

# South Dakota Home and Community Based Settings Rule: Corrective Action Plan

## Center for Medicare and Medicaid Services (CMS) Expectations:

It is the expectation of CMS that all states and provider-owned and controlled residential settings will be fully compliant with the following regulatory settings criteria that are not impacted by the COVID-19 PHE, including its exacerbation of the workforce shortage, by March 17<sup>th</sup>, 2023.

- A lease or other legally enforceable agreement providing similar protections;
- Privacy in their unit, including lockable doors, and freedom to furnish or decorate the unit;
- Access to food at any time;
- Access to visitors at any time;
- Physical accessibility; and
- Person-centered service plan documentation of modifications to relevant regulatory criteria.

In addition, all settings within the state will be fully compliant with the following regulatory settings criteria by March 17<sup>th</sup>, 2023.

- Privacy, dignity, respect, and freedom from coercion and restraint;
- Control of personal resources.

Time-limited Corrective Action Plans (CAPs) are available to states to authorize additional time to achieve full compliance with settings criteria that are directly impacted by Public Health Emergency (PHE) disruptions, when states document the efforts to meet these requirements to the fullest extent possible and are in compliance with all other setting criteria. CAPs are also available to states that have submitted presumptively institutional settings to CMS for a heightened scrutiny review and have yet to receive final adjudication of those settings to authorize additional opportunities to complete discussions with CMS.

## South Dakota:

The State of South Dakota anticipates that all settings, including those that are heightened scrutiny, will be compliant with all regulatory setting criteria by March 17<sup>th</sup>, 2023; however, South Dakota has not received final adjudication of the presumptively institutional settings that have been submitted to CMS for a heightened scrutiny review. Per CMS' request, South Dakota is requesting a Corrective Action Plan (CAP) to extend the transition deadline to allow for final adjudication of presumptively institutional settings that have been submitted to CMS for a heightened scrutiny review.

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| <b>Corrective Action Plan (CAP)</b>  |
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| <b>Home and Community Based Services (HCBS) Medicaid Waivers In South Dakota</b>   |
| <ul style="list-style-type: none"> <li>- HOPE Waiver</li> <li>- ADLS Waiver</li> <li>- CHOICES Waiver</li> <li>- Family Support 360 Waiver</li> </ul>  |
| <b>South Dakota HCBS Waivers Affected by CAP</b>   |
| <ul style="list-style-type: none"> <li>- HOPE Waiver</li> </ul>  |
| <b>Goal</b>  |
| <p>The State of South Dakota’s goal is for all settings to be compliant with all areas of the HCBS Setting Rule criteria within six months of receiving feedback from CMS regarding the list of presumptively institutional settings that was submitted and will require a heightened scrutiny review. However, the timeline for compliance will be agreed upon following discussions with CMS regarding additional corrective actions that are required.</p> <p>Settings unable to demonstrate compliance by the conclusion of the agreed upon timeline will be disenrolled as an HCBS Waiver provider and individuals will be transferred to alternate HCBS settings.</p>  |
| <b>Approach and Implementation</b>   |
| <p>The State of South Dakota has the expectation that all settings will be compliant with all regulatory settings criteria by March 17<sup>th</sup>, 2023. However, it is necessary to ensure that adequate time is allotted for the State to gather additional evidence from providers following discussions with CMS regarding presumptively institutional settings that have been submitted to CMS for a heightened scrutiny review.</p> <p>The State anticipates that CMS feedback may result in the need for further policy reviews, onsite visits, or desk visits of an indeterminate number of settings. The timeline for these reviews will be agreed upon following discussions with CMS and the outcome of their heightened scrutiny review.</p> |
| <b>Timeline</b>  |
| <p>The timeline for compliance will be agreed upon following discussions with CMS regarding additional corrective actions that are required.</p>   |