



State of Tennessee

Statewide Transition Plan and Heightened Scrutiny Milestone Tracking

Quarterly Report

Division of TennCare
July 2018

Tennessee’s Statewide Transition Plan and Heightened Scrutiny Milestone Tracking Document Systemic Remediation Tracking

The following chart, taken directly from the Milestone Document submitted to CMS in February 2016, reflects the State’s progress with systemic Transition Plan milestone and remediation activities. The status of each milestone and remediation activity is indicated in the far right column and will be updated as applicable with each quarterly report submission.

General Milestones				
Statewide Transition Plan Milestones	Start date	End date	STP/SR Page #	Milestone Status
Hold seven provider information meetings across the state on the HCBS Rule, State assessment process, Transition Plan development and public input activities	07/08/2014	07/24/2014	2	Completed
Post the information PowerPoint presentation on TennCare website	07/25/2014	07/25/2014	2	Completed
Post public letter to TennCare website	7/25/2014	07/25/2014	3	Completed
Post draft proposed Waiver specific Transition Plan and initial Assessment Tool documents on TennCare website	07/25/2014	07/25/2014	3	Completed
Accept public comment on Transition Plan and Assessment Tool	07/25/2014	09/19/2014	3	Completed
Email public (introduction) letter to assist with informing consumers and families of consumer/family friendly webinars, and the initial draft proposed STP and self-assessment tools to providers and advocates for dissemination.	07/28/2014	07/28/2014		Completed
Post consumer and family information material on TennCare website	08/11/2014	08/11/2014	2-3	Completed
Conduct two consumer and family information open forum conference call meetings ²	08/12/2014	08/14/2014	3	Completed
Post revised waiver specific Transition Plan	09/18/2014	09/18/2014	3	Completed
Finalize documents, post on TennCare website and submit waiver specific Transition Plan and Assessment Tools to CMS	10/01/2014	10/01/2014	3	Completed
Submit waiver renewal with changes to waiver provider qualifications and service definitions to two of three 1915(c) waivers to CMS (Waiver control numbers TN.0128 and TN.0357)	10/01/2014	10/01/2014	9	Completed

Contracted entity person-centered plan self-assessment process	11/21/2014	03/31/2015	11-15	Completed
Contracted entity internal self-assessment on compliance with final rule process	10/01/2014	03/31/2015	11-15	Completed
Submit amendments to third 1915(c) waiver to CMS (Waiver control number TN.0427)	10/15/2014	10/15/2014	9	Completed
Revised Self- assessment tools posted and made available to providers for provider self-assessment process. Providers were encouraged to review materials prior to training session	10/01/2014	10/01/2014	3	Completed
Conduct training sessions on Provider Self-Assessment Tool and Validation Process for contracted entities	10/22/2014	10/22/2014	15-16	Completed
Conduct webinar training sessions on Provider Self-Assessment Tool and Validation Process for providers	10/28/2014	11/13/2014	15-16	Completed
Contracted Entities conduct validation process of reviewing, working with providers on any necessary revisions and approving the provider self-assessment and provider transition plan if applicable	11/01/2014	09/30/2015	18-19	Completed
Post draft STP for comment, email stakeholders, advocacy organizations and provider associations	12/23/2014	01/23/2015	4	Completed
Amend Contractor Risk Agreement with MCOs to incorporate person-centered planning language that clarifies services are provided in an integrated setting	01/01/2015	07/01/2015	10-11	Completed
Propose legislation to amend TN Code (Titles 33, 68, and 71)	01/15/2015	01/15/2015	9	Completed
Distribute revised Needs Assessment and Plan of Care Protocols to MCOs	01/01/2015	01/01/2015	11	Completed
Individual Experience Assessment process	02/01/2015	01/31/2016	30	Completed
Submit Interagency Agreement revisions to DIDD for review/discussion	02/28/2015	02/28/2015	10-11	Completed
Provider Self-Assessment process complete and all submissions received by designated reviewer entities	03/31/2015	03/31/2015	16	Completed
Add STC to 1115 waiver	06/23/2015	06/23/2015	SR 3	Completed
Amendments to CRA to include HCBS Settings Rule provisions become effective	07/01/2015	07/01/2015	10	Completed
Execute amended 1915(c) Waiver Interagency Agreement with DIDD	07/01/2015	07/01/2015	11	Completed
Implement problem solving focus groups of providers and consumers and family members to aid in compliance strategies	07/01/2015	12/31/2016	31	Completed
Promulgate new rules, including collecting stakeholder input	07/01/2015	01/01/2017	10	Completed
MCO revised HCBS Provider Agreements to include HCBS Settings Rule requirements and execute with all HCBS providers	07/01/2015	07/01/2015	11	Completed
Post draft amended Statewide Transition Plan for 30 day public comment	11/02/2015	12/04/2015	4-5	Completed

