

Ohio's
HCBS Transition Plan

Final Approval Granted by
Centers for Medicare and Medicaid Services
(CMS)

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State Overview

The State of Ohio has a long-standing history of providing home and community-based services (HCBS) to individuals as an alternative to institutional care. In recent years this has been demonstrated through Ohio's successful implementation of two federal programs: The Money Follows the Person program and the Balancing Incentive Program. As a result, the State is in a strong position to implement the home and community-based settings requirements set forth in 42 CFR 441.301(c) (4) – (6). Issued on January 16, 2014 by the United States Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS), the final rule establishes the requirements that settings must meet in order to be eligible for reimbursement for Medicaid HCBS provided under sections 1915 (c), 1915 (l), and 1915 (k) of the Social Security Act.

The final rule required the State to submit a transition plan describing the actions that will be taken to ensure initial and ongoing compliance with the regulations. The State must submit its transition plan to CMS no later than March 17, 2015. Additional information is available at <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services.html>.

The Ohio Department of Medicaid (ODM) serves as the single state agency for the administration of Ohio's Medicaid program. Ohio currently administers seven HCBS waiver programs that are impacted by the new regulations: Assisted Living, Individual Options, Level One, MyCare Ohio, Ohio Home Care, PASSPORT, and Self- Empowered Life Funding (SELF). Relationships with key stakeholders and daily operation of five of Ohio's HCBS waivers are delegated to the Ohio Department of Aging (ODA) and the Ohio Department of Developmental Disabilities (DODD). During the life of this project, Ohio closed two waivers, i.e., the Transitions Carve-Out Waiver in 2015, and the Transitions DD Waiver in 2017.

An interagency project team comprised of state staff from ODA, DODD, and ODM developed a shared approach for crafting Ohio's draft statewide transition plan. Compliance with the CMS rule creates opportunities and challenges for both the Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/IID)-based level of care waiver system and the Nursing-Facility-based level of care (NF-LOC) waiver system.

As a result, the project team leveraged the existing resources and infrastructures of each waiver system to establish system-specific assessment methodologies. Although the assessment processes varied by system, the following components were evaluated in both the ICF/IID and NF-LOC waiver systems: a review of the applicable State statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management, administrative and operational processes, monitoring and operational oversight activities, and quality improvement strategies.

During the statewide formal public comment period, described in detail in Section III, the State received input from many interested parties, including individuals receiving services, family members, providers, advocates and CMS. As a result of the feedback, the State made adjustments to the draft plan by adding clarity, adjusting the approach to specific settings, and providing for an increased contribution from individuals and families. The plan is posted on [ODM's website](#).

Section I of this document summarizes the State's preliminary assessment activities and proposed remediation strategies for the ICF/IID system. The proposed action steps and timelines for the statewide transition plan for the ICF/IID system are outlined in the remediation grids found in Appendices 1-2. The proposed timelines were contingent upon CMS' initial approval of the plan. Initial approval of the plan was received in June 2016.

Section II of this document summarizes the State's preliminary assessment activities and proposed remediation strategies for the NF-LOC system. The proposed action steps and timelines for the statewide transition plan for the NF-LOC system are outlined in the remediation grids found in Appendices 3-4. The proposed timelines were also contingent upon CMS' initial approval of the plan.

Section III of this document describes the public process for both systems.

Section IV of this document contains the summary of the required public comment process held in December 2014 for the initial submission of the plan, the public comment process held in October 2015 for the revised plan, and the public comment processes held in October 2018 and June 2019 for the final plan.

Section V of this document contains a summary of the state's response to CMS' initial review of the proposed transition plan issued on July 23, 2015.

Section VI of this document contains the state's response to CMS' additional questions issued following the initial approval of the statewide transition plan.

Section VII of this document contains the state's response to CMS' feedback regarding steps to final approval of the statewide transition plan.

Section VIII of this document contains the results of the site-specific assessments and validation results.

Section IX contains the results of the on-site assessments of settings presumed to be institutional and identifies settings submitted for heightened scrutiny review.

Section I: ICF/IID Level of Care-Based Waivers Introduction

DODD currently operates three home and community-based waivers, each of which requires an ICF/IID level of care. In accordance with Chapter 5160-3 of the Ohio Administrative Code (OAC),

the ICF/IID level of care is mutually exclusive from both the intermediate and skilled levels of care, which are necessary for enrollment in the waivers administered by ODA and ODM.

- **Individual Options (IO)** - Approved in 1991, the Individual Options Waiver, commonly referred to as the IO Waiver, allows people with developmental disabilities who meet an ICF/IID LOC to receive the services and supports necessary to reside in their community rather than reside in an ICF/IID. Services provided under the IO Waiver are the following: adult day support, assistive technology, career planning, community transitions, environmental accessibility adaptations, individual and group employment support, homemaker/personal care, home-delivered meals, interpreter, money management, non-medical transportation, nutrition, participant-directed homemaker/personal care, remote supports, respite (residential and community), shared living, specialized medical equipment and supplies, social work, transportation, vocational habilitation, waiver nursing delegation and waiver nursing.
- **Level One** - Approved in 2002, the Level One Waiver serves individuals with developmental disabilities who meet an ICF/IID LOC, but do not require the same level of services as those who are on the IO Waiver. Level One participants generally have a network of family, friends, neighbors and professionals who can safely and effectively provide needed care. Services provided under the Level One Waiver are the following: adult day support, assistive technology, career planning, environmental accessibility adaptations, individual and group employment support, homemaker/personal care, home-delivered meals, informal respite, money management, non-medical transportation, participant-directed homemaker/personal care, remote supports, respite (residential and community), specialized medical equipment and supplies, transportation, vocational habilitation, and waiver nursing delegation.
- **Self-Empowered Life Funding (SELF)** - Approved in July 2012, the Self-Empowered Life Funding, or SELF, Waiver is Ohio's first participant-directed waiver for individuals with developmental disabilities. It allows participants to direct their budget and to hire/fire their direct support workers. It also enables the individual to develop an Individual Service Plan using services that focus on community inclusion and integrated employment. Services provided under the SELF Waiver are the following: adult day support, assistive technology, career planning, clinical/therapeutic intervention, functional behavioral assessment, individual and group employment support, non-medical transportation, participant-directed homemaker/personal care, participant-directed goods and services, participant/family stability assistance, remote supports, respite (residential and community), support brokerage, transportation, vocational habilitation, and waiver nursing delegation. Community Inclusion was terminated and replaced by participant-directed homemaker/personal care and transportation in the SELF waiver effective January 31, 2018.

I. Assessment Methodology

This section details how DODD assessed the main areas of focus for the transition plan (Systemic Review, Residential Settings, and Adult Day Waiver Services) by providing an overview of the assessment strategy, describing which processes were used, and the results of the assessments.

DODD began its process for notifying stakeholders in April 2014 with its first Strategic Planning Leadership Forum. Nearly 200 stakeholders from all constituency groups attended these forums to hear national subject matter experts explain the new HCBS rule and learn how various states have implemented programs that are compliant with the HCBS rule.

DODD also utilized a stakeholder group charged with constructing the agency's long-term strategic plan to assist with the formation of the Transition Plan. That group, known as the Strategic Planning Leadership Group, reviewed the final draft created by the Transition Plan Committee before it was sent to the Governor's Office for Administration approval.

In May 2014, DODD initiated a monthly stakeholder group, the Transition Plan Committee, whose responsibility was to determine the primary areas of focus for the Transition Plan and to recommend strategies for compliance. The group was comprised of stakeholders from across Ohio's Developmental Disabilities (DD) System, including the Ohio Association of County Boards of Developmental Disabilities, Ohio Provider Resource Association, The Arc of Ohio, Values and Faith Alliance, Ohio Association of Superintendents of County Boards of Developmental Disabilities, Ohio Self-Determination Association, Advocacy and Protective Services, Inc., People First of Ohio, Ohio Waiver Network, self-advocates, and ODM.

Several subcommittees were formed to conduct in-depth reviews of state systems, residential settings, and non-residential settings. The subcommittees reviewed current rules/regulations, policies and procedures, service definitions, and provider qualifications across Ohio's DD system to determine the level of compliance with the HCBS regulation. The information generated from these subcommittees informed the DODD's components of the Transition Plan and are outlined below.

- **Systemic Review/State System Issues** - The task of this subcommittee was to review the state system processes and regulations, identify areas where Ohio's DD system was not in alignment with the CMS HCBS regulations, and develop a means by which the systems could align appropriately. Membership of the subcommittee included equal representation on behalf of county boards of developmental disabilities, providers of HCBS services, and advocates/self-advocates.
- **Residential Settings** - The task of this subcommittee was to devise a method to assess residential settings' incorporation of the HCBS settings criteria as established in the CMS regulation. This method provided the data needed to determine a remediation strategy the State would need to implement for full compliance with CMS' requirements.

- **Non-Residential Adult Day Waiver Services** - The task of this subcommittee was to determine a method of assessing Ohio's DD non-residential services. The service settings determined to have the greatest risk of being provided in settings with institutional qualities were those in which Adult Day Waiver Services are provided. These services include Adult Day Support, Vocational Habilitation, Supported Employment-Community, Supported Employment-Enclave, and Integrated Employment Services. Data from this subcommittee was used to inform a separate workgroup which was tasked with redesigning both the employment and day services available to working age adults. This workgroup examined definitions, provider qualifications, and rate methodologies to promote opportunities for integrated work and day activities.

II. Assessment Process

The following is a summary of the activities conducted by the subcommittees mentioned above:

- **Systemic Review** - This subcommittee reviewed DODD's existing rules, waiver service definitions, provider qualifications, and rate structures to identify areas where changes were needed to ensure full compliance with the CMS HCBS regulation. This subcommittee looked at crosswalks of similar service definitions and rules across all of the waivers to determine how revisions could best be made to enhance DODD's adherence to the new criteria.
- **Residential Settings** - The Residential Settings subcommittee chose to distribute a survey to the field that allowed providers to assess their locations to determine level of compliance with the CMS HCBS settings criteria. Providers were asked to identify the type of setting, such as a home within a neighborhood that included individuals without disabilities or whether it was a disability-specific setting, such as a farm, apartment complex, or cul-de-sac where only people with disabilities reside. The questions used to assess compliance with the HCBS settings criteria were based largely upon the exploratory questions provided by CMS.

Additionally, county boards of developmental disabilities were given the ability to complete the survey based on their assessment of these same locations, as a means of having a validity check for the self-assessments. As an additional means of verifying the self-assessments, DODD's Office of Provider Standards and Review (OPSR) Division also compared the survey responses with results of on-site reviews conducted as part of previous compliance reviews of these settings. The State conducted additional on-site evaluations using a new component of DODD's compliance tool that specifically addressed HCBS characteristics to determine whether settings comport with the regulations.

