TN Division of Health Care Finance & Administration

State of Tennessee

Statewide Transition Plan and Heightened Scrutiny Milestone Tracking

Quarterly Report

Division of TennCare
January 2018

TN Division of Health Care Finance & Administration

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 December 31, 2017. 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.

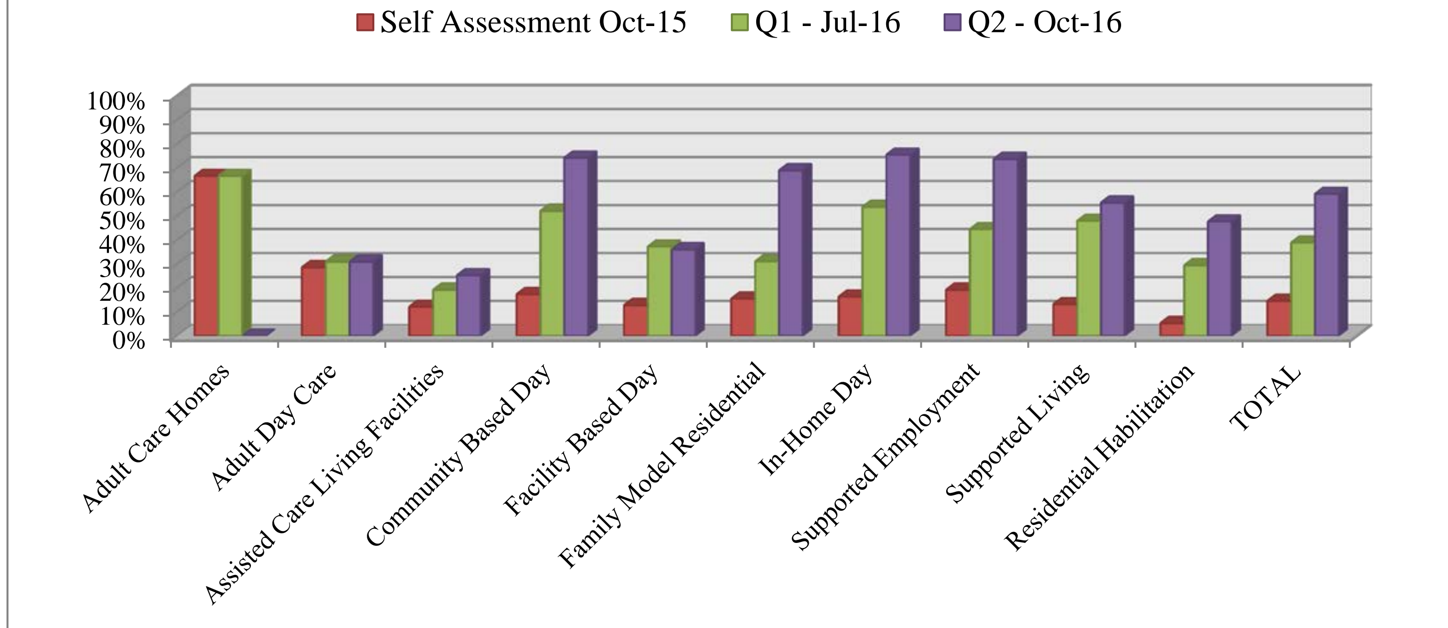
During the quarter, the total number of provider settings indicating "No Intent to Comply" increased by 4, including 2 Adult Day Care providers, and 2 Assisted Care Living Facilities. One Adult Day Care provider decided not to move forward with implementing a transition plan after receiving a non-compliant review tool. The other Adult Day Care provider chose not to move forward with implementing a transition plan after receiving a request for additional transition plan revision because the State determined the initial transition plan revisions were inadequate to come into compliance. The 2 Assisted Care Living Facilities terminated their contracts with the MCOs during the quarter, unrelated to the HCBS Settings Rule. None of the 4 providers were currently serving Medicaid HCBS participants; therefore there was no need to transition affected members.