period				
Email amended STP to stakeholders, advocacy organizations and provider associations for review and dissemination	11/04/2015	11/04/2015	4	Completed
Post revised amended STP (to include heightened scrutiny process) for public comment	11/13/2015	11/13/2015	4	Completed
Email revised amended STP to stakeholders, advocacy organizations and provider associations	11/13/2015	11/13/2015	4	Completed
Received request from provider organization to extend public comment period time. Submitted request to CMS.	12/11/2015	12/11/2015	5	Completed
Received approval from CMS to extend public comment period to 01/13/2016.	12/15/2015	12/15/2015	5	Completed
Submit an amendment to the Statewide Transition Plan with specific remediation activities and milestones for achieving compliance with the HCBS Settings Rule and a summary of public comment	02/01/2016	02/01/2016	SR 9	Completed
Remediation	Start date	End date	STP/SR Page #	Remediation Status
DIDD will bring its policies into alignment with all CQL Basic Assurances ® for CQL Accreditation (which aligns with HCBS Settings Rule)	08/01/2012	12/31/2017	15, 23	Completed
DIDD will implement CQL Personal Outcome Measures (POMs ®) on an individual and systemic level (There are two pieces to this milestone. The first (systemic) was implemented 1/1/2014 and the second (individual) will be implemented when the provider manual is posted—by 12/31/16)	01/01/2014	12/31/2016	23	Completed
Proposed legislation to amend TN Code (Titles 33, 68, and 71) passed and became effective	04/02/2015	04/16/2015	7, 9	Completed
Add provisions to CRA requiring MCOs to add language to their provider agreements/provider manuals requiring HCBS providers to comply with the HCBS Settings Rule	07/01/2015	07/01/2015	8, 11	Completed
MCO implementation of credentialing and re-credentialing provider monitoring became effective in CRA	07/01/2015	07/01/2015	14, 26-27	Completed
CRA HCBS Settings Rule compliance monitoring	07/01/2015	Ongoing	8, 10	Ongoing
Final validation of provider self-assessments and transition plans due from contracted entities	09/30/2015	09/30/2015	16	Completed
Relocation information due to TennCare	09/30/2015	09/30/2015	SR 9	Completed
Complete changes to DIDD provider manual	09/30/2015	12/31/2016	10	Completed
Contracted Entities monitor provider transition plan implementation	09/30/2015	03/01/2019	31-32	Ongoing

Begin work on amending DIDD Provider Agreement to include reference to the HCBS Settings Rule	11/01/2015	3/31/2016	11	Completed
Post for public comment additional changes to the current 1915(c) employment and day services to further strengthen compliance for non-residential settings in the three 1915(c) waivers	11/13/2015	12/14/2015	10	Completed
Collaborate to assist other state departments in revising rules, as applicable, or take necessary steps to otherwise plan for transition if compliance cannot be achieved	12/01/2015	01/31/2017	9	Completed
Relocation Process for non-compliant settings	07/01/2016	TBD	28-29	Completed
Provider Forums to kick off Heightened Scrutiny process	01/08/2016	01/28/2016	22	Completed
Conduct training session for MCOs and DIDD on Heightened Scrutiny process	02/11/2016	02/11/2016	22	Completed
Conduct 4 consumer/family webinars/conference sessions on Heightened Scrutiny specific to facility-based day and sheltered workshops	02/17/2016	02/26/2016	22	Completed
Provide 5 provider Heightened Scrutiny information/training sessions	03/02/2016	03/11/2016	22	Completed
TennCare Internal Heightened Scrutiny process	04/01/2016	03/31/2017	20-22	Completed
Circulate revised Provider Manual to DIDD providers	12/31/2016	12/31/2016	10	Completed
Execute amended DIDD Provider Agreement with contracted providers.	7/1/2016	7/1/2016	11	Completed
Deadline for achieving full compliance	3/17/2019	3/17/2019 ¹	SR 4	In process

¹ The State plans to maintain the expectation of full provider compliance by March 17, 2019; however this deadline may be extended for individual providers needing additional time to complete implementation of a transition plan. Extensions shall not exceed the CMS compliance deadline of March 17, 2022.

Site Specific Compliance Tracking

For the purpose of STP Quarterly Report submissions, this page will always remain the same as historical context.

Tennessee completed the provider self-assessment and validation process September 30, 2015. At that time, 14% of provider settings were determined to be fully compliant with the Final Rule. The total number of HCBS settings assessed was 1,247. The original number reported was 1,245 but that number did not include two additional Adult Care Homes, one of which was originally counted as one with the same company that has two settings.

In November of 2015, TennCare notified consumers, families, providers and advocates of the State’s intent to conduct heightened scrutiny reviews. As a result of that communication and training, many settings identified for heightened scrutiny elected not to proceed as anticipated with provider specific transition plans and opted to wait until receiving the results of the heightened scrutiny review. As reflected in the charts below, progress towards provider transition plan implementation was made more aggressively with those settings that were not identified for heightened scrutiny review.

The chart below represents Tennessee’s provider compliance status as of the completion of the provider self-assessment and validation process September 30, 2015.

Setting Type	Total number of settings	Total compliant 9/30/2015
Adult Care Homes	3	2
Adult Day Care	42	12
Assisted Care Living Facilities	99	12
Community Based Day	167	29
Facility Based Day	86	11
Family Model Residential	290	45
In-home Day	147	24
Supported Employment	99	19
Supported Living	144	19
Residential Habilitation	170	9

The chart below represents Tennessee’s current provider compliance status as of June 30, 2018. It also indicates the number of provider settings that are implementing a transition plan, have no intent to comply or have closed. Providers with “No intent to Comply” may be closing that line of business entirely (e.g., a sheltered workshop or other facility-based program), or may be remaining in business, but will only be serving private pay individuals and will no longer be participating in Medicaid-reimbursed HCBS for that component of its operations. A provider with no intent to comply that is closing the particular line of business will move into the “Closed” column once the process is complete. Providers categorized as “Closed” are those who are no longer in business providing the service indicated.

