



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

May 20, 2021

To: Tribal Chairpersons, Designees of Indian Health Programs, and
Urban Indian Organizations

Subject: Notice of Proposed Change to the Medi-Cal Program

The purpose of this letter is to provide information regarding a proposed change to the Department of Health Care Services' (DHCS) Medi-Cal Program that will be submitted to the Centers for Medicare and Medicaid Services (CMS). DHCS is forwarding this information for your review and comment.

DHCS is required to seek advice from designees of Indian Health Programs and Urban Indian Organizations on Medi-Cal matters having a direct effect on Indians, Indian Health Programs or Urban Indian Organizations per the American Recovery and Reinvestment Act of 2009 (ARRA). Please note that this memo transmits information regarding an update to the Home and Community Based Settings (HCBS) Statewide Transition Plan (STP). The STP describes how DHCS will demonstrate to CMS compliance with the federal HCBS Final Rule for all of DHCS HCBS programs.

Please see the enclosed summary for a detailed description of this DHCS proposal.

QUESTIONS AND COMMENTS:

Indian Health Programs and Urban Indian Organizations may submit written comments or questions concerning this proposal within 60 days from the receipt of notice. Comments may be sent by email to STP@dhcs.ca.gov or by mail to the address below:

Contact Information

Juliana Lowe
Policy Analyst, Home and Community Based Services Section
Integrated Systems of Care Division
Department of Health Care Services
PO Box 997437, MS 0018
Sacramento, CA 95899-7437

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And Urban Indian Organizations

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In addition to this notice, DHCS plans to cover the STP in the next quarterly Medi-Cal Indian Health webinar. Please note that Indian Health Programs and Urban Indian Organizations may also request a consultation on this proposal the STP at any time as needed.

Sincerely,

Original signed by Corinne Chavez for

Sandra "Sam" Willburn, Chief
Primary, Rural, and Indian Health Division
Department of Health Care Services

Enclosure



Department of Health Care Services (DHCS) Tribal and Designees of Indian Health Programs Notice

PURPOSE

To provide notice that the revised [Statewide Transition Plan \(STP\)](#) for Home and Community Based Services (HCBS) will be submitted for approval to the Centers for Medicare and Medicaid Services (CMS) in Summer 2021. DHCS, in collaboration with the California Department of Aging (CDA) and Department of Developmental Services (DSS), have created an STP that describes timelines and strategies for how the State will come into compliance with new Federal Home and Community-Based (HCB) Settings Final Rule that became effective March 17, 2014. The STP includes the [Community-Based Adult Services \(CBAS\) Transition Plan](#) (Attachment #1), which outlines how CBAS centers comply with the HCB Settings requirements and steps taken to ensure ongoing compliance through and beyond March 17, 2023.

BACKGROUND

CMS issued regulations that define the settings in which states can pay for Medicaid Home and Community-Based Services (HCBS) effective March 17, 2014. HCBS are types of person-centered care delivered in the home and community as an alternative to nursing homes. HCBS programs offer a package of services and support to Medi-Cal beneficiaries who would otherwise require care in a nursing home, but who prefer to remain at home. The purpose of the regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated and that support full access to the greater community. This includes opportunities to seek employment and work in competitive and community settings, participate in community life, control personal resources, and receive services in the community similar to individuals who do not receive HCBS. The regulations increase the opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting.

HCBS programs in California include:

- Community First Choice Option - part of the In Home Support Services Program
- The Multipurpose Senior Services Program
- The Home and Community-Based Alternatives Waiver
- The Assisted Living Waiver
- Program for All-Inclusive Care for the Elderly
- Community-Based Adult Services (CBAS)
- Home and Community-Based Services for Persons with Developmental Disabilities
- Self-Directed Services for Persons with Developmental Disabilities

CMS announced a requirement for states to review and evaluate current HCBS services, including both non-residential and residential programs, to demonstrate compliance with the federal HCBS Settings Final Rule in January 2014. States must ensure all HCBS settings comply with the federal requirements by completing a review of existing state standards including rules, regulations, standards, policies, licensing requirements, and other provider requirements. States must be in full compliance with the federal requirements by March 17, 2023.