- **Non-Residential Adult Day Waiver Services** - As a means of gathering input for purposes of restructuring the Adult Day Waiver Services, DODD conducted a series of 12 Adult Day

Service/Employment First forums in July and August 2014, which were attended by more than 700 stakeholders. The information and suggestions obtained during the course of these forums were used to refine the Guiding Principles that are being used as the foundation for the revised Adult Day Waiver Service package. Work on this service package continued through February 2015, with a revamped set of services/service definitions, and a rate structure targeted for completion by spring 2016. Additionally, in order to assess DODD's Adult Day Waiver Service locations, DODD distributed a survey to providers of Adult Day Support and/or Vocational Habilitation to perform an assessment of their program(s) to determine compliance with the Medicaid HCBS criteria. As with the Residential Settings Survey, this assessment helped the State to identify which areas needed the most focus as the State transitions to the new CMS regulations.

III. Assessment Results

The results of the State's systemic review, such as applicable State statutes, administrative rules, approved waivers, provider requirements, and service specifications, are described below.

A. Systemic

Based on the results of their analysis of CMS' regulation in conjunction with DODD's waiver services and administrative rules, the State Systems Issues/Systemic Review subcommittee determined that interpretations of "integration" varied. The consensus of the group, in alignment with the CMS definition for an HCBS setting, was that integration is about what the individual experiences and must be understood as being individual-specific. This includes a recognition that the size or physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS setting.

To ensure clarity and consistency across the waiver programs, the subcommittee decided that DODD should develop an overarching administrative rule that would apply to all of the waivers that DODD operates. The subcommittee then developed a crosswalk of waiver services, provider qualifications, and rates across the DODD-operated waivers and made recommendations about revisions that would allow for the waivers to promote the community inclusion aspects of the new CMS HCBS criteria. In addition to the overarching waiver administration rule, this subcommittee identified the following as areas that had to be modified to incorporate the standards identified in the HCBS rule:

- The Licensure, Provider Certification, and Free Choice of Provider rules had to be revised;
- Waiver Service Definitions (Homemaker/Personal Care; Adult Day Waiver Services, including employment and non-work-related day services) had to be revised to promote emphasis on providing supports in the community.

Existing committees further explored how these revisions would occur and determine feasible timeframes for implementation. Members of these committees represented county boards of developmental disabilities, providers of home and community-based services, and advocates/self-advocates.

An overview of the existing support for compliance with each component as well as areas that had to be modified are outlined in the statewide **Remediation Plan, Appendix 1**.

B. Residential Settings

The results of the State's preliminary assessment of the residential settings are described below.

1. Settings that currently meet HCBS characteristics.

The Residential Settings subcommittee reviewed the types of residential settings in which individuals were receiving HCBS. Those settings included individual/family homes, shared living, and congregate settings in which two or more individuals shared services. Certain settings, including those in which individuals resided alone or with family, were presumed compliant with the regulation. In September 2014, DODD conducted a survey of residential settings for those individuals who lived in congregate settings to determine the level of compliance with the CMS HCBS regulations.

Based on this criterion, the estimated target number of individuals included in the survey was 7,500 individuals residing in approximately 2,500 settings. The actual survey results yielded responses for 2,163 settings in which approximately 7,000 individuals resided.

When combining the presumed compliant locations with the settings that were surveyed, 90.9% were in compliance with the CMS HCBS regulations. The remaining settings will be addressed in the sections to follow.

2. Settings that currently do not meet HCBS characteristics but may with modifications.

Of the settings providing DODD waiver services, 5.9% (i.e., 578 settings, housing 2,045 individuals) fell under the category of not currently meeting all of the HCBS characteristics but recognized that they could become compliant with modifications. The providers completing the self-assessment were asked to identify barriers to compliance and potential timeframes for remediation. The majority identified changes to person-centered plans, improved linkage to the community, and staff development and training as their primary barriers. To help address these barriers, DODD included, as part of its remediation strategy, continuation of its statewide person-centered planning training and development of web-based person-centered planning resources to be available to county boards, providers, individuals, and families.

DODD developed an overarching HCBS Waiver Administration rule that aligned with the CMS HCBS regulations. This rule provides a resource to assist DODD in more effectively implementing the

CMS HCBS criteria. Additional remediation strategies can be found in Appendix 2.

3. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny review.

CMS described settings “presumed to have the qualities of an institution” as those located in a public or private facility that provides inpatient treatment, settings located on the grounds of, or adjacent to a public institution, or other settings with the effect of isolating individuals. The assessment identified no settings that were located in a building that is also a public or private facility that provides inpatient treatment. Additionally, no settings were located in a building on the grounds of, or immediately adjacent to, a public institution. An additional 75 settings serving 335 individuals, approximately 1% of the DODD waiver population, were identified through a combination of the Residential Settings survey and previous on-site compliance reviews by DODD as potentially having the effect of isolating individuals receiving HCBS, and therefore, would likely be subject to heightened scrutiny.

As part of the remediation strategy for this category, DODD conducted on-site evaluations of these locations to determine their level of non-compliance. These site visits were completed throughout 2016. During these reviews, individuals receiving HCBS and their families were interviewed about their experiences in an effort to determine if individuals were afforded full access to the benefits of community living. The providers’ policies and practices were examined to ensure they support individuals’ full access to the broader community. The determination of level of compliance was the primary deciding factor in choosing whether enough evidence could be presented to CMS to show that the setting was not institutional in nature, whether the setting complied with some modifications, or if another, more integrated setting will need to be selected by the individuals receiving HCBS. Action steps relating to the remediation strategy for these locations are detailed in the Settings Remediation table (Appendix 2).

4. Settings that cannot meet the HCBS characteristics.

Providers at four settings housing a total of 31 individuals indicated in the Residential Settings survey that the settings cannot meet the HCBS settings characteristics. This is equivalent to 1% of the DODD Waiver population. As a result of the survey findings, six individuals in two settings voluntarily re-located to compliant settings. The county board of developmental disabilities ensured individuals were offered a choice of settings locations. The options, including the choice not to relocate, were discussed in person with the affected individuals and their family members. Both were involved in the selection of a new residential location. Individuals played an active role in choosing their roommates. Using the process outlined in Attachment #1, DODD reviewed each of the remaining two locations and subsequently submitted the settings for heightened scrutiny review.

C. Non-Residential Adult Day Waiver Services

The results of the state's preliminary assessment of the adult day waiver service settings are described below.

Settings that currently meet HCBS characteristics.

DODD also conducted a survey for its Adult Day Waiver Service (ADWS) settings to determine the level of compliance for those HCBS services. To ensure the data yielded as a result of the survey was as accurate as possible, settings in which integrated, community employment services are provided were not included. The survey was distributed to providers of facility-based work and non-work services. In the DODD system, those services are Adult Day Supports and Vocational Habilitation. In total, responses were received from 464 settings where services are provided to more than 25,000 individuals.

Settings that currently do not meet HCBS characteristics but may with modifications.

The survey results show that 50 of the 464 settings, or 8.4%, believe that, while they do not have the qualities of an institution, some improvement could be made for how those services are delivered to the individuals they serve. Although these self-assessment results from providers indicate a relatively low number of settings that have the qualities of an institution, DODD believes the self-reporting significantly underrepresents the number of Adult Day Waiver Services settings that possess these qualities.

As a means of incorporating the CMS HCBS requirements into the Adult Day Waiver Services, DODD worked with an outside consultant who facilitated a stakeholder group charged with creating a new service package to maximize opportunities for integrated employment and integrated wrap-around supports. The work for this waiver service package redesign concluded in 2015.

Settings that are presumed to have the effect of isolating individuals and maybe subject to heightened scrutiny review.

In terms of those settings that would be subject to heightened scrutiny, 19 settings (4.1%) identified that the location where they provide services would place them into this category.

Settings that cannot meet the HCBS characteristics.

Thirteen settings (2.8%) stated they cannot meet the HCBS requirements. To determine the level of compliance for these settings, an on-site review was conducted and, if the review aligned with the assessment, a carefully constructed plan was developed for any individual receiving waiver services at that location to ensure as smooth a transition as possible.

IV. Remediation Strategy

The proposed remediation plan for the ICF/IID waivers utilizes seven primary strategies: waiver amendments, administrative rule revisions, training resources, service redesign, provider-level remediation plans, on site assessments and as a last resort, relocation.

Appendices 1 and 2 of the statewide transition plan describe in detail how the proposed remediation strategies will bring the pre-existing 1915(c) programs into compliance with the home and community-based settings requirements.

A. Rule Revisions, Waiver Amendments, and Resources

The Systemic Review subcommittee identified several existing rules that support the concepts incorporated in the CMS regulations, including the Service and Support Administration rule (OAC 5123:2-1-11) adopted March 17, 2014, and the Employment First rule (OAC 5123:2-2-05) adopted April 1, 2014.

Additional rule revisions were completed, further enhancing the infrastructure to support the new regulation.

- DODD's Behavior Support rule (OAC 5123:2-2-06) identifies the assessment, approval, and oversight required when a person-centered plan includes the use of restrictive measures and aligns those requirements in all HCBS settings, whether licensed or unlicensed.
- DODD's Free Choice of Provider rule (OAC 5123:2-9-11), requires an explanation of individuals' rights when choosing to receive HCBS in provider- owned or controlled settings.
- OAC Chapter 5123:2-3, DODD's Licensure rules eliminate duplication with other HCBS rules located in OAC Chapter 5123:2-9.

A new overarching rule relating to the administration of all HCBS waivers for individuals with an ICF/IID level of care was developed. This rule specifies the settings in which HCBS may not be provided and includes a requirement that individuals be offered the opportunity to choose among services or a combination of services and settings that address the individual's assessed needs in the least restrictive manner, promote the individual's autonomy and full access to the broader community, and minimize the individual's dependency on paid support staff. This rule also outlines the elements required in written agreements for individuals choosing to receive services in provider-owned or controlled settings.

DODD also revised service definitions based upon the assessment processes utilized to develop the Transition Plan. Amendments were approved by CMS to include the following:

- The Transition Plan Committee identified shared living models of service, including both the Adult Family Living and Adult Foster Care services in the Individual Options Waiver, to be among those that provide the greatest opportunities for individuals to have experiences similar to those not receiving HCBS. One of the identified obstacles to expanding this model was the previous service title. Individuals and families proposed changing the service title to “Shared Living” to reduce the stigma that was associated with receiving a foster care service for adults.
- The existing Homemaker/Personal Care definition in both the Individual Options and Level One waivers was modified to expand upon the ability for this service to be utilized to support individuals in integrated community settings.
- The existing Adult Day Waiver services, including Adult Day Support and Vocational Habilitation, were determined to have a significant bias toward facility-based supports. As a result, a workgroup was formed, and they redesigned the adult day array of services to promote integrated, community-based supports for individuals receiving HCBS. This work was completed in 2016.
- DODD began operating the Transitions DD Waiver in January 2013. This waiver was originally operated by ODM and was modeled after the Ohio Home Care Waiver, which serves individuals with nursing facility levels of care. The Personal Care Aide service was limited in scope and was designed to provide hands-on assistance with activities of daily living and instrumental activities of daily living. In addition, the Adult Day Health Center service offered only facility-based options and no employment supports to the individuals enrolled in the waiver, who are now primarily young adults with an average age of 22. This waiver was phased out and terminated effective June 30, 2017 and all individuals enrolled in the Transitions DD Waiver were migrated to another waiver operated by DODD, which includes the new adult day array of services.