During the quarter, the total number of provider settings indicating “No Intent to Comply” increased by 1 Adult Day Center and 1 Facility-Based Day setting following completion of heightened scrutiny reviews. The State held multiple technical assistance calls with the Adult Day provider, however they ultimately chose not to move forward because they were not willing to offer community integration opportunities to the individuals they support. The provider was not currently serving any Medicaid members and thus no individuals will need to be transitioned. The Facility-Based Day provider was offered technical assistance from the State but chose not to move forward to achieve compliance. Of the individuals impacted, 41 transitioned to either Community-Based Day or to a compliant Facility-Based Day setting with the same provider, and 4 are no longer receiving day services.

The total number of settings with a status of “Closed” increased by 6 during the quarter. A total of 4 Residential Habilitation providers moved from a status of “Implementing Transition Plan” to “Closed”. These providers informed the State that unrelated to the HCBS Settings Rule, they had decided to end operation of the Residential Habilitation homes and to transition individuals to Supported Living. The remaining 2 settings that moved to close during the quarter were a Community-Based Day setting and an In-Home Day setting operated by the same provider. The provider sold their business to a compliant provider agency. All individuals have transitioned to the new provider agency with no disruption in service provision and the MCOs contracted with the compliant provider agency will ensure ongoing compliance.

There are now a total of 28 Facility-Based Day provider settings who have elected not to come into compliance with the HCBS Settings Rule (including those with a status of “Closed”). Twenty-one of the 28 have transitioned their model of business to community-based day and/or employment services, or are continuing their line of business with private pay individuals only. Although the number of settings with a status of “Closed” and “No Intent to Comply” increased by one during the quarter, the number of individuals impacted decreased from the last reporting period by 26 individuals, from 1,010 last quarter to 984 this quarter. This is because during the previous quarter, a Facility-Based Day setting reported as “Implementing Transition Plan” had been found through the heightened scrutiny review process to be non-compliant and had not made progress on any transition plan milestones. As a result, the 72 individuals served by that provider were included in the total number of individuals impacted by programs that closed or had no intent to comply; however, the provider’s status was not changed. During the current quarter, the State has been in contact with the provider and a revised transition plan has been submitted and approved. Additionally, the provider was able to demonstrate the completion of all transition plan milestones and is now reported to be compliant. The 72 individuals supported by the provider have been removed from the total number of individuals impacted by programs that closed or have no intent to comply.

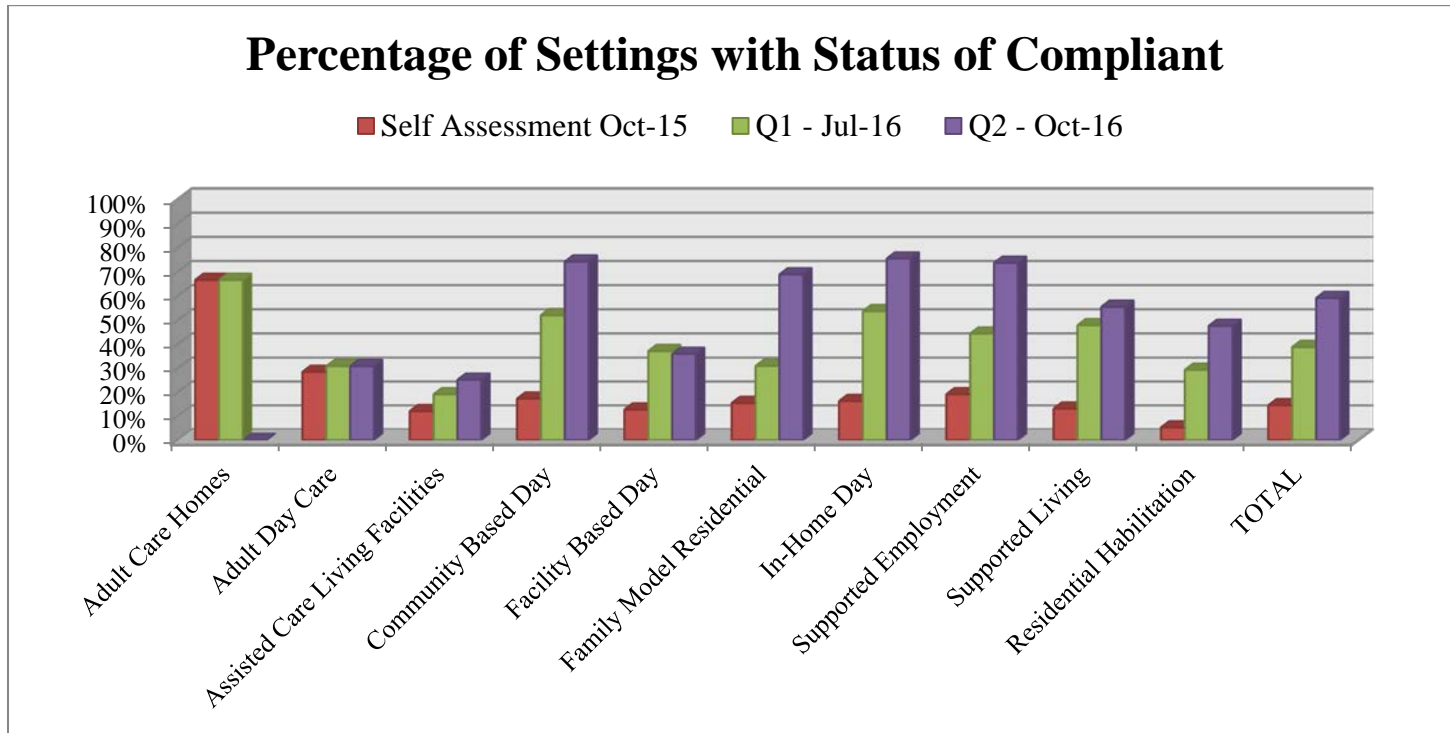
Of the 984 individuals impacted by facility-based day programs that are closed or planning to close, 664 have transitioned to community-based day/employment/in-home day services with the same provider, 203 are still receiving facility-based day services from the same provider and are pending transition, and the remaining 117 are either receiving services from another provider or are no longer receiving day services at all.

