers through heightened scrutiny
- Supporting individuals in provider selection and person-centered service delivery
- All settings must be in compliance by March 2022

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# Thank You

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# Stakeholder Comments

[dhhs.hcbpubliccomments@nebraska.gov](mailto:dhhs.hcbpubliccomments@nebraska.gov)

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## Mail Comments

Attention HCBS Public Comments  
DHHS Medicaid and Long-Term Care  
P.O. Box 95026  
Lincoln, NE 68509

## View the State Transition Plan

<http://dhhs.ne.gov/pages/HCBS-Statewide-Transition-Plan.aspx>

Copies of the revised draft State Transition Plan  
are available upon request.



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