In addition to the rule revisions and waiver amendments described above, DODD added a new component to the compliance tool used during both accreditation reviews of county boards of developmental disabilities and compliance reviews of providers of HCBS. The revision included prompts related to the processes used to identify a person’s place on the path to community employment, to present alternative settings to individuals receiving HCBS, and to ensure the existence of a lease or other written agreement for individuals choosing to receive services in provider-owned or controlled settings.

DODD has developed web-based resources related to the person-centered planning process for use by county boards, providers, individuals served and their families. Statewide training was also provided throughout 2014 and will be offered on an ongoing basis.

1. Settings that currently do not meet HCBS characteristics but may with modifications.

Site-specific remediation strategies were developed with providers who identified the ability to come into full compliance with the regulation with modifications. Implementation of the remediation strategies will be verified by DODD through ongoing compliance reviews.

2. Settings that are presumed to have the effect of isolating individuals and maybe subject to the heightened scrutiny process.

Site visits of settings were conducted by State personnel using the new HCBS settings evaluation tool. These visits included interviews with individuals receiving HCBS and their families to assess whether individuals are afforded full access to the benefits of community living, as well as a review of the provider's policies and practices to ensure they enabled services to be provided in the most integrated setting. Upon determining the settings to be considered for heightened scrutiny, DODD worked with individuals served, their families, and providers to compile evidence for submission to CMS.

3. Settings that cannot meet the HCBS characteristics.

For those residential settings that DODD determines have the qualities of an institution and cannot meet the HCBS characteristics, DODD was committed to working with individuals served, providers, and the county boards to identify a new location in which the individuals may continue to receive HCBS from either their current providers or another provider of their choosing.

Site visits of facility-based adult day waiver settings were conducted after implementation of the newly redesigned services. There were no settings identified as being unable to meet the HCBS characteristics.

Section II: NF-LOC Waiver System

Introduction

Ohio currently administers four 1915(c) waivers with a nursing facility (NF) level of care (intermediate and skilled). There are 21 distinct long-term services and supports furnished through these waivers utilizing two delivery systems: fee-for-service and managed care.

ODM currently operates two waivers:

- **Ohio Home Care** - Approved in 1998, this waiver serves individuals age 59 or younger with a NF-LOC and furnishes services and supports that permit individuals to reside in their community rather than in a nursing facility. Services provided under this waiver include adult day health center, personal care aide, home care attendant, home delivered meals, home modification, out-of-home respite, personal emergency response systems, supplemental adaptive and assistive devices, supplemental transportation, waiver nursing,

community inclusion, community transitions, and home maintenance and chore.

- **MyCare Ohio** - Approved in 2014, this waiver is a component of the State's 1915(b)(c) managed care duals integration demonstration. The waiver is available in 29 of 88 Ohio counties, and serves individuals age 18 or older with a NF-LOC. All the services and supports furnished in the other nursing facility-based waivers are available on this waiver. Services provided under this waiver include adult day health, homemaker, personal care, alternative meals, assisted living, choices home care attendant, community transition service, enhanced community living, home care attendant, home delivered meals, home medical equipment and supplemental adaptive and assistive devices, home modification, community integration, nutritional consultation, out-of-home respite, personal emergency response system, social work counseling, waiver nursing, waiver transportation, and home maintenance and chore.

The Ohio Department of Aging (ODA) operates two waivers:

- **Assisted Living** - Approved in 2006, this waiver serves individuals age 21 or older with a NF-LOC and furnishes services only to individuals who reside in licensed residential care facilities that are certified by ODA as a home and community-based waiver provider. Services provided under this waiver include the assisted living and community transition services.
- **PASSPORT** - Approved in 1984, this waiver serves individuals age 60 or older with a NF- LOC and furnishes services and supports necessary to allow them to reside in their community rather than in a nursing facility. All the services and supports furnished in the My Care Waiver are available on this waiver. Services provided under this waiver include adult day, homemaker, personal care, alternative meals, Choices home care attendant, community transition, enhanced community living, home care attendant, home delivered meals, home medical equipment and supplies, home modification, non-emergency medical transportation, non-medical transportation, nutritional consultation, out-of-home respite, personal emergency response system, social work counseling, waiver nursing, community integration, and home maintenance and chore.

I. Assessment Methodology

The State utilized four primary methods to conduct the preliminary analysis of the level of compliance with the new CMS regulations and to identify areas for remediation: data analysis, system review, on-site assessment, and stakeholder surveys.

II. Assessment Process

In the NF-LOC waiver system, settings in which the individuals reside alone or with family were presumed compliant with the regulations. Only one service (Assisted Living) is furnished in a

provider-controlled residential setting; the remaining services are available to enrolled individuals residing in a private residence. Further, only one service (Adult Day Health) is furnished in a non-residential setting. As a result, the focus of the compliance analysis is directed at these two services and the characteristics of the settings in which these services are delivered.

- **Residential Setting: Assisted Living** - The purpose of the Assisted Living service is to provide a setting that offers more person-centered services and supervision than a traditional community residence and more independence, choice, and privacy than a traditional nursing facility. This setting has the capacity to provide response to the unscheduled/unplanned needs of the individuals.

The Assisted Living service is available to eligible individuals enrolled in the Assisted Living Waiver (fee-for-service) and the MyCare Ohio Waiver (dual demonstration managed care). Individuals who receive this service reside in single-occupancy living units with full bathrooms in a setting that provides supervision and staffing to meet both planned and unscheduled needs.

Only a residential care facility licensed by the Ohio Department of Health (ODH) and certified by ODA as an HCBS waiver provider may deliver the Assisted Living service to individuals enrolled on the Assisted Living Waiver or the MyCare Ohio Waiver.

Data Analysis At the time of the initial analysis, there were 625 residential care facilities licensed by ODH; however not all licensed facilities are eligible to be certified as an HCBS assisted living provider due to their inability to meet the additional criteria outlined in OAC 173-39-02.16, including the provision of a single-occupancy living unit with a full bathroom. The State conducted an analysis of data maintained by ODA and determined the following:

- Approximately 54% (335) of the State's licensed residential care facilities have met the additional criteria to become an ODA-certified provider of the Assisted Living service.
- ODA-certified settings are located in approximately 71 of 88 counties. There are 73% of Ohio counties with two or more certified Assisted Living providers.
- At the time of the analysis, there were approximately 4,512 individuals receiving Assisted Living services through the Assisted Living or the MyCare waivers.

System Review - The State conducted a systematic review of applicable State statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management standards, administrative and operational processes, monitoring and operational oversight activities. To ensure clarity and consistency across the waiver programs regarding community integration and access, an overarching administrative rule addressing community characteristics was implemented in July 2016. This rule specifies the characteristics in which HCBS services may not be provided and ensures full access to the broader

community. In addition, the State established acceptable evidence of compliance to the settings rule and modified the State's HCBS ongoing provider oversight function.

An overview of the existing support for compliance with each component and the proposed remediation strategies, action steps, and timelines for the NF-LOC system is described in Appendix 3.

On-Site Assessment - The State contracts with 13 regional entities (PASSPORT Administrative Agencies or PAAs) to conduct initial and annual on-site compliance reviews of the certified assisted living providers. A survey of the 13 PAAs was conducted to obtain information about the setting characteristics for currently certified assisted living providers.

Following the public comment period, the State subsequently confirmed that independent living options were available for individuals not receiving HCBS services at all the currently certified assisted living providers that had been categorized as a privately-operated continuing care retirement community.

Stakeholder Perspective - Using the CMS exploratory questions as the basis, in August 2014, the State conducted an on-line survey to gauge how the Assisted Living Waiver provider community assessed their level of compliance with the new regulations. The survey was distributed to the 326 ODA-certified providers with a 30.7% response rate. 63.3% of the responses were from for-profit facilities and 36.7% of the responses were from non-profit facilities.

Survey findings include:

- 85% of respondents report individuals come and go at will;
- 63% of respondents provide accessible transportation to the broader community;
- 55% of respondents report the living units are equipped with a full kitchen.

The State Long Term Care Ombudsman (SLTCO) conducts an annual satisfaction survey of long-term care settings, including both nursing homes and residential care facilities (RCFs). Each year, the SLTCO surveys either the individuals or the family members of individuals on the quality of services received. A satisfaction survey of residential care settings, including those furnishing the Assisted Living service, was conducted between August and November 2013. The average resident satisfaction score for the 335 Ohio RCFs certified to furnish the Assisted Living services was 92.8%. Going forward, the State utilizes the Resident Satisfaction survey and the National Core Indicators-Aging and Disability survey to assess individuals' setting-specific experience with community inclusion.

- **Non-Residential: Adult Day Health** - The purpose of the Adult Day Health service is to furnish regularly scheduled services that support the individual's health and independence goals in a community setting. The service is available to individuals age 18 and older and includes recreational and educational activities of the individual's choice. A qualifying

HCBS adult day health center must be a freestanding building or space within another building not used for other purposes during the provision of the Adult Day Health service.

The Adult Day Health service is available to eligible individuals enrolled in the Ohio Home Care and PASSPORT waivers (fee-for-service) and the MyCare Ohio Waiver (duals demonstration managed care). Individuals who receive the Adult Day Health service reside in traditional private residences in the community and receive the HCBS service for a portion of the day at an adult day health setting of their choice.

Data Analysis – At the time the initial analysis was completed, there were 270 adult day health HCBS providers eligible to furnish the waiver service. The State conducted an analysis of data maintained by ODA and ODM to determine the following:

- Adult Day Health waiver settings were located in 50% (44) of 88 counties.
- There were approximately 2,300 individuals enrolled on one of the waivers receiving the service.

Systematic Review - The State conducted a systematic review of the applicable State statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management standards, administrative and operational processes, monitoring and operational oversight activities. To ensure clarity and consistency across the waiver programs regarding community integration and access, an overarching administrative rule addressing community characteristics was implemented. This rule specifies the characteristics of settings in which HCBS services may not be provided and ensure full access to the broader community. In addition, the State established acceptable evidence of compliance to the settings rule and modified the State's HCBS ongoing provider oversight function.

An overview of the existing support for compliance with each component and the proposed remediation strategies, action steps, and timelines for the NF-LOC system are described in the system remediation grid (Appendix 3).