As in quarter 8, the number of Compliant settings either increased or remained the same for each setting type during quarter 9. Heightened Scrutiny Review Tools have been released to providers for all settings subject to Heightened Scrutiny. All settings for which areas of partial or non-compliance were identified during the heightened scrutiny review have either submitted an approved transition plan to address those items, or have decided to opt out and declined to move forward with the process. During the quarter, 97 provider settings either completed action steps on a current transition plan, or submitted a revised transition plan which provided evidence that all action steps had already been completed. The total number of settings with a status of “Compliant” has increased from 881 last quarter to 978 this quarter. The number of settings with a status of “Implementing Transition Plan” has decreased from 226 last quarter to 121 this quarter. TennCare expects that numbers will continue to follow this trend as providers complete their transition plan action steps and compliance is achieved. The chart below shows the total number of provider settings for each setting type by compliance status as of 6/30/2018.

Provider Compliance Status as of 6/30/2018					
Setting Type	Total # of settings	Compliant	Implementing Transition Plan	No intent to Comply	Closed
Adult Care Home	2	2			
Adult Day Care	48	20	4	19	5
Assisted Care Living Facility	89	53	17	19	
Community-Based Day	168	154	4		10
Facility-Based Day	87	15	44	10	18
Family Model Residential	291	245	19		27
In-Home Day	148	134	4		10
Supported Employment	100	94	4		2
Supported Living	146	125	14		7
Residential Habilitation	175	136	11		28
TOTALS	1,254	978	121	48	107

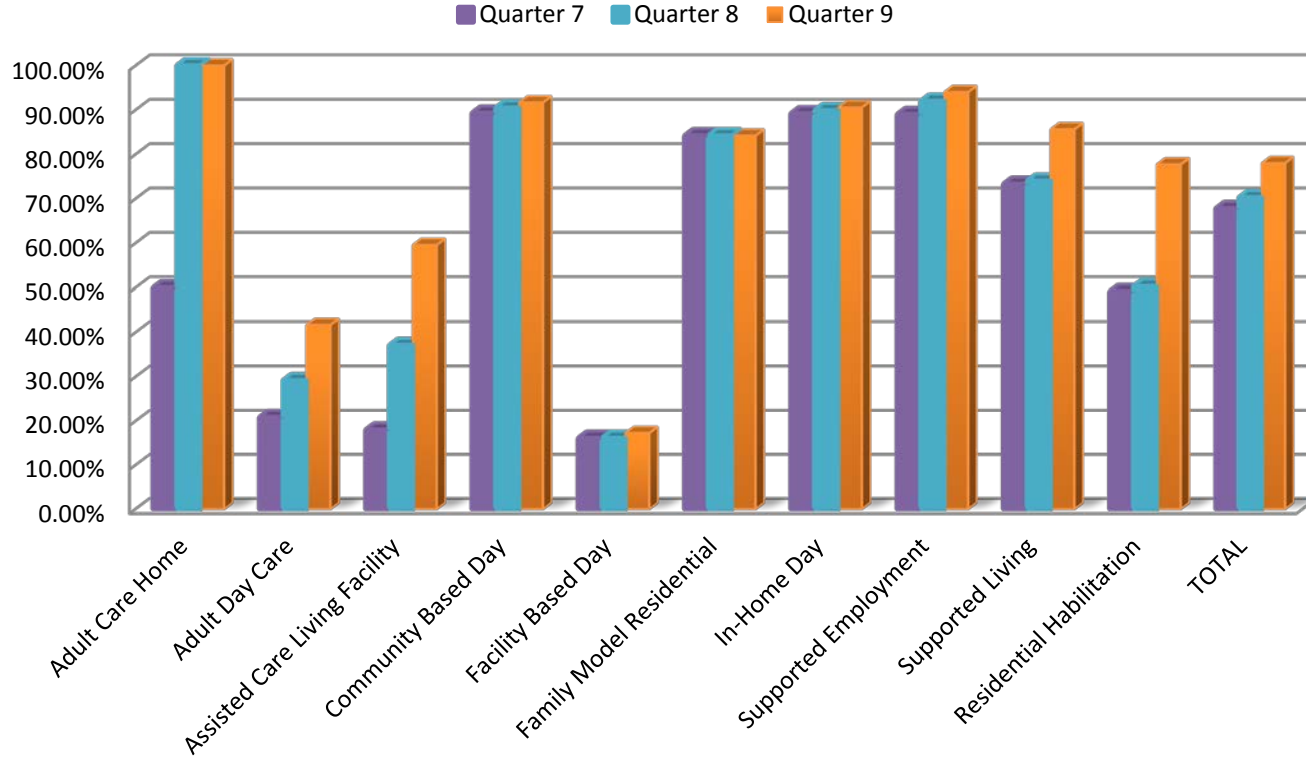
As explained in the quarter 3 report, changes were made to the total number of settings originally reported in the Statewide Transition Plan and reports for Quarters 1 and 2. These changes were identified after improvements were made to our data collection process. The chart below

represents the progress of provider compliance status from the initial provider self-assessment and validation period through the end of Quarter 2. It is included here for historical reference.