The total number of settings with a status of "Closed" also increased by 4 during the quarter, all of which were facility-based day settings. There are now a total of 23Facility-Based Day provider settings who have elected not to come into compliance with the HCBS Settings Rule. Sixteen of the 23 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. The number of individuals impacted by facility-based day programs that closed or programs that indicated they had no intent to comply increased from the last reporting period by 44 individuals, from 917 last quarter to 961 this quarter. Of the 961 individuals now impacted by facility-based day programs that are closed or planning to close, 547 have transitioned to community-based day/employment/in-home day services with the same provider, 300 are still receiving facility-based day services from the same provider and are pending transition, and the remaining 114 are either receiving services from another provider or are no longer receiving day services at all.

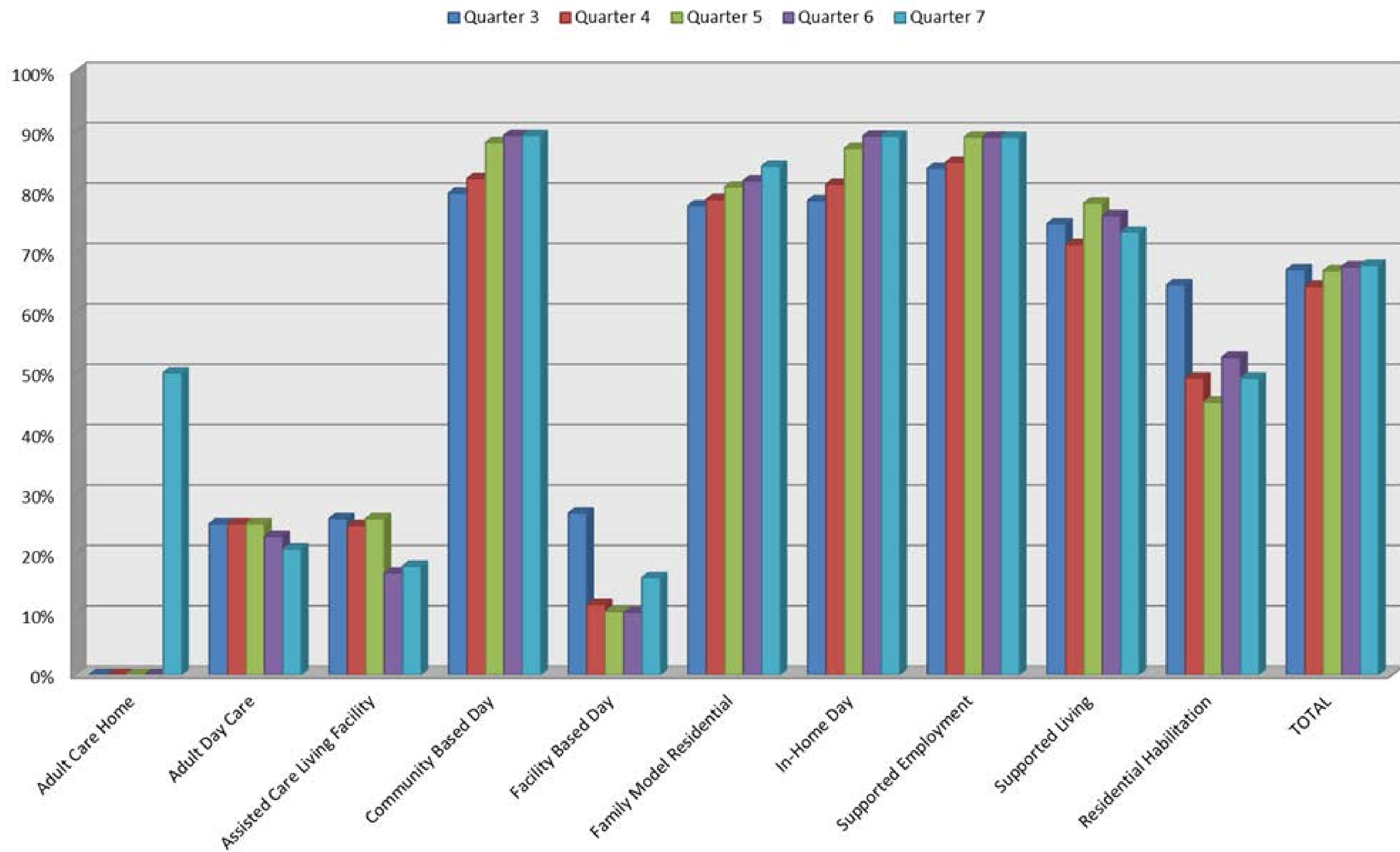
We continue to work with our contracted entities (MCOs and DIDD) to refine their reporting processes and ensure the integrity of compliance data. Further, as explained in the previous quarterly report, provider compliance status has and will continue to change as a result of the Heightened Scrutiny process. The number of settings with a status of "Compliant" has increased slightly from 847 last quarter to 850 this quarter. The number of settings with a status of "Implementing Transition Plan" has decreased from 270 last quarter to 259 this quarter. TennCare expects that numbers will continue to follow this trend as more providers begin completing their transition plans and compliance is achieved, or as providers elect not to come into compliance or to close (as explained above). It is also expected that these totals will continue to be impacted by the transition plan review and approval process. Although the total number of compliant settings increased overall during the quarter, we saw a slight decrease in the number of compliant settings for the following setting types: Adult Day Care, Supported Living, and Residential Habilitation. As we have explained in previous reports, some providers considered compliant during the self-assessment process are being required to create a transition plan as a result of their Heightened Scrutiny Review findings.

