

Kansas HCBS Statewide Transition Plan (STP)

Home and Community Based-Services (HCBS)
Settings Final Rule



Team Presentation



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The Contents

- Introduction
- Statewide Transition Plan
- Questions

STP Introduction

This section gives a brief overview of:

- Project background
- Project progress

Background

On January 16, 2014, CMS issued the HCBS Settings Rule. The Rule requires states to review and evaluate residential and nonresidential services for HCBS participants to determine current compliance with the Rule.

Background – First Attempt Toward Compliance

- Kansas conducted assessments in 2015 but did not assess 100% of the provider-owned or controlled settings which were required.
- In 2019, a new more accurate assessment was developed to be administered to all HCBS settings.

Statewide Transition Plan (STP)

- Community Connections
- Provider Self-Assessment
- Settings Remediation
- Heightened Scrutiny Process
- Systemic Remediation and Ongoing Monitoring

Key Questions

Where are we now?

Where do we hope to be by March 2023?

What happens after March 2023?

Community Connections KS

Goal: To bring the state of Kansas into full compliance with the settings final rule by **March 17, 2023**.

Key Objective: To offer supports for providers and settings to reach full compliance with final rule.



COMMUNITY
CONNECTIONS

What we have done so far.



Provider Self-Assessment - Findings

KDADS, in partnership with (WSU) reviewed over 100,000+ pieces of evidence submitted through each setting assessment.

Based on the responses to the provider self-assessment:

- Majority of the sites assessed were (89%) residential, (11%) were non-residential.
- The sites serve a total of 86,725 individuals, of whom 14,837 (17%) were receiving HCBS-funded services at the time of the assessment.
- After the desk review, all sites were marked non-compliant and required remediation in at least one or more areas of the Rule.
- 17 Child Placing Agencies who serve a total of 3,778 individuals, of whom 211 (6%) were receiving HCBS-funded services at the time of the assessment.
- After the desk review, all 17 Child Placing Agencies were marked non-compliant and required remediation in at least one or more areas of the Rule.

Provider Self-Assessment – Facts

Based on the responses to the provider self-assessment, and the outcome of the desk reviews. The following became the known facts of Kansas's HCBS System:

1. Providers and Settings are largely non-compliant with the Rule.
2. There were 74 settings verified as being in a publicly or privately-operated facility that provides inpatient institutional treatment; or on the grounds of, or adjacent to an institution in Kansas.
3. Providers and Settings that appear compliant in practice did not have the proper documentation (Policies, Manuals, Handbooks, etc.) to prove their compliant practices.
4. There was **hope** because many of Kansas' settings fell under #3 above and just needed to document their compliance practices.
5. After the self-assessment phase, Kansas had less than 30 months to get the state, and its 2800+ settings to compliance.

2019 Provider Self-Assessment – Remediation

How Settings Remediated:

1. KDADS notified settings of the assessment findings and offered remediation recommendations.
2. Providers were required to select from a drop-down menu of recommended remediation strategies located on the Community Connections website and then select a timeline for individual questions found noncompliant on the assessment.
3. The drop-down menu included an “other” category. Any selection of the “other” category requires a detailed description of the providers remediation strategy, a timeline and approval by KDADS.
4. Once the Remediation Plan is completed, providers will be required to submit evidence (via upload) to Communityconnections.org for further validation.
5. The Remediation Phase currently continues and is scheduled through **September 1, 2022**.

2019 Provider Self-Assessment – Heightened Scrutiny

CATEGORY 1 and 2 (C-1, C-2) - Settings that are located in a publicly or privately-operated facility that provides inpatient institutional treatment; or on the grounds of, or adjacent to an institution in Kansas;

The Heightened Scrutiny Process:

1. KDADS setup a heightened scrutiny team, with a scope limited to C-1 and C-2 settings. The team was responsible for validating status of the settings, scheduling an on-site assessment, collecting evidence as needed and recommending a compliance on non-compliance determination based upon the results of the on-site assessment.
2. The team flagged 74 settings in need of a heightened scrutiny assessment, completed 69 successfully, and was unable to get a response from 5.
3. KDADS initial determination (pending CMS review and analysis) is that all 69 assessed settings **can** overcome the presumptions of institutionalization.