The updated chart below demonstrates the percentage of settings that had reached full compliance in quarter 9 as compared to the previous two quarters. It also shows that as of June 30, 2018, 77% of all settings had achieved full compliance. Additionally, 10% of settings are in the process of implementing an approved transition plan, and approximately 13% have elected not to come into compliance or have decided to close.

Percentage of Settings with Status of Compliant



Heightened Scrutiny Milestone Tracking

²The first 3 Heightened Scrutiny milestones should be completed prior to resubmitting the STP to CMS, which is the fourth HS milestone.

Heightened Scrutiny²			
Milestone	Description	Proposed End Date	Completion Date
Identification of settings that overcome the presumption and will be submitted for heightened scrutiny and notification to provider	Complete identification of heightened scrutiny settings and notify providers.	Original date: 10/02/2017 Revised date: 7/15/2018	Completed 7/15/2018
Complete gathering information and evidence on settings requiring heightened scrutiny that it will present to CMS	TennCare Heightened Scrutiny Process; ends 3/31/2017. TennCare Heightened Scrutiny process includes: <ul style="list-style-type: none"> • On-site assessments and interviews will be conducted April 2016 through March 31, 2017. • Data compilation and on-site assessment and interview results will be summarized with state recommendation and submitted on an ongoing basis to the Advocacy Review Committee through 06/30/2017. • Review committee activities will be ongoing through 09/29/2017. 	Original date: 09/29/2017 Revised date: 5/15/2018	Completed 5/15/2018
Incorporate list of settings requiring heightened scrutiny and information and evidence referenced above into the final version of STP and release for public comment	Revised STP will be posted for 30 day public comment period 10/02/2017 through 11/01/2017. Settings identified for heightened scrutiny review include: <ul style="list-style-type: none"> - Assisted Care Living Facilities - Adult Day Care - Facility Based Day - Residential Habilitation with > 4 residents - Residential Habilitation and Supported Living sites in close proximity - Adult Care Homes 	Original date: 10/02/2017 Revised date: 7/31/2018 (Pending CMS Approval)	Milestone 19.0 end date revised to 7/31/18 (Pending CMS Approval)
Submit STP with Heightened Scrutiny information to CMS for review	Public comments will be reviewed and any revisions to the STP based on public input will be made by 11/10/2017.	Original date: 11/10/2017 Revised date: 7/31/2018 (Pending CMS Approval)	Milestone 20.0 end date revised to 7/31/18 (Pending CMS Approval)

Quarterly updates on the HS Review On-site	Report Date	Date Range of HSRs	# Total Reviewed	Facility Based Day	Assisted Living Care Facilities	Res Hab with > 4 residents	Homes in close proximity	Adult Day Care	Adult Care Homes
Quarterly progress update <i>[First quarter after initial and final approval.]</i>	7/13/16	04/01/2015 – 06/30/2016	25	9	11			5	
Quarterly progress update <i>[Second quarter after initial and final approval.]</i>	10/13/16	07/01/2016 – 09/30/2016	64	20	11	11	17	5	
Quarterly progress update <i>[Third quarter after initial and final approval.]</i>	1/31/17	10/01/2016 - 12/31/2016	99	23	32	10	21	11	2
Quarterly progress update <i>[Fourth quarter after initial and final approval.]</i>	4/28/17	01/01/2017 - 03/31/2017	108	18	18	37	29	6	
Quarterly progress update <i>[Fifth quarter after initial and final approval.]</i>	7/13/17	04/01/2017 - 06/30/2017							
Quarterly progress update <i>[Sixth quarter after initial and final approval.]</i>	10/13/17	07/01/2017 – 09/30/2017	1	1					
Quarterly progress update <i>[Seventh quarter after initial and final approval.]</i>	1/13/2018	10/01/2017 - 12/31/2017							

Quarterly updates on the HS ARC Review	Report Date	Date Range of HSRs	# Total Reviewed	Facility Based Day	Assisted Living Care Facilities	Res Hab with > 4 residents	Homes in close proximity	Adult Day Care	Adult Care Homes
Quarterly progress update <i>[First quarter after initial and final approval.]</i>	7/13/16	04/01/2015 – 06/30/2016	0						
Quarterly progress update <i>[Second quarter after initial and final approval.]</i>	10/13/16	07/01/2016 – 09/30/2016	0						
Quarterly progress update <i>[Third quarter after initial and final approval.]</i>	1/31/17	10/01/2016 - 12/31/2016	0						
Quarterly progress update <i>[Fourth quarter after initial and final approval.]</i>	4/28/17	01/01/2017 - 03/31/2017	0						
Quarterly progress update <i>[Fifth quarter after initial and final approval.]</i>	7/13/17	04/01/2017 - 06/30/2017	0						
Quarterly progress update <i>[Sixth quarter after initial and final approval.]</i>	10/13/17	07/01/2017 – 09/30/2017	0						
Quarterly progress update <i>[Seventh quarter after initial and final approval.]</i>	1/13/2018	10/01/2017 - 12/31/2017	0						
Quarterly progress update <i>[Eighth quarter after initial and final approval.]</i>	4/30/18	1/1/2018 – 3/31/2018							