On-Site Assessment - The State contracts with the 13 regional PASSPORT Administrative Agencies (PAAs) to conduct initial and annual on-site compliance reviews of the certified Adult Day Health Service providers. A survey was conducted to obtain information about the setting characteristics for HCBS providers of the Adult Day Health service.

Stakeholder Perspective - Using the CMS exploratory questions as the basis, in August 2014 the State conducted an on-line survey to gauge how the current adult day health HCBS provider network assessed its level of compliance with the new regulations. The survey was distributed to providers furnishing the adult day service in one or more of the following waivers: MyCare, Ohio Home Care, PASSPORT or the former Transition Carve-Out waiver (terminated June 30, 2015). Sixty-two percent of the responses were from non-profit organizations; 87% of the responses

indicated the Adult Day service was not furnished in the same building as a nursing facility.

Survey findings include:

- 59% of the respondents provide accessible transportation to the broader community;
- 63% of the respondents serve individuals 18 and older;
- 93% of the respondents provide the same services/amenities to all participants.

III. Assessment Results

A. Residential Settings

The results of the State's preliminary assessment of the residential settings are described below.

1. Settings that currently meet the HCBS setting characteristics.

In the preliminary analysis, the State did not identify any residential settings in which the Assisted Living service is furnished that were currently 100% compliant with the new regulation.

2. Settings that currently do not meet HCBS characteristics for provider-owned or controlled settings but may with modifications.

The residential care facility (RCF) licensure standards combined with the HCBS waiver provider certification standards provide a basis for reducing the risk of isolating the individuals from the broader community. Proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system rather than relying on setting-specific policies and practices. In the preliminary analysis, the State determined 89 percent, or 298, of the currently certified HCBS assisted living waiver service providers are either free-standing communities or private continuing care retirement communities that offer independent living option for residents not receiving HCBS services. At the time of the analysis, these settings served 4,142 approximately 92% of the individuals receiving the assisted living service available on the Assisted Living and the MyCare Ohio waivers.

3. Settings that are presumed to have the effect of isolating individuals and maybe subject to heightened scrutiny process.

CMS described settings "presumed to have the qualities of an institution" as those located in a public or private facility that provides inpatient treatment. The State's preliminary assessment identified one setting that may have the effect of isolating individuals and thus be subject to heightened scrutiny by virtue of location alone; assisted living settings that are located in the same building as a nursing home.

There were 11%, or 37, RCFs certified as an HCBS assisted living provider located in the same building as a nursing facility. At the time of the preliminary analysis, these settings served approximately 370 individuals, receiving the assisted living service available on the Assisted

Living and the MyCare Ohio waivers. As a result of public comment and accounting for increases in the assisted living waiver service utilization, the State conducted further analysis to obtain a more accurate estimate of the number of individuals residing in these settings. The results confirmed there was no change in the number of HCBS assisted living providers located in the same building as a nursing facility. However, the estimate of individuals who were residing in these settings and receiving the assisted living service available through either the Assisted Living or the My Care waiver increased to 494.

Recognizing that the size or physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS setting, the State conducted on-site evaluations of these locations to determine their level of compliance. The on-site review included a review of the providers' policies and procedures as well as the experience of individuals' residing in these settings. Regulatory changes, administrative and operational processes must be established prior to conducting the on-site evaluations. The results of the on-site evaluations were the primary factor in choosing whether enough evidence could be presented to CMS to show that the setting is not institutional in nature. Action steps relating to the remediation strategy for these locations are detailed in the settings remediation grid (Appendix 4).

4. Settings that cannot meet the HCBS characteristics.

In the preliminary analysis, the State has not identified any residential settings that cannot meet the HCBS characteristics.

Non-Residential Setting Adult Day Health Waiver Service. The results of the State's preliminary assessment of the non-residential adult day waiver service settings are described below.

1. Adult Day Health waiver service settings that currently meet the HCBS setting characteristics.

In the preliminary analysis, the State did not identify any non-residential settings that are currently 100% compliant with the new regulation.

2. Adult Day Health service settings that currently do not meet HCBS characteristics for provided-owned or controlled setting but may with modifications.

The HCBS waiver provider certification standards provide a basis for reducing the risk of isolating individuals from the broader community. Proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting specific policies and practices. In the preliminary analysis, the State has identified that 92% of the currently certified HCBS adult day health providers are freestanding.

At the time of the analysis, these settings were located in 44 counties and served approximately 91% of the individuals receiving the adult day health services available on the Ohio Home Care, PASSPORT, MyCare Ohio, and the former Transition Carve-Out waivers.

3. Adult Day Health waiver service settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny process.

CMS described settings “presumed to have the qualities of an institution” as those located in a public or private facility that provides inpatient treatment. The State’s preliminary assessment identified one setting, which may have the effect of isolating individuals and be subject to heightened scrutiny by virtue of its location alone: adult day health settings that are located in in the same building as a nursing facility.

At the time of the analysis, there were 22, or 8%, Adult Day Health service waiver providers, located in the same building as a nursing facility. These settings were located in 15 counties and served approximately 9% of all the individuals receiving the Adult Day Health service.

Recognizing that the size or physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS setting, the State determined it would conduct on-site evaluations of these locations to determine their level of compliance. The on-site review included a review of the providers’ policies and procedures as well as the experience of individuals served in these settings. Regulatory changes, administrative and operational processes were established prior to conducting the on-site evaluations. The results of the on-site evaluations were the primary factor in choosing whether enough evidence could be presented to CMS to show that the setting is not institutional in nature. Action steps relating to the remediation strategy for these locations are detailed in the settings remediation grid (Appendix 4).

4. Adult Day Health waiver service settings that cannot meet the HCBS characteristics.

In the preliminary analysis, the State did not identify any non-residential settings which cannot meet the HCBS characteristics.

IV. Remediation Strategy

The proposed remediation plan for the NF-LOC waivers utilizes five primary strategies: administrative rules; community education; provider level remediation plans to ensure the individual has greater control over the critical activities, such as access to meals, access to activities of his or her choosing in the broader community; on-site assessments and ongoing compliance monitoring, which includes the experience of individuals residing in the setting and, as a last resort, relocation.

Appendices 3 and 4 describe in detail how the proposed remediation strategies will bring the pre-existing NF-LOC 1915(c) waivers into compliance with the home and community-based settings requirements. The State met the timelines that were reflected in the plan that was initially

approved by CMS. The State's strategies for ensuring compliance with the regulations for both residential and non-residential settings are described below:

1. Settings that currently meet the HCBS setting characteristics.

The State ensured that existing settings continue to meet the HCBS characteristics by adopting a new Ohio Administrative Code rule and modifying the State's HCBS ongoing provider oversight function.

In the event a setting, which previously demonstrated evidence of compliance but subsequently could not (or did not) produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals who choose to transition to a setting of their choice which meets the HCBS characteristic.

2. Settings that currently do not meet HCBS characteristics for provider-owned or controlled setting but may with modifications.

The State ensured that existing settings come into full compliance with the HCBS characteristics by adopting a new HCBS setting rule, modifying existing OAC rules, furnishing provider education, and modifying the State's HCBS ongoing provider oversight function.

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, worked with individuals who choose to transition to a setting of their choice, which meets the HCBS characteristics.

3. Settings that are presumed to have the effect of isolating individuals and maybe subject to heightened scrutiny process.

The State ensured that existing settings that are subject to heightened scrutiny come into full compliance with the HCBS characteristics by adopting a new HCBS settings rule, modifying existing OAC rules, establishing standards and defining acceptable evidence of compliance, provider remediation plans, on-site assessments which include the individual's experience residing in the setting, and modifying the State's HCBS ongoing provider oversight function.

In the event the setting could not or did not produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals who choose to transition to a setting of their choice, which meets the HCBS characteristics.

4. Settings that cannot meet the HCBS characteristics.

By adopting a new HCBS settings rule and modifying the State's initial HCBS provider certification rules, the State is ensuring no new settings that cannot meet the HCBS characteristics are

permitted to furnish the HCBS Assisted Living service.

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals to transition them to a setting of their choice, which meets the HCBS characteristics.

Section III: Public Input

ODM, ODA and DODD have made meaningful engagement with individuals and other stakeholders about Ohio's Transition Plan a priority since the CMS regulations were first issued in 2014. We are committed to keeping the public informed as the State continues to roll out specific areas of implementation. This is evidenced by the activities described below.

DODD hosted a forum with National Association of State Directors of Developmental Disabilities' Director of Technical Assistance, Robin Cooper, to present to more than 200 stakeholders in Ohio's DD system about the CMS HCBS Rule. Subsequent to that forum, DODD hosted other forums in which subject matter experts from various states described best practices that align with the HCBS settings requirements.

ODA and ODM invited consultants from Mercer Government Human Services Consulting to conduct an open forum for individuals and stakeholders of NF-LOC based waivers. The meeting was an all-day event at which details on the CMS HCBS Rule were presented to roughly 140 stakeholders. The event mirrored the outreach effort that DODD conducted with its stakeholders, utilizing an identical meeting format, location, and program.

In the initial Transition Plan, the State indicated DODD, in conjunction with stakeholders from Ohio's DD system, was considering the creation of a public service announcement to promote the integration of individuals with developmental disabilities in community activities and settings. This announcement was to address some of the concerns expressed in the survey comments about a lack of public awareness to support inclusion. This did not occur as stated. Instead, several agency providers and county boards created commercials and public service announcements regarding employing people with disabilities and integration.

DODD initially conducted regional sessions in 2015 to share information related to the new regulation and the content of the Transition Plan. All stakeholders received information about where to review Ohio's Transition Plan and how to submit feedback. Follow-up presentations occurred throughout 2016.

DODD invited representatives from the Ohio Association of County Boards of Developmental Disabilities, Ohio Provider Resource Association, The Arc of Ohio, Values and Faith Alliance, Ohio Association of Superintendents of County Boards of Developmental Disabilities, Ohio Self-Determination Association, Advocacy and Protective Services, Inc., to gather input on the

assessment process for the Transition Plan. Multiple stakeholder subcommittees conducted a thorough analysis of each of the focus areas to determine which areas of Ohio's DD system needed revision/strengthening to be in full compliance with the CMS regulation. These committees included people with developmental disabilities, family members, advocacy organizations, providers, county boards of developmental disabilities, and DODD personnel. Two separate groups helped to develop the settings evaluation tools used by county boards and state personnel as part of the ongoing review process.

Ongoing communication and engagement are maintained through multiple avenues. DODD convened the Strategic Planning Leadership Group (SPLG) in 2013 to review current influences on the system, including the CMS regulation, and to establish 10-year benchmarks for achieving the vision of developmental disabilities services in Ohio. The SPLG is comprised of nine advocacy organizations, including The Arc of Ohio, People First, The Ohio League, Advocacy and Protective Services, Inc., Ohio Self Determination Association, The Autism Society, Down Syndrome Association, Ohio Developmental Disability Council, Ohio SIBS; four provider associations, including the Ohio Waiver Network, Values and Faith Alliance, Ohio Provider Resource Association, the Ohio Health Care Association; and two associations representing county boards, including the Ohio Association of County Boards of DD and the Ohio Superintendents of County Boards of DD. DODD periodically shares updates with and seeks input from the SPLG on the implementation of the Transition Plan. Similarly, DODD presents information and seeks input from the Family Advisory Council and will begin meeting regularly with Advocacy United, a newly-formed organization of self-advocates, to do the same.

