

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



## **Disabled & Elderly Health Programs Group**

---

July 23, 2021

Kelly Cunningham  
Acting Medicaid Director,  
Department of Healthcare and Family Services  
201 South Grand Avenue, 3rd floor  
Springfield, IL 62763

Dear Ms. Cunningham:

This letter is to inform you that the Centers for Medicare & Medicaid Services (CMS) is granting Illinois **initial approval** of its Statewide Transition Plan (STP) to bring settings into compliance with the federal home and community-based services (HCBS) regulations found at 42 CFR Section 441.301(c)(4)(5) and Section 441.710(a)(1)(2). Approval is granted because the state has completed its systemic assessment, included the outcomes of this assessment in the STP, clearly outlined remediation strategies to rectify issues that the systemic assessment uncovered (such as legislative/regulatory changes), and is actively working on those remediation strategies. The state submitted to CMS a February 1, 2017 draft of the STP that was posted for a 30-day public comment period on November 9, 2016, made sure information regarding the public comment period was widely disseminated, and responded to and summarized the comments in the STP. Additionally, the state issued the January 29, 2021 draft of the STP for a 30-day public comment period on February 5, 2020, made sure information regarding the public comment period was widely disseminated, and responded to and summarized the comments in the STP.

After reviewing the draft submitted by the state on February 1, 2017, CMS provided additional feedback requesting that the state make several technical corrections to receive initial approval. The state submitted a revised draft of the STP on January 29, 2021. CMS provided additional feedback on February 26, 2021 and April 22, 2021, requesting that the state make several technical corrections to receive initial approval. These changes did not necessitate a public comment period. Illinois subsequently addressed all issues and resubmitted an updated version of the STP on May 3, 2021. These changes are summarized in Attachment I to this letter. The state's responsiveness in addressing CMS' remaining concerns related to the state's systemic assessment and remediation expedited the initial approval of its STP.

In order to receive final approval, all STPs must include:

- A comprehensive summary of completed site-specific assessments of all HCBS settings, validation of those assessment results, and inclusion of the aggregate outcomes of these activities;
- Draft remediation strategies and a corresponding timeline for resolving issues that the site-specific settings assessment process and subsequent validation strategies identified,

- by the end of the home and community-based settings rule transition period (March 17, 2023);
- A detailed plan for identifying settings presumed to have institutional characteristics, as well as the proposed process for evaluating these settings and preparing for submission to CMS for review under heightened scrutiny;
- A process for communicating with beneficiaries currently receiving services in settings that the state has determined cannot or will not come into compliance with the HCBS settings criteria by March 17, 2023; and
- A description of ongoing monitoring and quality assurance processes that will ensure all settings providing HCBS continue to remain fully compliant with the federal settings criteria in the future.

While the state of Illinois has made much progress toward completing each of these remaining components, there are several technical issues that must be resolved before the state can receive final approval of its STP. CMS will be providing detailed feedback about these remaining issues shortly. Additionally, prior to resubmitting an updated version of the STP for consideration of final approval, the state will need to publish the updated STP for a minimum 30-day public comment period.

Upon review of this detailed feedback, CMS requests that the state please contact Ondrea Richardson (Ondrea.Richardson@cms.hhs.gov) at your earliest convenience to confirm the date that Illinois plans to resubmit an updated STP for CMS review and consideration of final approval.

It is important to note that CMS' initial approval of an STP solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).

I want to personally thank Illinois for its efforts thus far on the HCBS Statewide Transition Plan. CMS appreciates the state's completion of the systemic review and corresponding remediation plan with fidelity, and looks forward to the next iteration of the STP that addresses the remaining technical feedback that is forthcoming.

Sincerely,

Ralph F. Lollar, Director  
Division of Long Term Services and Supports

Attachment I.  
SUMMARY OF TECHNICAL CHANGES MADE BY STATE OF ILLINOIS TO ITS  
SYSTEMIC ASSESSMENT & REMEDIATION STRATEGY AT REQUEST OF CMS IN  
UPDATED HCBS STATEWIDE TRANSITION PLAN DATED January 29, 2021  
SUBMITTED May 3, 2021

**Public Notice**

- The state clarified that public notice periods occurred from February 5, 2020 to March 5, 2020 and November 9, 2016 to December 9, 2016.
- The state included in the systemic remediation plan on page 14 of the STP that the state would continue to evaluate reimbursement rates paid to providers of HCBS in response to commenters' concerns regarding the state's ability to implement the transition plan without additional appropriations to decrease staffing shortages.

**Systemic Assessment**

- The state listed all settings where services are provided under the settings column in appendices B-1 through B-5.
- The state completed the systemic assessment to include forms, policies, rules, provider agreements, waiver manual and managed care contracts.
- Appendix B-1:
  - The state modified Section 89 IAC 240.330, Freedom of Choice, and Section 89 IAC 240.550 ensuring informed choice and freedom to choose services and supports and who provides them (page 6).
- Appendix B-2:
  - The state indicated that all services in the Waiver for Children who are Medically Fragile, Technology Dependent (MFTW) are provided in the individual's private home and included plans for ongoing monitoring.
- Appendix B-3:
  - The state provided the date by which the Division of Developmental Disabilities (DDD) waiver manual and provider agreements will be updated to be in compliance with the settings criteria and issued to providers (page 37-38).
  - The state provided the completion date for the update of 59 IAC 120.40(b)(2)(C) to include Children's Residential Services in service descriptions (page 37).
  - The state provided a link to Title 59 administrative code for the waiver regulations.
  - The state will modify Section 59 IAC 119.232 to ensure access to employment and community access (page 37).
  - The state modified Section 59 IAC 115.300, Environmental Management of Living Arrangements, to ensure settings are physically accessible to the individual (page 56).

- Appendix B-4:
  - The state clarified that the Prevocational Service rule to be updated is 89 IAC.686.1300 and that the update to the rules will result in HCBS compliance (page 59).
  - The state modified Section 89 IAC 677.100 Customer Bill of Rights to include the rights of being treated with dignity and of informed choice effective January 14, 2019 and will be modified again by December 01, 2021 to include freedom from coercion and restraint (page 62).
  - The state added compliance determinations as well as forms, rules and policies for the Division of Rehabilitation Services (DRS) throughout the appendix.
- Appendix B-5:
  - The state clarified that Section 89 IAC 146.230 governing the Supportive Living Program will be updated to ensure access to food at any time (page75).