<i>approval.]</i>									
Quarterly progress update <i>[Ninth quarter after initial and final approval.]</i>	7/30/18	4/1/2018 – 6/30/2018	230	50	63	53	43	19	2

Quarterly updates on the HS Review ARC Approved for CMS	Report Date	Date Range of HSRs	# Total Approved	Facility Based Day	Assisted Living Care Facilities	Res Hab with > 4 residents	Homes in close proximity	Adult Day Care	Adult Care Homes
Quarterly progress update <i>[First quarter after initial and final approval.]</i>	7/13/16	04/01/2015 – 06/30/2016	N/A						
Quarterly progress update <i>[Second quarter after initial and final approval.]</i>	10/13/16	07/01/2016 – 09/30/2016	N/A						
Quarterly progress update <i>[Third quarter after initial and final approval.]</i>	1/31/17	10/01/2016 - 12/31/2016	N/A						
Quarterly progress update <i>[Fourth quarter after initial and final approval.]</i>	4/28/17	01/01/2017 - 03/31/2017	N/A						
Quarterly progress update <i>[Fifth quarter after initial and final approval.]</i>	7/13/17	04/01/2017 - 06/30/2017	N/A						
Quarterly progress update <i>[Sixth quarter after initial and final approval.]</i>	10/13/17	07/01/2017 – 09/30/2017	N/A						

Quarterly progress update <i>[Seventh quarter after initial and final approval.]</i>	1/13/2018	10/01/2017 - 12/31/2017	N/A						
Quarterly progress update <i>[Eighth quarter after initial and final approval.]</i>	4/30/2018	1/1/2018 – 3/31/2018							
Quarterly progress update <i>[Ninth quarter after initial and final approval.]</i>	7/30/2018	4/1/2018 – 6/30/2018	230	50	63	53	43	19	2

Quarterly progress reporting updates

1. Reviewing progress made to-date in the state’s completion of its proposed milestones:

Systemic Remediation Milestones:

Out of the 23 systemic remediation milestones, 2 are ongoing and 1 is in process. The chart on pages 1-4 of this report shows the specific milestone status.

Contracted Entities Monitor Provider Transition Plan Implementation - Status: Ongoing

We continue to work with our contracted entities (MCOs and DIDD) to track and report progress on provider transition plan implementation each quarter (detailed on pages 6-9 of this report), and work with them to refine their reporting processes to ensure the integrity of compliance data.

CRA HCBS Settings Rule Compliance Monitoring - Status: Ongoing

As reported in previous quarterly reports, the State has amended its Contractor Risk Agreement (CRA) with the Managed Care Organizations (MCOs) to include HCBS Settings Rule language effective January 1, 2015, with additional amendments effective July 1, 2015 and January 1, 2017.

The State also amended its 1915(c) Waiver Interagency Agreement with the Department of Intellectual and Developmental Disabilities (DIDD) to include HCBS Settings Rule language effective July 1, 2015.

The State monitors MCO and DIDD compliance with HCBS Settings Rule requirements in the CRA and Interagency Agreement on an ongoing basis through our audit process, review of member experience data, oversight of the person-centered planning process, and through our quality monitoring process.

As reported in the previous quarterly report, the DIDD Provider Agreement was amended effective July 1, 2016 to include a new provision requiring providers to maintain compliance with the HCBS Settings Rule. In addition, HCBS Settings Rule language has been added to the DIDD Provider Manual that sets requirements related to individual rights and modifications to the rule. The State approved these revisions and the Provider Manual was posted on the DIDD website for public comment in January of 2017. The Provider Manual will be finalized pending approval of other sections unrelated to the HCBS Settings Rule.

Status of Remaining State Administrative Rule Changes

Tennessee Department of Health (DOH):

As previously reported, DOH decided to delay consideration of adding rule language around the HCBS Settings Rule. DOH is currently reviewing proposed language from TennCare to include on ACLF and ACH provider applications going forward. TennCare will continue these discussions until a process for achieving compliance has been finalized.

Tennessee Department of Human Services (DHS):

During quarter 4, DHS contacted TennCare to discuss incorporating HCBS Settings Rule language into the State administrative rules relating to adult day care. At this time, DHS has stated it does not plan to amend its rule language because it does not contain any delineation between Medicaid and non-Medicaid providers and the department does not want to create such a delineation in its rules. During quarter 9, DHS agreed to address HCBS settings compliance concerns by issuing a letter to currently licensed Adult Day Centers which included a statement that TennCare-reimbursed providers must comply with the applicable Home and Community-Based Services Settings Rule. In addition, DHS has posted the statement and a link to the TennCare HCBS Settings Rule website on the DHS licensure web page to ensure this information is available to adult day providers going forward, including entities that are considering becoming providers so that they have information on the rule and understand the compliance expectations before they apply.

1915c Waiver amendments—Completion of the design and implementation of a new reimbursement approach

In an effort to increase flexibility, encourage individual choice and freedom, and promote integrated employment and engagement in community life, consistent with the goals of the HCBS Settings Rule, TennCare is continuing to work with stakeholders to modify service definitions and design a new reimbursement approach for Employment and Day Services in the Section 1915(c) waivers. Most importantly, the new approach will align payment with important system values and individual outcomes, including employment and community integration, by providing higher rates of reimbursement for individual integrated employment supports and community-based day services.