People with developmental disabilities, family members, advocates, providers and county boards are also represented on workgroups formed by DODD to develop and implement home and community-based services. These groups contribute to both the creation of new or modified waiver services, as well as to the corresponding rules, policies, or guidance that govern their implementation. DODD also contracts with people with disabilities to design Easy Read materials that are posted to the website to explain waiver-related concepts in a manner that is easily understood.

In addition, as a component of the ongoing communication strategy with stakeholders throughout the implementation phase, a NF-LOC -based waiver advisory group was formed in November 2014. The advisory group is comprised of persons representing the following organizations: Ohio Olmstead Task Force, Ohio Council for Centers for Independent Living, Office of the State Long-Term Care Ombudsman, AARP, Ohio Association of Area Agencies on Aging, Ohio Association of Senior Centers, Ohio Assisted Living Association, Leading Age Ohio, Ohio Health Care Association, Ohio Academy of Nursing Homes, National Church Residences, Ohio Council for Home Care and Hospice, and Midwest Care Alliance. In addition to contributing to the State's draft Transition Plan, the advisory group was afforded the opportunity to comment on the State's draft HCBS Settings Evaluation Tool prior to its release for public clearance.

During the public comment periods for both drafts of the Transition Plan, ODM and ODA sent the HCBS State Transition Plan to PASSPORT administrative agencies (PAA), case management agencies, provider oversight contractors and the county departments of job and family services for them to post and distribute. PAAs and ODM case managers were instructed that conversations between case managers, individuals served on Medicaid waivers, their family members, or any individuals who may be interested, include the opportunity to provide public comment on the Transition Plan. Following the public comment period, a summary of the comments was reviewed by the CMS HCBS Advisory Workgroup for the NF-LOC based waivers prior to the submission of the final draft of the Transition Plan to the Governor's Office of Health Transformation. Comments included communications from individuals and caregivers.

From June 2015-January 2016, ODM's HCBS Rules Workgroup, was tasked with drafting the new NF Level of Care HCBS settings and person-centered planning rules that codify CMS' HCBS settings and person-centered planning requirements per the Transition Plan. OAC rules 5160-44-01 and 5160-44-02 became effective July 1, 2016. The workgroup has been in operation for many years, actively advises ODM in the drafting of its HCBS rules and is an important venue for information sharing about activities related to the Transition Plan. It consists of individuals, caregivers, advocacy organizations including, but not limited to the Ohio Olmstead Task Force, Disability Rights Ohio, statewide independent living councils, the Ohio Long Term Care Ombudsman, AARP, Ohio Association of Assisted Living Association and Ohio Association of Senior Centers, as well as many other provider stakeholders, PAAs, case management and provider oversight contractors and managed care organizations. It also includes our partnering state agencies including ODA, DODD and the Ohio Department of Mental Health and Addiction Services. This broad representation of stakeholders facilitates meaningful engagement and a balance of perspectives. The ODM HCBS Rules Workgroup meets monthly and affords participation both in-person and by phone, thereby extending greater opportunities for input by individuals and stakeholders whose ability to travel may be limited. Similarly, ODM also operates a State Plan Home Health/Private Duty Nursing/Hospice Workgroup that is structured and functions in a similar capacity and includes regular updates about the Transition Plan.

The State's relationship with the Ohio Olmstead Task Force is longstanding and supportive of individual involvement. As evidence of this commitment, the State provides funding to the Task Force to support participants' travel to meetings. The State has presented to the Ohio Olmstead Task Force about the HCBS State Transition Plan and has provided regular Transition Plan updates at their monthly meetings in order to keep them engaged and apprised of related activities.

In the time since CMS granted initial approval of Ohio's Statewide Transition Plan, the State has done several things to engage participants, providers and other stakeholders about the implementation of the plan.

- ODM established a [designated web page](#) to share information regarding the settings regulation and the status of the Transition Plan. The webpage includes a [milestone status report](#) and the site- [specific evidence packages](#) for settings submitted for heightened scrutiny review.
- DODD established a [designated web page](#) to share information regarding the settings regulation and the status of the Transition Plan. Updates to the Transition Plan and opportunities for public comment are announced through both Memo Monday and Pipeline publications.
- During public comment periods on the Transition Plan, ODA Communications reaches out to all ODA Stakeholders via a blast email. ODA and ODM create website posts about the opportunity.
- PAAs, CMAs and the ODM provider oversight contractor post the public notices in their respective offices, add a link to their websites directing individuals/providers to the plan, and to speak with any waiver participants, families and interested parties with whom they interact during the comment period about the ability to comment on the plan.
- ODM and ODA provide updates on the status of the transition, solicit feedback and identify opportunities to comment in stakeholder meetings and through email blasts, including to the Ohio Advisory Council on Aging, Ohio Olmstead Task Force, ODM HCBS Rules Workgroup, ODM Quality Steering Committee and Ohio Job and Family Services Directors' Association, among others.
- State staff routinely present at conferences and to trade associations regarding the home and community-based settings requirements to provide opportunities to gather feedback from a variety of stakeholders.

Section IV: Required Public Comment Process Summary of Public Comment Process

Ohio's formal public comment period on its Home and Community-Based (HCBS) draft transition plan was held from December 15, 2014, through January 23, 2015, exceeding by 10 the required 30 days. During this period, the State received 306 submissions from a variety of sources including individuals receiving services, providers, stakeholders and advocates.

The summary of the comments received regarding the draft transition plan are organized by the topic areas brought forth by the respondents in the **Summary of Public Comments and Modifications Made Based Upon Public Comments section**, which follows this section.

The State used the following methods to provide notice to the public about the opportunity for public comment:

- **Web postings – On 12/15/2014**, Ohio posted a public notice, summary of the draft plan, the draft plan itself, and questions and answers on the Ohio Office of Health Transformation (OHT) website which had more than 4600 subscribers. In addition, on 12/15/2014, the Ohio Department of Medicaid (ODM), the Ohio Department of Aging (ODA) and the Ohio Department of Developmental Disabilities (DODD) posted announcements on their websites, which linked to the OHT site.
- **E-mails.** On 12/15/2014, all three agencies issued public notices, which included the link to the draft plan and the questions and answers on the Ohio Office of Health Transformation website, to their respective stakeholders through established e-mail distribution groups. These distribution groups included individuals receiving services, stakeholders, providers, advocates and professional associations. The combined distribution list of the three agencies was approximately 6000 subscribers. In the distribution of the e-mails, each agency asked recipients to disseminate the information to their respective colleagues and distribution lists.
- **Remittance advice.** To reach the provider community, ODM placed a notice on provider “remittance advices” during the weeks of January 14 and 21, 2015, advising providers of the draft transition plan and offering them the website at which they could read the plan and submit comments. Home health agencies, personal care aides, home care attendants, and waiver services organizations were among the provider types notified.
- **Announcements at meetings** - From as early as October 2014 each agency took the opportunity to inform attendees of various Medicaid-related meetings about the opportunity to review and comment on the HCBS draft transition plan, including instructions on how to access either an electronic or non-electronic copy of the draft plan and the options for submitting comments. This occurred as both pre- announcements and actual announcements made during the official comment period. Combined, these announcements were made at a minimum of 29 meetings.
- **Stakeholder meetings** - In March and July 2014, both DODD and ODM/ODA, held stakeholder education meetings at which they brought in national subject matter experts to educate stakeholders and to provide attendees an opportunity to discuss the new CMS HCBS regulations prior to the State’s writing and posting of its HCBS draft transition plan.

To maintain consistency, both stakeholder meetings followed the same format, wherein the first part began with an educational session conducted by subject matter experts and followed by a “world café” format where attendees gathered in groups to discuss questions, concerns and opportunities, and then reported out on them. The public input received at these forums informed the subsequent information gathering activities and was considered when drafting the transition plan.

Robin Cooper of the National Association of State Directors of Developmental Disabilities Services spoke at the DODD stakeholder meeting held on March 11, 2014, with nearly 200 stakeholders in attendance. Deidra Abbott and Michelle Puccinelli of Mercer Government Human Services Consulting spoke at the ODM/ODA stakeholder meeting on July 30, 2014, with approximately 140 in attendance.

- **Stakeholder advisory groups** - Announcements were issued to both DODD and ODM/ODA Stakeholder Advisory Groups regarding the formal public comment period with a request to disseminate the information to their respective colleagues and distribution lists.
- **DODD stakeholder forums** - Information about the formal public comment period and the methods for submitting comments on the draft plans were distributed at five forums hosted by DODD.

Ohio provided six methods for the public to provide input on the draft transition plan and/or request a non-electronic copy of the plan; all but one of which was utilized. They included:

- **E-mail** - Ohio established a dedicated e-mail box named MCD-HCBSfeedback, which received a total of 252 e-mails, 235 of which were received by the January 23, 2015, deadline.
- **Written comments** - Ohio also provided a U.S. Postal Service address, which was Ohio Department of Medicaid, ATTN: HCBS Transition Plan, P.O. Box 182709, 5th Floor, Columbus, OH 43218. It received a total of 27 mailed items, 17 of which were received by the January 23, 2015, deadline.
- **Fax** - Ohio provided a fax number, which was (614) 466-6945, but did not receive any faxes regarding the draft transition plan.
- **Toll-free phone number** - Ohio provided a toll-free number, 1 (800) 364-3153, with a recorded message advising callers they had reached the CMS HCBS draft transition plan phone message box and offering five minutes in which to leave a message. One individual utilized this option. Her message was transcribed and shared with all three agencies.
- **Testimony at public hearings** - Ohio held two public hearings on January 7 and January 15, 2015, in the State Office Tower's Lobby Hearing Room in Columbus. Copies of the CMS HCBS regulations were available at the hearing and each hearing was digitally recorded. The directors and/or key staff of all three agencies, were positioned in the front of the room facing attendees to hear testimony. Speakers read their testimony into a microphone in the order in which they signed in and at least two individuals receiving services were in attendance, one of whom offered testimony. Copies of all testimony were shared with the directors and staff and later scanned and distributed to key staff at the three agencies.

A total of 22 individuals attended the January 7 hearing, at which four testified. A total of 54

individuals attended the January 15 hearing, at which 20 testified. Some attendees submitted written rather than oral testimony at the second hearing. A total of 34 testimonials were received at both hearings. An autism-specific farm community provided three copies of a DVD to people in attendance titled, "A Thousand Words – Art and Autism."