Heightened Scrutiny – Impacts of COVID-19

VIRTUAL HS: KDADS did not identify any indicator that its determination could have been different had it conducted the HS assessments in-person and not virtually.

Impacts of COVID-19

1. On-site assessments were planned for the first quarter of January of 2020 but had to be postponed indefinitely due to the public health emergency of COVID-19. Assessments were restored back on track in Q1 2021.
2. KDADS consulted with other states and decided to conduct the heightened scrutiny assessments through virtual teleconferencing methods.
3. Settings were duly notified of the methodology for the heightened scrutiny assessment.
4. KDADS, through virtual onsite heightened scrutiny assessments, was able to observe all the needed points required to decide on the setting's capability of overcoming the presumptions of institutionalization.
5. KDADS did not identify any indicators that its determination could have been different had it conducted the assessments in-person and not virtually.

Heightened Scrutiny – Settings that Isolate (C-3)

CATEGORY 3 (C-3) - Settings that have the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community of individuals not receiving Medicaid HCBS.

C-3 Settings Remediation.

1. KDADS determined that the qualifying questions for heightened scrutiny category 3 are remediable through policies, procedures, manuals, handbooks and other documentation. KDADS required such settings to submit their evidence through its regular remediation process as other non-heightened scrutiny settings.
2. KDADS required all settings in this category but not also in categories 1 and 2 to remediate before July 1, 2021. Missing the deadline meant having to go through the rigor of additional reviews from the state, public comments and CMS. 7 settings have been identified to have missed the July 1, 2021, deadline.

Where We Are Now?

STP Public Comments

Gathering comments and preparing the STP for CMS's Final Approval.

Remediation

Settings are continuing to remediate and come into compliance.

HS Evidentiary Packets Comments

The 69 settings assessed for HS have their evidentiary packets posted for comments

Systemic Remediation

This is how Kansas tells CMS what the state will do to ensure it is compliant, in addition to how its providers and settings will remain in compliance beyond 2023. The state has initiated this phase.

Systemic Remediation

Ongoing Monitoring

“ Once remedial actions have achieved setting compliance, the state must continue to engage in monitoring and oversight activities of providers/settings to ensure ongoing compliance annually. ”

- CMS

Systemic Remediation

Kansas will be amending current regulations between now and last quarter of 2022 and creating new policies for compliance with the HCBS settings final rule.

Regulations:

- KDADS will create a new waiver service regulation to add compliance with the settings final rule as a requirement for providers serving HCBS members.
- KDADS will amend existing regulations to add compliance with the settings final rule as a requirement for providers serving HCBS members.

Policies:

- KDADS will create policies for ongoing monitoring based on the framework established through the revised regulations.
- KDADS will create policies that expand on the regulations to describe the requirements for compliance.
- KDADS will create policies that will lay out the procedures for certification of compliance, remediation of non-compliance and the decertification in the event of non-compliance.

Ongoing Monitoring

The entire HCBS system will be involved in the ongoing monitoring process.

KDADS Program Integrity Compliance Team

Provider Level

Complete 100% of Annual Provider Certifications

Assist Non-Compliant Providers to Remediate Issue Areas

Initiate Decertification of Non-Compliant Providers

Monitor Transition Process of Non-Compliant Providers

Settlings Level

Random Setting Checks Monthly

Participant Level

Review Survey Data from participants.

Ongoing Monitoring – Process Flow



Ongoing Monitoring

The entire HCBS system will be involved in the ongoing monitoring process.

System Level

Provider Level

Settings Level

Participant Level

Compliance
Monitoring
via Program
Integrity

Existing
Providers
Recertification
Annually

New
Providers
Certification
Annually

Random
Setting
Checks
Monthly

Heightened
Scrutiny
Setting
Checks
(100%)

HCBS
Participant
Setting
Survey Data
Analysis.

Ongoing Training

HCBS
Providers

MCO Care
Coordinators

KDADS HCBS
Staff

HCBS
Participants

The HCBS Final Rule does not apply to just provider-owned or controlled settings but to all individuals served by HCBS regardless of the waiver/program.

HCBS 5 Core Characteristics of Compliance:
Rights, Choice, Privacy, Autonomy and Integration

Ongoing Training – Summary

What processes/procedures need to be in place to ensure ongoing compliance?

