



COLORADO
Department of Health Care
Policy & Financing



COLORADO
Department of Public
Health & Environment

December 1, 2016

The Honorable Kent Lambert, Chair
Joint Budget Committee
200 East 14th Avenue, Third Floor
Denver, CO 80203

Dear Senator Lambert:

Enclosed please find the Department of Public Health and Environment and the Department of Health Care Policy and Financing's response to the Joint Budget Committee's Multi-Department Request for Information #7 regarding site surveys.

Multi-Department Legislative Request for Information #7

The Department of Health Care Policy and Financing and the Department of Public Health and Environment are requested to report, on a quarterly basis starting September 1, 2016, on the status of hiring new site surveyors, the number of surveys done, the types of providers surveyed, and the time required for each survey. The Departments are also requested to include the estimated cost estimates of provider compliance with the final settings rule and the types of support and technical assistance the Departments are providing.

This second quarterly report encompasses July through October 2016.

The report contains information about the status of the hiring and training of new site surveyors by the Colorado Department of Public Health and Environment (CDPHE), the number and type of site surveys conducted through October 2016 by CDPHE and a contractor working for the Department of Health Care Policy and Financing (HCPF), and the time required to conduct each site survey. The report also includes the estimated number of site surveys per month that CDPHE anticipates completing going forward.

In this report, the Departments describe the processes they are using to collect information regarding the costs to providers of complying with the final rule, the types of potential cost increases identified so far, and the timeline by which they expect to pursue, if necessary, any budget requests and waiver amendments.

The report also includes information regarding the types of support and technical assistance the Departments have provided thus far and will continue to provide.

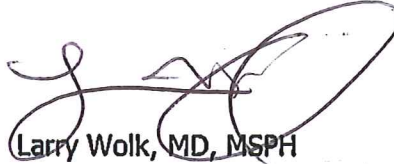


If you require further information or have additional questions, please contact the CDPHE Legislative Liaison, Michael Nicoletti, at Michael.Nicoletti@state.co.us or 303-692-3471, and the HCPF Legislative Liaison, Zach Lynkiewicz, at Zach.Lynkiewicz@state.co.us or 720-854-9882.

Sincerely,



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Executive Director
Department of Health Care Policy & Financing



Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer
Department of Public Health & Environment

Enclosure(s): Health Care Policy and Financing FY 2016-17 Multi-Department RFI #7

Cc: Representative Millie Hamner, Vice-chair, Joint Budget Committee
Representative Bob Rankin, Joint Budget Committee
Representative Dave Young, Joint Budget Committee
Senator Kevin Lundberg, Joint Budget Committee
Senator Dominick Moreno, Joint Budget Committee
John Ziegler, Staff Director, JBC
Megan Davisson, JBC Analyst
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Henry Sobanet, Director, Office of State Planning and Budgeting
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John Bartholomew, Finance Office Director, HCPF
Gretchen Hammer, Health Programs Office Director, HCPF
Tom Massey, Policy, Communications, and Administration Office Director, HCPF
Chris Underwood, Health Information Office Director, HCPF
Dr. Judy Zerzan, Client and Clinical Care Office Director, HCPF
Jed Ziegenhagen, Community Living Office Director, HCPF
Rachel Reiter, External Relations Division Director, HCPF
Rich Hull, Budget Director, DPHE
Randy Kuykendall, Health Facilities and Emergency Medical Services Division Director, DPHE
Kara Johnson-Hufford, Health Facilities and Emergency Medical Services Division Branch Chief, CDPHE
Zach Lynkiewicz, Legislative Liaison, HCPF
Michael Nicoletti, Legislative Liaison, CDPHE



RFI Language

Department of Health Care Policy and Financing, Executive Director's Office; and Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division -- The Departments are requested on a quarterly bases starting September 1, 2016 to report on the status of hiring new site surveyors, the number of surveys done, the types of providers surveyed, and the time required for each survey. The Departments are also requested to include the estimated cost estimates of provider compliance with the final settings rule and the types of support and technical assistance the Departments are providing.

Overview

In January 2014, the federal Centers for Medicare and Medicaid Services published the Home and Community Based Services Settings Final Rule setting forth new requirements for several Medicaid authorities under which states may provide home and community based services. The regulations enhance the quality of home and community based services and provide additional protections to individuals that receive services under those Medicaid authorities. The regulations went into effect in March 2014, providing states five years, until March 2019, to ensure that all home and community based settings are compliant with the rule. The new regulations ensure that participants receiving home and community based services have access to the benefits of community living, that these services are true alternatives to services provided in an institutional setting, and that they are delivered in the most integrated setting possible.