Each hearing was covered by a major media outlet; the first by Hannah News Service and the second by *The Columbus Dispatch*. Copies of the subsequent articles are available upon request.

- **Video** - In response to a stakeholder request, Ohio also accepted e-mailed .mov video submissions. The State received four, each of which were transcribed, shared and included in the comment table.

All input from all methodologies was shared among the three agencies for quantification, analysis and potential modification of the draft plan.

Ohio ensured accessibility to the HCBS draft transition plan by posting it on an American with Disabilities Act-compliant website. The State shared the draft plan broadly and also requested key stakeholder organizations share and discuss with their members. Throughout this process, individuals could access the draft transition plan both electronically and in hard copy upon request.

Summary of Public Comments and Modifications Made Based Upon Public Comments

The table below illustrates a summary of the unduplicated 258 comments received during the December 15, 2014, through January 23, 2015, comment period. It is categorized by topics and details modifications, if any, to be made to the draft transition plan prior to submitting to CMS and re-posting for public review.

Approximately 10% of the submissions were related to intermediate care facilities. The State provided clarification that the CMS regulation pertains only to home and community-based services and does not impact the benefits available through the institutional component of Medicaid, including ICF/IIDs. In addition, 5% of the submissions addressed conflict-free case management. The State clarified that conflict-free case management is not a component of the transition plan and the State is actively involved in discussions with CMS related to this issue.

Additionally, the State received feedback outside the formal comment period in the form of letters, emails, and postcards to State agency directors. More than 144 post cards and form letters expressing opposition to the movement from facility-based day and employment settings to more integrated work and non-work settings have been received. Similarly, more than 900 stakeholders, including individuals receiving HCBS, families, providers of HCBS and county board personnel, attended five regional forums held by DODD. The recurring themes at each of these forums were concerns over the State's elimination of existing settings options, such as sheltered workshops, specialized day programs, and residential settings serving individuals with disabilities, as well as the pace at which those changes would be implemented.

Adult Day Health: 1.5% of the comments received were on this topic. (4)

| Themes | State’s Response | Modification to the Plan | Rationale if No Changes |
|---|--|--------------------------|--|
| Should not differentiate between adult day services housed in a nursing home vs. an ADS program in a separate building but connected by a corridor. | <p>The physical location of a setting is not the only factor which determines if the Setting has the effect of isolating individuals from the broader community.</p> <p>The State has determined any HCBS furnished in the same building as a nursing facility may have the effect of isolating individuals and may be subject to a heightened scrutiny process.</p> | No | <p>The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals.</p> <p>Further proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting-specific policies and practices.</p> |
| Use the CMS HCBS settings toolkit as a guide to determine whether a setting has the effect of isolating individuals. | The State agrees the toolkit is a useful guide. | N/A | N/A |
| The provision of HCBS in a nursing facility are not in a community-based setting and should not be permitted. | The physical location of a setting is not the only factor which determines if the setting has the effect of isolating individuals from the broader community. | No | The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals. Proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting- specific policies and practices. |

| Themes | State's Response | Modification to the Plan | Rationale if No Changes |
|---|---|---------------------------------|--|
| The draft plan could blur the line between HCBS and institutional settings and make waiver funding available in the latter. | The State does not agree. The physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS settings. | No | The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals. Further, proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting-specific policies and practices. |
| The center provides for everything I need. | Thank you for your comment. | N/A | N/A |

Assisted Living: 3.5% of the comments received were on this topic. (9)

| Themes | State's Response | Modifications to the Plan | Rational for Not Modifying the plan |
|--|--|---|--|
| Any freestanding Residential Care Facilities (RCF) that are licensed/certified should be viewed as fully compliant with the HCBS regulations and as a result: move from meets with modification to meets category; and eliminate the self-assessment for these settings. | Although the State agrees the Ohio licensure for RCFs and the current Assisted Living waiver provider requirements create a solid foundation for complying with the HCBS settings rule, the State does not agree the physical location of a setting is the primary factor that determines if the setting has the effect of isolating individuals from the broader community. | Yes. Appendix 4, II (A) has been modified. The initial provider assessment of full compliance strategy has been eliminated. | N/A |

| Themes | State's Response | Modifications to the Plan | Rational for Not Modifying the plan |
|--|---|--|--|
| View those settings on the campus of a continuing care retirement community from the quoted CMS perspective. | The State agrees. | Assisted living and/or adult day health settings located on the campus of a private continuing care community will be included in the "meets with modifications" category. | |
| Onsite evaluations of settings located in the same building as a nursing facility could provide evidence of compliance | The State agrees the physical location of a setting is not the only factor that determines if the setting has the effect of isolating individuals from the broader community. | No | Onsite evaluations of settings that may have the effect of isolating individuals is currently proposed in the plan. |
| Stand-alone assisted living facilities can't be assumed to be integrated. | The State agrees the physical location of a setting is not the only factor that determines if the setting has the effect of isolating individuals from the broader community. | No | <p>The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals.</p> <p>Further proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting-specific policies and practices.</p> |
| Inquiry regarding whether "memory care units" meet the intent of the rule. | On an individual basis, the use of the person-centered assessment and planning process will determine when this intervention is an appropriate modification. | No. | Person-centered planning is not within the scope of the transition plan. |

| Themes | State's Response | Modifications to the Plan | Rational for Not Modifying the plan |
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| Age-restricted admission policies create segregated settings. | Individuals have the choice of setting in which to receive services. | No. | All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation. The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals from the broader community. |
| Upcoming inspections should elicit feedback from individuals in the settings. | The State agrees the experience of the individual in the setting is an essential element to determining the experience of community integration. | The plan was modified to include the experience of individuals as a component of the on-site assessment for settings that may have the effect of isolating. | |
| The importance of educating providers on how to come into compliance is vital for willing providers to succeed in order to maintain choice. | The State agrees shared expectations between individuals, providers, and the State are necessary to determine when it is essential a setting is compliant with HCBS community characteristics. | No. | The plan currently includes an education strategy for both provider compliance and individual/family education. |
| Requested re-categorizing privately operated continuing care retirement communities on the grounds or adjacent to a private institution from the heightened scrutiny category. | The State agrees the physical location of a setting is not the only factor which determines if the setting has the effect of isolating individuals from the broader community. | Assisted living and/or adult day health settings located on the campus of a private continuing care community will be included in the "meets with modifications" category. | N/A |

| Themes | State's Response | Modifications to the Plan | Rational for Not Modifying the plan |
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| Recommends the use of the HCBS settings tool kit as a guide to determine if the setting isolates. | The State agrees the toolkit is useful. | N/A | N/A |
| Assisted living offers privacy, independence, promotes remaining active, and is an important option. | Thank you. | N/A | N/A |
| Support for a collaborative communication plan for individuals and families. | The State appreciates ongoing support for involving individuals and families. | No | The plan currently includes a collaborative communication strategy. |
| Remediation is completely provider focused and lacks waiver participant involvement. | The State agrees the experience of the individual in the setting is an essential element to determining the experience of community integration. | The plan was modified to include the experience of individuals as a component of the on-site assessment for settings that may have the effect of isolating. | |

Farmsteads: 15% of comments received were related to disability-specific farming communities. (39)

| Themes | State’s Response | Modifications to the Plan | Rationale for no change to the plan |
|---|--|--|---|
| <p>These communities offer safety, acceptance and opportunities that many of the individuals residing there have not experienced in other community-based settings.</p> | <p>The transition plan supports individuals having full access to the broader community. The person-centered planning process is used to identify the supports necessary for individuals to be safe and to achieve desired outcomes in community-based settings. Each person-centered plan must reflect the setting chosen by the individual. All settings in which HCBS are provided must comply with the regulation.</p> | <p>No.</p> | <p>No setting has been determined to be unable to meet the HCBS characteristics at this time.</p> |
| <p>Individuals choosing to reside in a rural, intentional community are not necessarily segregated.</p> | <p>Physical location alone will not be the determining factor in whether a particular setting possesses the HCBS characteristics outlined by CMS. This determination will be based on onsite evaluations which include interviews with individuals/ families and reviews of policies and practices to ensure individuals have full access to the benefits of community living.</p> | <p>The plan was modified to reflect that a determination of whether a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that “integration” is a product of individual experiences, rather than a physical location.</p> | |

| Themes | State's Response | Modifications to the Plan | Rationale for no change to the plan |
|--|--|--|--|
| Eliminating these communities is eliminating choice, which is not consistent with Olmstead and the CMS regulation. | No setting has been determined to be unable to meet the HCBS characteristics at this time. Determinations shall be made based upon the onsite evaluations described above. | The plan was modified to reflect that a determination of whether or not a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that "integration" is a product of individual experiences, rather than a physical location. | |

Non-residential integrated day and employment services: 24% of the comments received were on this topic. (61)