New and Revised Regulations and New HCBS Policy on Final Settings Rule

What resources are available/needed?

KDADS Program Integrity and Compliance Team

MCO Care Coordinators

KDHE Enrollment

Who will manage the process?

KDADS HCBS Program Integrity and Compliance Team

When/how often will monitoring occur?

Annually

Key Investments impacting Ongoing Monitoring

Workforce Training Grants

- The state plans to a total initiative investment of \$5.1 to improve the current state of the HCBS workforce.

Employment For Persons With Disabilities

- Supports individuals on the I/DD waiver find integrated and supported employment such that the characteristics of HCBS as promulgated by the settings rule becomes a long-term reality in Kansas.

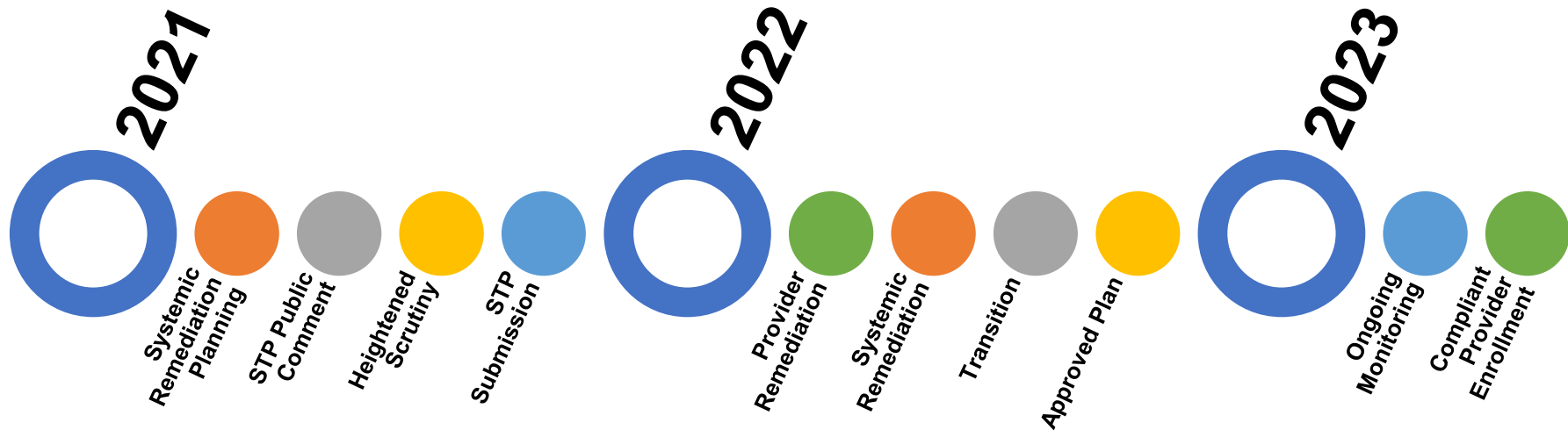
State HCBS Administrative Capacity Increase

- Capacity increase to support monitoring approximately 700 providers of 3000 provider-owned and provider-controlled HCBS settings and about 14000 HCBS participants in provider-owned and provider-controlled settings throughout the state.

HCBS Settings Remodeling Grant

- With the remodeling grants, the state estimates that between 50 to 100 large HCBS providers (e.g., adult care homes) in underserved KS counties (e.g., based on SVI2 score) can become models for compliant HCBS settings.

Project Key Milestone Timeline



RECAP

14,837

HCBS Participants Impacted By the Project

100,000+ evidence

Reviewed for Compliance

60%

Compliance as of September 2021

RECAP

Remediation

The STP describes how providers are remediating areas of non-compliance with the settings final rule.

Training

The STP describes the state's plan to train its providers, MCO care coordinators, staff, and participants on the settings final rule.

Heightened Scrutiny

The STP describes how the state ensures that settings which have characteristics of institutionalization by their location, come into compliance.

Timeline

The STP includes a timeline for the project.

Ongoing Monitoring

The STP describes how the state will ensure that beyond the project's lifecycle, new and existing providers and settings will remain compliant.

Others

The STP process started in 2014 and will be fully implemented by March 17, 2023.

Thank You!

Have Questions?

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