Using an approach very similar to that used in the newly implemented Employment and Community First CHOICES program (an MLTSS program for people with Intellectual and/or other Developmental Disabilities), Supported Employment services will include critical pre-employment services including Employment Exploration and Discovery, as well as Job Development when it is not available to waiver participants through vocational rehabilitation. Pre-employment services covered under Supported Employment will be paid on an outcome basis. Supported Employment Job Coaching rates will be restructured to incentivize fading and adjust payment based on the level of acuity of the individual and the length of time the individual has held the job for which coaching supports are being provided. All Employment and Day services will have new definitions, and transition from per diem units of service to quarter hour units across all Employment and Day services will allow providers greater flexibility in meeting the specific individualized needs of members related to employment and community living goals. Waiver participants will have the option to use their home as their base (rather than a facility), but incentives for employment and community participation will also be implemented to prevent isolation at home. Community Participation Supports will also be incentivized through the rate structure, to encourage and support meaningful community involvement.

After gathering feedback from stakeholders on an initial proposal, TennCare worked with DIDD and with stakeholders to finalize the proposed new reimbursement structure. In quarter 5, TennCare collected data directly from waiver providers to be used to model the proposed new rates and anticipated utilization changes. (Our ability to accurately model rate impact using claims data is hampered by the current billing structure, which obscures the actual types of services that are being reimbursed within a per diem payment.) The quarter 5 data collection effort aided in accurate cost modeling. During quarter 6, the data was reviewed, validated, and used to build a cost model that compares utilization and costs within the current approach with the proposed new value-based approach. The results were shared with DIDD and providers in February of 2018. During quarter 8, TennCare did additional work with stakeholders to make final adjustments and convened implementation workgroups in preparation for amending all three waivers with the new Employment and Community services stated above.

During quarter 9, implementation workgroups are ongoing. On May 18, 2018, the State posted the proposed 1915(c) waiver changes, along with the full waiver amendment application for all three waivers for public review and comment. The proposed changes were posted on the TennCare website; sent directly to advocacy groups with a request to distribute to waiver participants and families; and to Tennessee Community Organizations, a statewide trade association for service provider organizations that support people with I/DD, with a request to share with their members and to ask those providers to share with persons supported and families. DIDD included notice in Open Line, an electronic newsletter distributed weekly to providers, advocacy organizations, and other stakeholders. The 30 day public comment period closed on June 18, 2018. A total of forty (40) comments on the proposed waiver amendment applications were received from HCBS providers, Independent Support Coordinator agencies, direct support professionals, family members/representatives, advocacy organizations, and persons supported. Many of the comments were operational in nature (regarding implementation, billing, documentation, etc.), and responses provided additional detail regarding how the changes would be implemented, but did not result in changes to the proposed waiver amendments. Detailed responses to the comments reiterate the importance of person-centered planning and service delivery based on the individualized needs and preferences of persons supported, as well as alignment with expectations of the federal HCBS Settings Rule and the Americans with Disabilities Act to provide services in the most integrated setting appropriate. On July 5, 2018 all three proposed waiver amendments were submitted to CMS.

Heightened Scrutiny Milestones:

Of the 4 Heightened Scrutiny Milestones on page 10 of this report, two have been completed. TennCare has requested to revise the end date for the two remaining Milestones to 7/31/18. The proposed revised end date has not yet been approved by CMS.

2. Discussing challenges and potential strategies for addressing issues that may arise during the state's remediation and relocation processes.

As explained above on page 6 of this report, most of the individuals needing to transition from a setting that closed or indicated they had no intent to comply have transitioned to compliant settings with the same provider agency that converted from a facility-based day to community-based day setting. The Adult Day Center that declined to move forward with the process during the quarter was not serving Medicaid recipients. Also during the quarter, the State reached out to an Adult Day Center reported as No Intent to Comply during the previous quarter to offer technical assistance and encourage the setting to submit a transition plan. The State held multiple technical assistance calls with the provider, however they ultimately decided to opt out of the process because they were unwilling to offer community integration opportunities. Two individuals were receiving services in the setting, and TennCare is working with the provider and the MCO contracted with that provider to transition the individuals to a compliant Adult Day setting.

One challenge identified during this quarter concerns the conflict of State licensure requirements on transportation specific to Adult Day Care providers with the community integration requirements of the HCBS Settings Rule. On May 4, 2018, two TennCare representatives presented at the Tennessee Association of Adult Day Services (TAADs) at the TAADs annual spring conference on the results of the Heightened Scrutiny process specific to Adult Day providers. One of the main non-compliant areas common to Adult Day Care providers was community integration, specifically lack of frequency of outings into the community. While several Adult Day Care providers had previously informed the State that affordable, accessible vehicles that were large enough to take all attendees who chose to go on outings was an issue, at this TAADs meeting providers raised a new concern which had previously not been mentioned during any of the on-site visits. This concern was that the department responsible for Adult Day Care licensure, the Department of Human Services (DHS), had restrictions in licensure rules that prevented or discouraged community integration. Some examples provided were concerns over liability of the provider, even if another entity (a volunteer organization, for example) was transporting the members, the requirement of a detailed transportation plan created in advance of trips, which hindered spontaneous outings, and qualifications needed by drivers, which were excessive and caused a lack of available drivers. In response, TennCare is working to convene a meeting of provider representatives and DHS licensure staff to determine whether certain rules can be waived or qualified for these providers.