| Themes | State’s Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|--|---------------------------|--|
| <p>Not all individuals are able to work.</p> | <p>For a small percentage of individuals who are medically fragile or have complex needs, community employment may not be a possibility. Every person should be provided with the opportunity to make an informed choice to decide if community employment is a good fit. Some individuals will need more supports, or more time to find the right job match.</p> | <p>No.</p> | <p>There is nothing in the plan that requires an individual to work.</p> |
| <p>Eliminating sheltered workshops is a violation of an individual’s rights. These settings should remain a choice for individuals receiving HCBS.</p> | <p>Sheltered workshops began in a time when few vocational options existed for individuals with developmental disabilities. As our system has evolved over time, providers have continued to enhance their skills to better support people in community employment. Access to better strategies for person-centered planning, customized and self-employment, development of natural workplace supports, and assistive technology are all tools providers use to help individuals achieve and maintain community employment.</p> | <p>No</p> | <p>Prevocational services will still be available for individuals who need them, but the settings for this service will be integrated in and support full access to the greater community, which is in compliance with the HCBS settings rule.</p> |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--------|--|---------------------------|-------------------------------------|
| | <p>Prevocational services provide learning and work experiences, where the individual can develop strengths and skills that contribute to employability in paid employment in integrated community settings.</p> <p>Individuals who need this service will still be able to access it, but the setting will be integrated in and support full access to the broader community.</p> <p>Community-based services provide richer opportunities for authentic work experiences, which lead to better outcomes.</p> | | |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|---|---------------------------|---|
| Existing workshops and day programs provide a sense of safety, value, and acceptance. | <p>Integrated day and employment services will continue to offer a sense of safety, value and acceptance for individuals served. A 2012 study conducted by Dr. Bryan Dague, University of Vermont, focused on the concerns and fears of families/caregivers related to service conversion when Vermont closed its last workshop, and four years after.</p> <p>The parents who opposed the conversion have found their adult children to be increasing their skills and finding satisfaction in their community- based lives. The fears of being ridiculed and</p> | No. | Integrated day and employment services will still be available for individuals who need them, but the settings for this service will be integrated in and support full access to the greater community, which is in compliance with the HCBS settings rule. |
| | <p>unsafe in the community have not become reality. Overall, families preferred their loved ones have the risks and rewards of life in the community. (Dague, 2012).</p> | | |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|---|---------------------------|--|
| Individuals should be allowed to spend their days with people who are similar to them and have similar needs. | Individuals will still have an opportunity to spend days with other individuals with similar needs. However, by ensuring that settings are integrated in and support full access to the greater community, individuals will also have an opportunity to interact with all people, enriching their own lives and the lives of people without disabilities. | No. | Nothing in the plan isolates individuals with disabilities from other individuals with disabilities. |
| In order for a move to integrated day supports to be successful, there must be a sufficient rate structure, staff training, and transportation in place. | <p>A stakeholder workgroup is currently evaluating all adult services, including staff qualifications, costs pertaining to service delivery, rate structure and transportation.</p> <p>When the group concludes its work, a waiver amendment will be submitted to CMS and new integrated services will be implemented.</p> | No. | This process and timelines are already reflected in the plan. |
| Individuals with intensive medical and/or behavioral needs will require the availability of adequate supports. | Individuals will have access to appropriate supports in order to maintain health and safety, as determined through a person-centered planning process. | No. | Nothing in the transition plan eliminates access to appropriate supports. |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|---|---------------------------|---|
| <p>Individuals who do not have a facility-based day program option may be forced to remain at home all day.</p> | <p>Most individuals can receive integrated day and employment services outside of a facility with appropriate person-centered planning and support. It is not the intention of the transition to integrated, community-based supports to eliminate services for anyone. For individuals with medical fragility, options will be available that are appropriate and account for health and safety needs.</p> | <p>No.</p> | <p>Nothing in the transition plan eliminates access to services.</p> |
| <p>One commenter noted that keeping segregated options perpetuates current thinking about individuals with disabilities.</p> | <p>The State agrees. When we isolate people in the general community from people with disabilities, we deny the opportunity for all citizens to learn from and to be exposed to people who may have different experiences and challenges.</p> | <p>No</p> | <p>The transition plan addresses how we will ensure individuals receive services in settings that support full access to the greater community.</p> |

Miscellaneous – 21% of comments received were related to a wide range of topics and not specific to any type of setting or system. (55)

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|---|--|--|
| <p>Additional detail is needed about the State's approach to implementing the transition plan.</p> | <p>Detail will be provided through a variety of mechanisms as the plan is implemented. Status updates will be posted on State agency websites. All draft rules will be made available through the State's routine</p> | <p>The plan was modified to reflect the involvement of stakeholders in the development of the HCBS settings evaluation tool and to describe the elements that will be considered during the on-site evaluations.</p> | |
| | <p>processes of posting the rules for clearance and public hearings. In addition, a broad cross-section of stakeholders, including individuals, advocates, and providers, will be involved in the work of developing tools necessary for the implementation of the plan. Once developed, these tools will be accessible to the public for review.</p> | | |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|--|---|---|
| <p>Concern was expressed about the apparent over-reliance on information from providers of HCBS.</p> | <p>The self-assessment survey process was merely one aspect of the initial phase of determining whether settings possessed HCBS characteristics. Preliminary validation was conducted through a comparison of self-assessments to information received through both local and State reviews of various settings. Further validation will occur through on-site evaluations of settings, including the experience of individuals residing in the setting.</p> | <p>The plan was modified to reflect the initial validation through comparison of self-assessments with local/State reviews. In addition, information was added to reflect the elements included in the on-site evaluations yet to be conducted.</p> | |
| <p>Adequate funding and training are needed to implement these changes.</p> | <p>The budget proposed for this biennium includes several initiatives related to funding and training for the HCBS system.</p> | <p>No.</p> | <p>These issues are typically addressed through the State's budget process.</p> |
| <p>Any setting should be permissible if it is determined to meet the HCBS characteristics, even those on the grounds of an ICF.</p> | <p>No setting has been determined to be unable to meet the HCBS characteristics at this time. Determinations will be made based upon the on-site evaluations described previously.</p> | <p>The plan was modified to reflect that a determination of whether or not a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that "integration" is a product of individual experiences, rather than a physical location.</p> | |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|--|----------------------------------|---|
| The shortage and turnover of direct care staff needs to be addressed. | The budget proposed for this biennium includes several initiatives related to funding and training for the HCBS system that are intended to improve the stability of the direct support workforce. | No. | These issues are typically addressed through the State budget process. |
| Need better definitions of "integration" and "community." | "Integration" is the incorporation or inclusion of individuals receiving HCBS, as equals, into society. It affords individuals receiving HCBS the same opportunities as individuals without disabilities. "Community" refers to society at large where individuals with and without disabilities have the opportunity to interact. | No | The transition plan indicates that "integration" is determined through the experiences of individuals, rather than by a setting location. |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|--|---|--|
| <p>The State should ensure flexibility and choice of settings options, based on individuals' person-centered plans.</p> | <p>In accordance with the CMS regulation, the HCBS Administration Rule will require that individuals be offered alternative settings in which to receive HCBS and that the chosen setting be identified in their person-centered plans. However, any setting in which individuals receive HCBS must comport with the CMS regulation.</p> | <p>No</p> | <p>All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services.</p> |
| <p>"Specialized" settings are not necessarily "segregated."</p> | <p>The CMS regulation and Ohio's transition plan do not inhibit an individual's ability to receive specialized services and supports, nor do they prohibit individuals with similar needs from being served in the same location.</p> <p>However, all settings in which HCBS are provided must not have the effect of isolating individuals.</p> | <p>The plan was modified to reflect that a determination of whether or not a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that "integration" is a product of individual experiences, rather than a physical location.</p> | |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|---|--|---|
| Ongoing education and Information Sharing | The State agrees ongoing education and information sharing with a variety of stakeholders, including individuals, families, advocates and providers is a key component to the development and implementation of the plan. | The plan has been modified to State a broad cross- section of stakeholders will be involved with development of the HCBS settings evaluation tools, including individuals served, families, and providers. | The plan currently includes an education strategy for both provider compliance and individual/family education. |

The draft transition plan received the following 10 recommendations (35% of the comments received) for consideration (90).

| | 10 Recommendations | State's Response | Modifications to the Plan | Rationale for No change to the Plan |
|---|---|--|---|--|
| 1 | New language to address our concerns while giving DODD the flexibility to ensure that disabled individuals are not isolated wherever located. | Physical location alone will not be the determining factor in whether a particular setting possesses the HCBS characteristics outlined by CMS. This determination will be based on on-site | The plan was modified to reflect that a determination of whether a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. | |
| | | evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living. | The plan acknowledges that "integration" is a product of individual experiences, rather than a physical location. | |

| | 10 Recommendations | State’s Response | Modifications to the Plan | Rationale for No change to the Plan |
|---|--|--|---|--|
| 2 | Disabled adults’ best interests will be better served if the focus is changed from the residential settings’ construction type to what they do, and from their specific geographical location to how well they are integrated into the type of community in which they reside. | Physical location alone will not be the determining factor in whether a particular setting possesses the HCBS characteristics outlined by CMS. This determination will be based on onsite evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living. | The plan was modified to reflect that a determination of whether a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that “integration” is a product of individual experiences, rather than a physical location. | |
| 3 | The entire approach to the category of settings “presumed to have qualities of an institution” should be shifted from a focus on the type of housing at issue to the actual policies and practices that go on there in light of each resident’s person-centered assessments and planning. | Physical location alone will not be the determining factor in whether a particular setting possesses the HCBS characteristics outlined by CMS. This determination will be based on onsite evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living. | The plan was modified to eliminate the reference to settings “presumed to have the qualities of an institution” to those presumed to have the “effect of isolating” individuals. | |
| 4 | Revise “III. Settings that are Presumed to have the Qualities of an Institution and may be Subject to Heightened Scrutiny Process.” Appendix 2. Page 3 with “III. Settings that, by policies and practices, are Presumed to have the Qualities of an Institution and may be Subject to Heightened Scrutiny Process.” | The title of Section III of the Settings Remediation Grid for ICF/IID Waivers has been modified. | The plan has been modified to eliminate the reference to settings “presumed to have the qualities of an institution” to those presumed to have the “effect of isolating” individuals. | |

| | 10 Recommendations | State’s Response | Modifications to the Plan | Rationale for No change to the Plan |
|---|---|---|---|---|
| 5 | Replace the categories of housing listed in Column, subsections A1. through A4., in their entirety and replace with a new category described as “A1. Residential settings that, by policies and practices, tend to deny the residents’ access to the type of broader communities in which they reside.” | The settings types listed in Section III under Residential Settings for ICF/IID Waivers have been modified. | The settings types now refer to “settings specifically designed for people with disabilities” and “settings designed to provide people with disabilities multiple types of services on-site.” | |
| 6 | New language that maintains congregate settings as viable, creative “solutions of choice” for private and public development. | All settings where HCBS are provided must comport with the regulation, including those in which individuals choose to share a residence and/or services. | No | All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services. |
| 7 | New language that insists appropriate community-based residential, employment, and day placement for each individual shall be developed through person-centered assessments and planning to determine the most integrated, least restrictive setting appropriate to that person's unique needs and desires. | The HCBS Administration Rule will require that individuals be afforded the opportunity to choose among various services and settings to address assessed needs in the least- restrictive environment, promoting autonomy and full access to the broader community, and minimizing | The plan was modified to reference the elements of the HCBS Administration Rule. | |
| | | dependency on paid support staff. | | |

| | 10 Recommendations | State’s Response | Modifications to the Plan | Rationale for No change to the Plan |
|----|---|--|---|--|
| 8 | Formal recognition of the legal rights of parents/legal guardians in the entire process. | All settings in which individuals receive HCBS must comport with the regulation, whether selected by the individual or another legally responsible party on the individual’s behalf. | No. | All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or service. |
| 9 | Eliminating DODD’s pre-assigned lists based on surveys that failed to clearly disclose its purpose when disseminated (and before the draft transition plan was released for comment). | Both the surveys and the instruction sheets distributed to providers were vetted by the Transition Plan Committee, which involved a broad cross-section of stakeholders. | The settings types now refer to “settings specifically designed for people with disabilities” and “settings designed to provide people with disabilities multiple types of services on-site.” | |
| 10 | Recognize the accumulated experience, insight, and inherent authority of the State Legislature in the process. | The State acknowledges the contributions from a variety of stakeholders are a key component to the development and implementation of the plan. | No | The Transition Plan was developed based upon initial analysis of HCBS settings with the input of a broad cross-section of stakeholders, including State legislators who submitted comments. |

Summary of Public Comment Process for the Revised Draft Plan

Ohio’s formal public comment period on the reposting of its Home and Community-Based Services (HCBS) draft transition plan was held from October 15, 2015, through November 15, 2015. During this period, the state received seven submissions from an individual, the parent of an individual receiving services, providers, and advocates.