Provider Compliance Status as of 12/31/2017					
Setting Type	**Total # of settings**	**Compliant**	**Implementing Transition Plan**	**No intent to Comply**	**Closed**
Adult Care Home	2	1	1		
Adult Day Care	48	10	15	18	5
Assisted Care Living Facility	89	16	54	19	
Community-Based Day	168	150	9		9
Facility-Based Day	87	14	50	7	16
Family Model Residential	291	245	19		27
In-Home Day	148	132	7		9
Supported Employment	100	89	9		2
Supported Living	146	107	32		7
Residential Habilitation	175	86	63		26
TOTALS	**1254**	**850**	**259**	**44**	**101**

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 provider compliance status for Quarters 3-7. It is not being shown in comparison to the progress of provider compliance status from the initial provider self-assessment and validation period through the end of Quarter 2 because the total number of settings changed significantly.


Percentage of Settings with Status of Compliant
Quarter 3
Quarter 4
Quarter 5
Quarter 6
Quarter 7
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Adult Care Home
Adult Day Care
Assisted Care Living Facility
Community Based Day
Facility Based Day
Family Model Residential
In-Home Day
Supported Employment
Supported Living
Residential Habilitation
TOTAL

Heightened Scrutiny Milestone Tracking

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

Heightened Scrutiny[2]			
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.	10/02/2017	Milestone 17.0 end date revised to 7/15/18
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: • 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.	09/29/2017	Milestone 18.0 end date revised to 4/30/18
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: - 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	10/02/2017	Milestone 19.0 end date revised to 7/15/18
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.	11/10/2017	Milestone 20.0 end date revised to 4/30/18

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 *[First quarter after initial and final approval.]*	7/13/16	04/01/2015 – 06/30/2016	**25**	9	11			5	
Quarterly progress update *[Second quarter after initial and final approval.]*	10/13/16	07/01/2016 – 09/30/2016	**64**	20	11	11	17	5	
Quarterly progress update *[Third quarter after initial and final approval.]*	1/31/17	10/01/2016 - 12/31/2016	**99**	23	32	10	21	11	2
Quarterly progress update *[Fourth quarter after initial and final approval.]*	4/28/17	01/01/2017 - 03/31/2017	**108**	18	18	37	29	6	
Quarterly progress update *[Fifth quarter after initial and final approval.]*	7/13/17	04/01/2017 - 06/30/2017							
Quarterly progress update *[Sixth quarter after initial and final approval.]*	10/13/17	07/01/2017 – 09/30/2017	**1**	1					
Quarterly progress update *[Seventh quarter after initial and final approval.]*	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 *[First quarter after initial and final approval.]*	7/13/16	04/01/2015 – 06/30/2016	0						
Quarterly progress update *[Second quarter after initial and final approval.]*	10/13/16	07/01/2016 – 09/30/2016	0						
Quarterly progress update *[Third quarter after initial and final approval.]*	1/31/17	10/01/2016 - 12/31/2016	0						
Quarterly progress update *[Fourth quarter after initial and final approval.]*	4/28/17	01/01/2017 - 03/31/2017	0						
Quarterly progress update *[Fifth quarter after initial and final approval.]*	7/13/17	04/01/2017 - 06/30/2017	0						
Quarterly progress update *[Sixth quarter after initial and final approval.]*	10/13/17	07/01/2017 – 09/30/2017	0						
Quarterly progress update *[Seventh quarter after initial and final approval.]*	1/13/2018	10/01/2017 - 12/31/2017	0						