SUMMARY OF PROPOSED CHANGES

The revised STP describes California's current efforts, and actions the state proposes to ensure HCBS waiver providers achieve compliance with the federal HCBS Settings Final Rule. The STP also describes the on-site assessment process of HCBS settings, actions required for providers to achieve compliance, and the State's heightened scrutiny review process.

The following sections of the STP / CBAS Transition Plan (Attachment #1) were updated:

- Clarification was added regarding the provider self-assessment process
- Information added regarding the validation of settings, including on-site reviews
- Explanation of Member Surveys
- Explanation of the site assessment process
- A timeline and description of reverse integration
- Addition of Final Validation Results
- Site-specific remedial actions (non-compliant settings)
- Timeline and information regarding remediation work plans
- The states work to ensure that beneficiaries have access to non-disability-specific settings
- Remediation activities and timelines
- The process for ongoing monitoring
- Heightened Scrutiny, and the timeline for submission.

IMPACT TO TRIBAL HEALTH

If a tribal health program participates in any of the HCBS programs, as outlined above, they may need to modify where and how the services are delivered to meet the HCBS Settings Final Rule requirements by March 17, 2023. Policies and program designs may need to be changed and additional staff training may be necessary to assure understanding of the new expectations. The State completed on-site assessments of HCBS providers in 2019. DHCS will monitor and provide oversight of HCBS programs to ensure compliance with the HCBS Settings Final Rule requirements including periodic reviews. Tribal health programs who are found to be out of compliance will be required to submit corrective action plans.

IMPACT TO FEDERALLY QUALIFIED HEALTH CENTERS (FQHCs)

If an FQHC participates in HCBS programs, they may need to modify where and how the services are delivered to meet the HCBS Settings Final Rule by March 17, 2023. Policies and program designs may need to be changed and additional staff training may be necessary to assure their understanding of the new expectations. The State completed on-site assessments of HCBS providers in 2019. DHCS will monitor and provide oversight of HCBS programs to ensure compliance with the HCBS Settings Final Rule requirements including periodic reviews. Federally Qualified Health Centers who are found to be out of compliance will be required to submit corrective action plans.

IMPACT TO INDIAN MEDI-CAL BENEFICIARIES

If an American Indian Medi-Cal Member is receiving HCBS services they will have increased protections relating to where they receive HCBS and ensures individuals are afforded opportunities to be fully integrated into their communities. In the event that an HCBS setting cannot achieve compliance with the HCBS Settings Final Rule the State will provide reasonable notice to all individuals receiving services and before the required 30-day period. DHCS will mail notices to individuals receiving services residing in sites that will not or cannot become compliant well before March 17, 2023. Once an individual receives notice, a transition plan will be developed by the Care Coordination Agency or Waiver Agency, as part of the person-centered planning process involving



the individual's chosen circle of support. The full transition process is described under the STP section "Changes in Services or Providers for Individuals receiving services".

RESPONSE DATE

DHCS invites all interested parties to review the STP along with the CBAS Transition Plan and provide public input. Public comments on the STP can be submitted through the public comment form below, and through US mail. The DHCS website will provide a link to the STP, which will include the CBAS Transition Plan.

Indian Health Programs and Urban Indian Organizations may also submit written comments or questions concerning this proposal within 60 days (May 20, 2021, through July 19, 2021) from the receipt of notice by mail to the address below:

Public comments should be submitted through the following routes:

Online at: [Department of Health Care Services HCBS STP Public Comment Form](#)

By US Mail:

Department of Health Care Services
Integrated Systems of Care Division
1501 Capitol Avenue, MS 4502
Sacramento, CA 95899

For further information on the CBAS Transition Plan attachment contact:

Email: cbascda@aging.ca.gov

Phone: 916-419-7545

US Mail:

California Department of Aging
1300 National Drive, Suite 200
Sacramento, CA 95834

CONTACT INFORMATION

Email: STP@dhcs.ca.gov

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