This quarterly report is an update for work completed this fiscal year (2016-2017), encompassing four months, July through October 2016. On June 30, 2016, the Colorado Department of Health Care Policy and Financing submitted the third version of its Statewide Transition Plan, along with a crosswalk that systemically assesses current state statutes, regulations and waivers and identifies where changes may be necessary, to the Centers for Medicare and Medicaid Services for review and approval. The Centers for Medicare and Medicaid Services provided feedback to the Department of Health Care Policy and Financing regarding the Statewide Transition Plan and crosswalk on August 30, 2016, requesting additional detail and clarification to these documents. The Department is finalizing its response to the Centers for Medicare and Medicaid Services and is revising its Statewide Transition Plan and crosswalk for resubmission to the Centers for Medicare and Medicaid Services. The Statewide Transition Plan includes a plan for verifying provider compliance with the federal Settings Final Rule that, among other things, calls for a randomly selected sample of settings to be visited. A contractor (Telligen) completed an initial batch of 57 site visits during the summer of 2016. The Department of Public Health and Environment is charged with completing the remaining site visits pursuant to the Statewide Transition Plan. The two departments continue with weekly calls to discuss the status of the Statewide Transition Plan and related work. The Department of Health Care Policy and Financing shares pertinent documents with the Department of Public Health and Environment related to the project, including documents for specific facilities.

Two budget requests are relevant to the site visit work discussed in this report:

- FY 2015-16 S-9, BA-9, "CLAG Recommendations and HCBS Final Rule Review" (FY 2014-15 Supplemental Request & FY 2015-16 Budget Amendment); and
- FY 2016-17 BA-8, "HCBS Waiver Settings Rule Implementation" (FY 2016-17 Budget Amendment).

In the first request, the Department of Health Care Policy and Financing requested \$518,274 in total funds for fiscal year 2014-15, \$971,749 in total funds for fiscal year 2015-16, and \$178,262 in total funds for fiscal year 2016-17. This request sought funding to hire one full-time employee and one or more contractors to bring the state into compliance with the federal Settings Final Rule, develop a strategy for implementation of the Colorado Community Living Plan, and prepare a financial analysis of the recommendations of the Community Living Advisory Group. The General Assembly approved the following funding for the first and second of these projects: \$266,800 in total funds for fiscal year 2014-15, \$612,475 in total funds for fiscal year 2015-16, and \$100,000 in total funds for fiscal year 2016-17 and ongoing.

In the second request, the Department of Health Care Policy and Financing requested \$1,179,660 in total funds for fiscal year 2016-17 (some of which would be a roll-forward of the appropriation described above for fiscal year 2015-16) and \$715,502 in total funds for fiscal year 2017-18 and ongoing. Most of the requested funding related to hiring a contractor to conduct site visits. The General Assembly approved the following funds for these projects: \$604,922 in total funds for fiscal year 2016-17, including \$425,372 to be transferred to the Department of Public Health and Environment for the costs of 5.4 full-time employees to conduct site visits (in lieu of a contractor), and \$590,966 total funds in fiscal year 2017-18 and ongoing, including \$411,416 to be transferred to the Department of Public Health and Environment for the costs of 5.4 full-time employees.

Status of hiring new site surveyors

In accordance with the appropriations described above, the Department of Public Health and Environment has hired five full-time site surveyors. The Department also hired one full-time supervisor using a combination of new and existing authority.

The supervisor position at the Department of Public Health and Environment was filled in July 2016, and the five full-time site surveyor positions were filled by mid-September 2016. Onboarding training for the surveyor positions, followed by training specifically on home and community based services and settings, was completed in September 2016. Team onsite visits started the last week of September 2016. All first-time visits to a particular type of setting have included at least three staff, for training and consistency.

Number of Surveys Completed

When it submitted Budget Request S-9, BA-9, the Department of Health Care Policy and Financing planned to focus its site visits on providers whose self-assessments indicated probable

noncompliance with the federal Settings Final Rule. This approach would have involved approximately 200 site visits and yielded a 90% confidence level.

The federal Centers for Medicare & Medicaid Services subsequently released new guidance that precluded the Department's planned approach. The federal guidance required that verification visits be conducted with a statistically representative sample of all providers, be stratified by provider setting type, and yield a 95% confidence level. Based on this guidance, the Department calculated in Budget Request BA-8 that 854 site visits would be necessary.

The Department of Health Care Policy and Financing has since revised this figure twice. The first revision, reflected in the Statewide Transition Plan currently under review by the federal Centers for Medicare & Medicaid Services, entailed a new calculation methodology that should meet the federal criteria while only requiring 231 site visits. The second revision, which will be reflected in the next version of the Statewide Transition Plan, relies on updated data regarding affected settings and will require approximately 314 site visits.

As federal guidance and the available data have evolved, the Department has adapted its plan accordingly. For example, the Provider Transition Plan is a document that the provider must complete in order to assess its compliance with the federal Settings Final Rule and set out a remedial action plan and timeline. The plan must be completed even if the provider is not receiving a site visit. When it prepared its most recent budget request, the Department of Health Care Policy and Financing expected to receive no more than 1,222 Provider Transition Plans. Based on the updated settings data it has collected, the Department now expects to receive over 3,000 Provider Transition Plans. This increase in workload is balanced by a reduction in the number of planned site visits, and the Department believes that its current appropriation is sufficient to achieve compliance.