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 *[First quarter after initial and final approval.]*	7/13/16	04/01/2015 – 06/30/2016	N/A						
Quarterly progress update *[Second quarter after initial and final approval.]*	10/13/16	07/01/2016 – 09/30/2016	N/A						
Quarterly progress update *[Third quarter after initial and final approval.]*	1/31/17	10/01/2016 - 12/31/2016	N/A						
Quarterly progress update *[Fourth quarter after initial and final approval.]*	4/28/17	01/01/2017 - 03/31/2017	N/A						
Quarterly progress update *[Fifth quarter after initial and final approval.]*	7/13/17	04/01/2017 - 06/30/2017	N/A						
Quarterly progress update *[Sixth quarter after initial and final approval.]*	10/13/17	07/01/2017 – 09/30/2017	N/A						
Quarterly progress update *[Seventh quarter after initial and final approval.]*	1/13/2018	10/01/2017 - 12/31/2017	N/A						

Quarterly progress reporting updates

1. Reviewing progress made to-date in the state's completion of its proposed 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. TennCare recently requested changes to its heightened scrutiny milestone end dates, which can be found in the chart on page 10 of this report. The proposed revised timeline has not yet been approved by CMS.

Contracted Entities Monitor Provider Transition Plan Implementation

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

As outlined in the Statewide Transition Plan, the State amended its Contractor Risk Agreement (CRA) with the Managed Care Organizations (MCOs) to include HCBS Settings Rule language effective January 1, 2015. Additional amendments became effective July 1, 2015, including the process for ensuring final rule compliance prior to credentialing and re-credentialing providers. Prior to executing a provider agreement with any HCBS provider seeking Medicaid reimbursement for HCBS, the MCO is required to verify that the provider is compliant with the HCBS Settings Rule. The CRA has since been amended to extend that requirement to Employment and Community First CHOICES providers. Because Employment and Community First CHOICES was approved and implemented after the effective date of the HCBS Settings Rule, settings must already be in compliance and providers do not have opportunity for transition. Subsequent amendments to the CRA included a requirement that the person-centered planning process should include the review of the appropriateness of any modifications to a member's rights under the HCBS Settings Rule. Beginning in 2015, TennCare requested that contracted entities assess each member's experience in receiving Medicaid HCBS using an Individual Experience Assessment as part of the annual person-centered planning process. Effective January 1, 2017, the CRA was amended to require that all members receive the assessment and that MCO staff address any issues regarding compliance with the HCBS Settings Rule. In addition, as part of ongoing monitoring of compliance with the HCBS Settings Rule, the MCOs are required to identify trends relating to member concerns with particular providers or provider settings and report those issues to the State along with steps for remediation to address those concerns.

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. Additionally, in January 2015, DIDD achieved Person-Centered Excellence Network Accreditation, by The Council on Quality and Leadership.

Finally, as described in the Statewide Transition Plan, 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. Currently, proposed revisions are under review based on those comments. During the previous quarter, TennCare and DIDD identified the need for further discussion regarding the functions of the Human Rights Committee section of the manual. TennCare and DIDD agreed that revisions to a separate Human Rights Committee Policy were needed to include specific guidance on informed consent and a detailed process for evaluating restrictions and deciding an outcome. The DIDD Provider Manual has been revised to replace the Human Rights Committee section with reference to the Human Rights Committee Policy. The Provider Manual will be finalized pending approval of other sections unrelated to the HCBS Settings Rule, which are still under DIDD review.