A second challenge identified during this quarter is the interplay between the authority of members' legal representatives, particularly conservators, and the modifications requirements of the HCBS Settings Rule for provider-owned and/or controlled settings. There have been several cases, in both the two managed care LTSS programs and the 1915c HCBS Waivers, where a conservator has directed a residential provider to put a restriction on a member that would not pass the modifications procedure. Examples include restricting the number of sodas a 23-year old member chose to drink to one per day, despite no diagnoses that would make the intake of more than one soda medically or behaviorally dangerous, and in fact increased aggressive behaviors as a result of the restriction, and a conservator refusing to allow a provider to assist an individual with I/DD to pursue employment despite the member having the capacity and desire to do so. From our experience, such restrictions are more common among

conservators to wards with I/DD than conservators for older adults. We welcome technical assistance from CMS in terms of whether conservators' directives must go through the modification procedure for individuals living in provider-owned and/or controlled residences. CMS has previously provided technical assistance concerning restrictions not meeting the modification process requirements in private homes.

- 3. Adjusting the heightened scrutiny process as needed to assure that all sites under each of the three prongs have been identified, the rationale of why and how the state has assessed and categorized settings based on each of the three prongs under heightened scrutiny (particularly those settings under the third “prong” of heightened scrutiny, i.e. “any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS”), and the state’s progress in producing the evidence necessary for submission to CMS under heightened scrutiny review.**

Evidence to CMS:

As reported in quarter 8, 18 provider settings remained that had either not yet submitted a transition plan or had submitted a plan that was not approved. At the beginning of quarter 9, the 18 remaining provider settings received a final notice giving them 10 business days to submit a compliant transition plan, and an offer of technical assistance from TennCare staff. TennCare staff provided individualized technical assistance to 13 of the 18 providers, all of whom were able to submit a transition plan that was approved by the State. The 5 remaining providers notified TennCare during the 10 day time period of their decision to opt out and no longer move forward with compliance efforts. These providers were informed that the result of this decision would be termination of the Medicaid-reimbursed HCBS provided at the setting.

During quarter 9, the State identified the final list of provider settings that have overcome the institutional presumption and will be submitted to the Centers for Medicare and Medicaid Services (CMS) for further review. These are provider settings TennCare has determined to be either fully compliant, or settings that TennCare believes will be compliant upon full implementation of an approved transition plan prior to March of 2019.

- 4. Providing feedback to CMS on the status of implementation, including noting any challenges with respect to capacity building efforts and technical support needs.**

During Quarter 6, TennCare requested, and CMS approved, changes to the timeline in our submission of Milestones 17.0, 18.0, and 19.0 due to the unanticipated delays to our process (explained in our quarter 7 report submission).

Advocacy Review Committee (ARC) activities were originally set to be completed in Tennessee's Milestone document by September 29, 2017. However, we previously requested and received approval to extend our deadline. In keeping with the revised Milestone timeline, TennCare initiated its ARC reviews during Quarter 8. The ARC process included providing the opportunity for ARC members to review and comment on each review tool and transition plan for providers that the State determined to have institutional characteristics based on partial or non-compliance in the review tool during the heightened scrutiny process, but that submitted an approved transition plan to overcome those institutional characteristics.

In February of 2018, TennCare began providing ARC members with information about the documentation (e.g., policies and procedures) submitted by each of the above provider settings, the results of on-site Heightened Scrutiny review concerning member interviews, staff interviews, and physical settings observations, as well the transition plan that has been approved by TennCare. The expectation was that ARC members would independently review tools and provide feedback to TennCare. Upon initiating ARC review, the State received a recommendation from ARC members to change our approach to collecting feedback from ARC members. The ARC suggested a revised process in which the State would convene on-site meetings to review and discuss evidence collaboratively. The ARC review process is a necessary and important part of implementing the Statewide Transition Plan and in an effort to ensure ARC members had an opportunity to fully participate in the process, the State requested to delay the milestone deadline for ARC review from April 30th to May 15th.

During quarter 9, the State held two on-site meetings with ARC members where we presented evidence from providers, by setting type, and described action steps that have been approved in provider transition plans. Feedback from those discussions has been documented and will be incorporated into our final evidence packet submitted to CMS on September 1, 2018. Additionally, ARC members drafted a formal letter describing their experience participating in the ARC process and support of the State's Heightened Scrutiny Review Process. This letter will be submitted to CMS as part of our final evidence packet. The ARC review process was completed by the revised Milestone deadline of May 15th, 2018.

As previously mentioned, the State has identified the provider settings that have overcome the institutional presumption and will be submitted to the Centers for Medicare and Medicaid Services (CMS) for further review. The list of provider settings TennCare has determined to be either fully compliant, or settings that TennCare believes will be compliant upon full implementation of an approved transition plan were released for public comment on June 15th, 2018. The public comment period will end on July 15th, 2018 at the beginning of the next quarter.

During the next quarter, the Statewide Transition Plan will be updated to include the list of provider settings TennCare has determined to be either fully compliant, or settings that TennCare believes will be compliant upon full implementation of an approved transition plan. It will also be updated to incorporate ARC and public comment and will be posted to the TennCare website on July 31st, 2018 (pending CMS approval).

The final evidentiary packet will be submitted for CMS review on September 1, 2018.