The Department of Health Care Policy and Financing contracted with Telligen to complete 40 agency site visits from April through June 2016. Since some provider agencies provide both residential and non-residential services, there were a total of 57 surveys completed. From September through October 2016, the Department of Public Health and Environment completed 24 site visits, with 27 additional visits scheduled through the end of November.

Types of Providers Surveyed

The following types of settings have been surveyed:

	April-June 2016	July-October 2016
Residential settings		
Children's Habilitation Residential Program settings	1	2
Alternative care facilities	13	11
Supported Living Program and Transitional Living Program facilities for individuals with brain injuries	2	0
Residential settings for adults with intellectual and developmental disabilities, including group and host homes	18	4
Nonresidential settings		
Adult day services centers	4	5
Day habilitation settings for individuals with intellectual and developmental disabilities, including specialized habilitation, supported community connections and prevocational services	19	2
Day treatment facilities for individuals with brain injuries	0	0
Supported Employment – Group locations	0	0
Youth Day service settings	0	0
Total settings	57	24

Time Required per Survey

Background - in preparing Budget Request BA-8, the Department of Health Care Policy and Financing estimated that each site visit would require an average of eight hours of staff time.

Historical experience - Telligen reported that surveys initially required one and a half days to complete, including on-site observations, interviews with individuals, families and staff, and record reviews. The time also included documenting all findings. As surveyors gained experience and depending on the size of the facility, the surveys required one full day on-site.

Current state - survey staff are requesting documentation from the provider prior to the on-site review. This request includes policies, procedures and the Provider Transition Plan. Each site visit is currently requiring one and a half to two days including pre-site visit review, the on-site inspection and report writing. Department staff are conducting more robust surveys than during the initial phase of work conducted by Telligen. Additional information is being collected from providers and individuals receiving services to enhance compliance and identify potential implementation costs for providers.

The Department of Public Health and Environment projects completing two surveys a week per surveyor. Most agencies require two surveyors, due to the number of individuals in services. For

such agencies, the Department anticipates completing two surveys a week with two survey staff each. Given the five full-time surveyors, this results in five surveys a week, or 20 surveys a month. In addition, there are over 3,000 Provider Transition Plans that will be reviewed by the two departments. All providers are required to submit a revised Provider Transition Plan every six months for each setting based on the results of the survey, or changes in their practices, until they are determined to be in compliance with the rule. The desk reviews of these provider transition plans will be labor intensive, given the sheer volume of settings and the revised plans submitted.

Cost Estimates of Provider Compliance with the Final Settings Rule

The Department of Health Care Policy and Financing has sent sample Provider Transition Plans to the Centers for Medicare and Medicaid Services, and may send additional samples in the future, to ensure the plans are compliant with the federal rule. The Department will use this process to ensure that remedial action plans without cost impacts can be sufficient in some cases, and to better understand the need for any significant cost impacts. The Department is also engaging with stakeholders to learn about potential cost increases.

The Department of Public Health and Environment collects information from providers during site visits regarding anticipated changes to their costs as they work toward compliance with the federal Settings Final Rule. Similar to what Telligen reported over the summer, non-residential providers have stated they may require additional staff to provide greater choice of community services in smaller, more individualized groups in the community. Residential providers anticipate increased costs to add individual bedroom locks and key pad entry devices for the home, for individuals who are able to use this device easier than a key.

On-site surveys are expected to continue through June 2017. Once surveys are completed, the surveyors will be reviewing the Provider Transition Plans. Throughout the survey process, the Department of Public Health and Environment will continue to provide the Department of Health Care Policy and Financing with an expanding sample of data it can use to extrapolate system-wide cost projections. By the spring of 2017, the Department of Health Care Policy and Financing will calculate the potential rate impacts of provider mitigation strategies and, if warranted, begin pursuing any necessary budget requests and waiver amendments.

Support and Technical Assistance the Departments Are Providing

Since the implementation of the federal Settings Final Rule, the Department of Health Care Policy and Financing has been working with stakeholders to ensure that Colorado is fully compliant by March 17, 2019. The Department has presented numerous trainings and created and maintains a website for educational materials and other documents. The Departments of Health Care Policy and Financing and Public Health and Environment continue to provide information to stakeholders regarding the Settings Final Rule to ensure participants, providers and other stakeholders understand the rule and its implementation. The Departments of Health Care Policy and

Financing, Public Health and Environment, and Human Services convene weekly to assist in preparing and taking action steps.

The Department of Public Health and Environment provides direct support and technical assistance to providers who receive a site visit. Not only are staff working with a provider regarding a specific facility, Department staff also provide technical assistance for other services delivered by the provider, to assist with the provider's overall plan for compliance with the federal Settings Final Rule.