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. DHS has instead expressed its intent to address HCBS settings compliance concerns on the licensure application for adult day providers going forward. TennCare will continue these discussions until a process for achieving compliance has been finalized.

1915c Waiver renewals—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 working 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), separate rates will be established for job development/customization or self-employment start-up, coaching, and stabilization and monitoring, as well as a Community-Based wrap-around services with higher rates of

reimbursement than Community-Based Day that does not wrap integrated employment. The wrap-around rates will vary depending on the number of hours the person participates in integrated employment in other to further incentivize desired outcomes. In addition, 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.

After gathering feedback from stakeholders on an initial proposal, TennCare worked with DIDD and with stakeholders to modify the proposed new reimbursement structure. In quarter 5, TennCare collected data directly from waiver providers to be used to model the proposed new rates. (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.) During quarter 6, the data was reviewed, validated, and used to build a cost model that compares utilization within the current approach with the proposed new value-based approach. It has been submitted to DIDD for review and feedback and will be shared with providers during quarter 8. We will work with stakeholders to make any needed adjustments, including potential phase-in, and prepare a waiver amendment that will be posted for additional public comment.

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

TennCare has identified concerns regarding remediation and relocation of individuals in non-residential settings, specifically those receiving services from facility-based day providers. Many providers are struggling with how to achieve compliance, and how to effectively transition to a community based and employment model. During previous quarters, we began to receive feedback from contracted entities regarding an approach that many facility-based day providers have proposed to achieving compliance. We continue to find that providers are either revising or ending their facility-based programs in favor of a "hub" concept where a particular location (sometimes the building formerly utilized for facility based services) would instead be used as a hub for a community based day program. This approach has been described as a central location where individuals meet each day before they go out into the community. The "hub" could also be utilized for individuals to meet to have lunch, and would be a place to gather at the end of the day before going home. Some providers have proposed using their own buildings as hubs, while others have proposed utilizing community space, like a church or library, as the hub. TennCare is currently reviewing transition plans that adopt the hub concept and are discussing the potential impact of these plans with contracted entities and stakeholders. Additionally, we have released guidance to contracted entities to ensure they are sharing appropriate information with providers on the HCBS Settings Rule. Waiver funding is not available for the provision of vocational services delivered in facility based or sheltered work settings, where individuals are supervised for the primary purpose of producing goods or performing services. This should not be interpreted to necessarily mean that facility-based settings are never capable of achieving compliance with the HCBS Settings Rule and must close. They must, however, achieve and maintain compliance with the HCBS Settings Rule in order to receive Medicaid funding. As facility-based day programs are closing, we are also concerned about the potential for isolation. We want to see people moving to community services, and ensure they are not sent home where they will have more limited interaction.

As we move forward, it is expected that some provider settings will be unable to comply with the HCBS Settings Rule. If a provider setting is not able to achieve an acceptable transition plan through the established review process, that setting will be notified that their status has changed to non-compliant and they may not remain in the HCBS System. This may occur prior to the Advocacy Review Committee and public comment processes.

These provider settings will also be notified that individuals supported by the agency will be transitioned to a different provider pursuant to the Statewide Transition Plan. TennCare contracted entities will then initiate and track the relocation process as outlined in the Statewide Transition Plan. TennCare will oversee the relocation process, track progress, and report on any challenges or issues that arise.

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:

TennCare's heightened scrutiny process began April 1, 2016. TennCare, contracted entities and the provider all work together to develop an electronic heightened scrutiny report for the purpose of submission to CMS. The heightened scrutiny review process has several steps: 1) secondary review of policies and procedures; 2) on-site review, including interviews with participants and staff of all levels; 3) initial provider review report completed by TennCare and review team; 4) provider response to initial report; 5) final provider review report completed by TennCare and review team; and 6) Advisory Review Committee review and determination of compliance or non-compliance.

Following the completion of the initial heightened scrutiny visits and the review of feedback from providers and review teams, review tools are finalized and released to providers with feedback on each setting subject to Heightened Scrutiny that the provider operates. Providers that receive a review tool with all compliant results, or providers that had partial or non-compliant areas in their review tool, but created an acceptable transition plan concerning these areas as part of their self-assessment process need not take further action, provided that they must complete implementation of their approved transition plan. Providers that operate a setting or settings with areas of partial or non-compliance that either have no transition plan or have an insufficient transition plan are required to create or revise their transition plan. TennCare reviewing entities (DIDD and TennCare MCOs) then review those transition plans and make a recommendation to TennCare to approve or not approve the transition plan. If the transition plan is not approved, the provider is given an additional opportunity to work to achieve an acceptable transition plan based on the feedback provided by TennCare reviewers. If the provider chooses not to create or revise a transition plan, the TennCare reviewing entities will immediately initiate the member transition process as outlined in the Statewide Transition Plan. If TennCare approves a transition plan, the review tool is revised to show that the areas of partial or non-compliance changed to "compliant upon successful implementation of the transition plan".

MCO and DIDD staff are currently working with providers on transition planning and are making recommendations to TennCare about whether the plans are sufficient to bring each setting into compliance. TennCare staff review each recommendation and either accept it or send it back to the provider for additional information. If the transition plan is approved, TennCare staff will revise the feedback report to include information from the transition plan and prepare the report for review by the Advocacy Review Committee. We continue to find that many of the transition plans submitted for our review following the completion of Heightened Scrutiny reviews do not include sufficient evidence to ensure the settings will

achieve compliance upon successful implementation of the transition plan. To address the insufficiency of provider transition plans, during the quarter, we developed and released a transition plan guidance document and several examples of de-identified, approved transition plans for each setting type subject to heightened scrutiny to provide additional guidance to providers on the State's expectations for compliant transition plans. Providers who have submitted transition plans that the State did not approve have been given an additional opportunity to revise the plans and resubmit them based on the guidance released by TennCare. TennCare is also providing additional technical assistance from LTSS division staff who are subject matter experts in the HCBS Settings Rule to assist providers with achieving compliance.

As reported in the 6th quarterly report, we had found some inconsistencies in the initial review tool feedback drafted by Heightened Scrutiny review teams at DIDD and TennCare MCOs, necessitating significant and time-consuming revision at TennCare. The complexity of the HCBS Settings Rule has resulted in the need to provide ongoing technical assistance to our contractors and substantive revisions to review tools to ensure consistency before releasing them to providers. This secondary review tool revision process -- review of revised transition plans and preparation of reports for the ARC -- has required additional staff resources and time, not anticipated when the process was initiated. Additionally, our close review of revised transition plans and identification of the need to release additional guidance has resulted in many providers needing to make further revisions to their submitted transition plans and seek technical assistance. While this will take longer than originally planned, we want to provide sufficient time for these activities to occur so that providers are best positioned to implement the rule in a manner that comports with both its spirit and intent. It has become clear that this is a necessary and important step to ensure we have collected sufficient evidence for each setting.

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 response to #3 above).

In keeping with the current Milestone timeline, TennCare will initiate its ARC reviews during Quarter 8.The ARC will be given the opportunity 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.

TennCare will provide 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. Based on these summary findings, the ARC will advise TennCare on the findings and whether further examination of particular settings is needed.

The ARC review process will continue through April 30, 2018. In addition, evidence will be posted for public comment from June 15, 2018 through July 15, 2018.

Once feedback is received from the ARC and public comment processes, TennCare will identify the settings that overcame the institutional presumption and will be submitted to CMS, along with settings that TennCare determined compliant based on review tools, and therefore did not require transition plans and additional review by the ARC. The packet submitted to CMS for each setting will be revised to include a summary of feedback from the ARC, if applicable, and public comment, if provided on that setting. Providers will be notified at that time, and the Statewide Transition Plan will be updated and posted for public comment from July 15, 2018 through August 15, 2018. The final evidentiary packets will be submitted to CMS on September 1, 2018.