Ohio used the following electronic and non-electronic methods to announce the opportunity to review the HCBS draft transition plan.

- **Web postings.** Ohio posted the revised draft plan, a public notice, summary, and stakeholder feedback on the original draft plan on the Ohio Office of Health Transformation (OHT) website which had more than 4600 subscribers. In addition, the Ohio Department of Medicaid (ODM), the Ohio Department of Aging (ODA) and the Ohio Department of Developmental Disabilities (DODD) posted public notices on their websites, which linked to the OHT site.
- **Community postings.** The local County Department of Job and Family Services offices posted a copy of the Public Notice and Request for Comment announcement, which included information about how to obtain a non-electronic copy of the waiver and the proposed amendments. The Area Agencies on Aging, as the lead agency for the state's Aging and Disability Network, posted a copy of the Public Notice and Request for Comment announcement, which included information about how to obtain a non- electronic copy of the waiver and the proposed amendments.
- **Announcements at meetings, e-mails and conference calls.** Each agency took the opportunity to inform attendees of various Medicaid-related meetings and conference calls and stakeholder e-mail groups about the opportunity to review and comment on the HCBS draft transition plan. Combined, announcements were made at least 16times through the various methodologies reaching almost 13,000 people, which included individuals receiving services, stakeholders, providers, advocates and professional associations. In the distribution of the e-mails, each agency asked recipients to further spread the opportunity to comment to their respective colleagues and distribution lists.
- **Remittance advice.** To reach the provider community, ODM placed a notice on provider "remittance advices" during the weeks of October 22 and 29, 2015, advising providers of the draft transition plan and listing website at which they could read the plan and submit comments. Home health agencies, personal care aides and home care attendants, and waiver services organizations were among the provider types notified.
- **Stakeholder advisory groups.** Announcements were issued to both DODD and ODM/ODA Stakeholder Advisory Groups regarding the formal public comment period with a request to disseminate the information to their respective colleagues and distribution lists.

Ohio provided five methods for the public to provide input on the draft transition plan, which included:

1. **E-mail.** Ohio established a dedicated e-mail box named MCD-HCBSfeedback, which received seven e-mails, all of which were received by the November 15, 2015, deadline.
2. **Written comments.** Ohio also provided a U.S. Postal Service address, which was Ohio Department of Medicaid, ATTN: HCBS Transition Plan, P.O. Box 182709, 5th Floor, Columbus, OH 43218. It received one mailed item, which was postmarked by the November 15, 2015, deadline, and was a hard copy of an e-mail attachment sent earlier.

3. **Fax.** Ohio provided a fax number, which was (614) 466-6945, but did not receive any faxes regarding the draft transition plan.
4. **Toll-free phone number.** Ohio provided a toll-free number 1 (800) 364-3153 with a recorded message advising callers they had reached the CMS HCBS draft transition plan phone message box and offering five minutes in which to leave a message. This option was not used.
5. **Video.** In response to a stakeholder request during the posting of the first draft transition plan, Ohio also accepted e-mailed .mov video submissions. However, it did not receive any submissions for the second posting.

All input from all methodologies were shared among the three agencies for quantification, analysis and potential modification of the draft plan.

Ohio ensured accessibility to the HCBS draft transition plan by posting it on an Americans with Disabilities Act-compliant website. The state shared the draft plan broadly and also requested key stakeholder organizations share and discuss with their members. Throughout this process, individuals could access the draft transition plan both electronically and hard copy upon request. Ohio did not receive a request for a hard copy.

Summary of Public Comments and Modifications Made on the Revised Plan Based Upon Public Comments

The table below illustrates a summary of the seven unduplicated comments received during the October 15, 2015, through November 15, 2015, comment period. It is categorized by topics and details modifications, if any, to be made to the draft transition plan prior to submitting to CMS and re-posting for public review.

Assisted Living: 14% of the comments received were on this topic. (1)

| Themes | State’s Response | Modifications to the Plan | Rational for Not Modifying the plan |
|--|---|----------------------------------|--|
| Personal needs allowance for individuals enrolled on the waiver is inadequate to promote community inclusion | The state acknowledges the value of the personal needs allowance in supporting community integration. | No | The state will consider the personal needs allowance policy in future waiver design. |

Miscellaneous –86% of comments received were not specific to any type of setting and some submissions addressed a variety of themes. One submission was specific to both systems, one submission was relevant only to the NF-based LOC system and four submissions were directed to the ICF-IID system. (6)

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|--|----------------------------------|--|
| The principle that individuals and families determine what integration means must permeate the plan. | The State agrees this is a basic principle of the transition plan. | No | The plan provides opportunities for the experience of individuals to inform the implementation and ongoing assessment of compliance. |
| The on-site evaluations should include a broader sample of settings, not just those based on provider self- assessments. | The State agrees the on-site evaluations should not be limited to those based on provider self- assessments. | No | The ongoing provider oversight process does incorporate a review of the settings beyond those identified proposed plan, as appropriate. |
| Benchmarks and timelines are needed to make sure sufficient progress is made and process is transparent. | The State acknowledges the importance of identified benchmarks and timelines to track implementation progress. | No | The plan outlines the proposed timelines for each component. The State will use existing stakeholder communication avenues to report on implementation progress. |
| Enforcement mechanism for individuals to challenge any setting not compliant. | The State acknowledges the value of individuals' assessment of initial and ongoing setting compliance. | No | Using the existing complaint processes, individuals have the right to file a complaint regarding a specific setting and/or to report directly to the State any concerns with a setting's ability to comply. Upon receiving a report by an individual or another entity, the State will initiate a formal review, as appropriate. |
| Clarify the individual has a right to due process upon proposed modifications. | The State acknowledges the individual's right to participate in and approve the person-centered service plan. | No | Due process is currently afforded if individuals have concerns with the scope, duration, or frequency of services authorized in the person- centered service plan, including any modifications proposed to the plan. |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|--|----------------------------------|---|
| Ongoing education is needed about the new rule and subsequent changes. | The State acknowledges the value of ongoing education. | No | The state will continue to share information about changes and status updates through the established stakeholder groups, routine publications, and websites. The design of the communication strategy included in the plan is underway as well as the development of "easy read" documents for individuals served by the ICF-IID system. |
| The Office of the State Ombudsman is supportive of the ombudsman's role in the education and relocation process. The Ombudsman recommends flexibility with timeframes for relocation, depending on the number of settings, to ensure smooth transition for individuals. | The involvement of the State Ombudsman Office is essential to promote person-centered principles in education and relocation processes. | No | The existing relocation team protocols will be used to ensure smooth transitions for individuals, including determining appropriate time frames for relocations. |
| The transition plan committee, which advised the development of the ICF-IID remediation plan, should be reassembled. | The State acknowledges the importance of ongoing communication and opportunities to provide feedback on the implementation of the remediation plan for both systems. | No | Ongoing communication will be provided, and feedback will be solicited through existing stakeholder workgroups and publications, as well as through future public comment periods related to updates to the statewide transition plan and resulting waiver or rule amendments. |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|---|---------------------------|--|
| <p>Additional training and technical assistance are required to assist providers with complying with the regulation.</p> | <p>The State acknowledges the value of ongoing education and technical assistance with plan implementation.</p> | <p>No</p> | <p>Information regarding the requirements for all HCBS settings has been provided via regional forums, conferences, webinar presentations, and written publications. Because the characteristics of HCBS settings are determined through the experiences of individuals receiving supports, training efforts have been focused on the person-centered planning process. DODD has contracted with national experts to provide training and technical assistance to county board personnel and providers. In addition, local training sessions have been made available to individuals and families. Resources to support team members with person-centered planning are also available on DODD's website. To support providers who are transitioning from facility-based day services to integrated community supports, DODD has awarded project transformation grants and has fostered communities of practices for providers to share their experiences with transformation with one another.</p> |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|--|----------------------------------|--|
| Revised service definitions for adult day waiver services and new rate methodologies should be adopted prior to plan implementation. | The State does not agree. Individuals should be afforded opportunities for access to the broader community in accordance with their person-centered plans. | No | DODD continues to meet with stakeholders and respond to feedback regarding proposed service definitions and rates. The planned implementation date remains October 2016. Nothing in the current rules prevents or prohibits compliance. Many providers have already made, or are in the process of making, necessary changes to increase individuals' access to the broader community. |
| County board personnel should be permitted to accompany DODD personnel during on-site visits. | The State does not agree that it is necessary to include county board personnel in onsite reviews conducted by the State. | No | County board personnel will receive training on the HCBS settings evaluation tool for use during the ongoing compliance process. |
| Empower SSAs in evaluating service setting compliance with integration mandate. | The State agrees that additional training is required on the process to be used to evaluate settings' compliance with the regulation. | No | County board personnel will receive training on the HCBS settings evaluation tool for use during the ongoing compliance process. |
| A question was raised about whether a formal strategic plan is required by providers of HCBS. | No formal strategic plan is required. | No | A provider's strategic plan, if available, is one possible indicator of the provider's commitment to supporting individuals with access to the broader community. |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|--|---|---------------------------|---|
| A question was raised about the role of protection and advocacy entities in the ongoing monitoring of site-specific settings | Involvement in ongoing compliance efforts by protection and advocacy entities is not duplicative of other compliance efforts by the State. | No | Protection and advocacy entities are key partners in ongoing compliance by informing individuals of their right to file a complaint regarding a specific setting and/or to report directly to the State any concerns with a setting's ability to comply. Upon receiving a report by an individual or another entity, the State will initiate a formal review, as appropriate. |
| The State should conduct on- site reviews until county boards have resolved the conflict of interest. | The State agrees that county boards should not conduct reviews of existing adult day waiver settings until they are no longer providers of service. | No | All initial onsite reviews will be conducted by the State. County board personnel will receive training on the HCBS settings evaluation tool for use in the ongoing compliance process. Reviews by county board personnel will focus on residential settings, as long as boards continue to provide adult day waiver (non-residential) services. |
| Concern was expressed that the HCBS settings evaluation tool was developed by a group of stakeholders chosen by DODD. | The State does not agree. | No | DODD invited individuals, advocates, providers, and county board personnel who provided public input on the initial posting of the statewide transition plan. Representatives included those who submitted comments in support and in opposition to the plan. |

| Themes | State's Response | Modifications to the Plan | Rationale for No Change to the Plan |
|---|--|---------------------------|--|
| A question was asked about how the public will be able to comment on the results of the onsite evaluations. | The statewide transition plan will be updated to reflect the results of the on-site evaluations. | No | Future public comment periods related to updates to the statewide transition plan and resulting waiver or rule amendments will be available. |
| State provider compliance reviews need to occur more often than once every three years. | Routine reviews are conducted at least once every three years. However, special reviews may be conducted whenever concerns are reported. | No | In addition to the formal provider compliance reviews conducted by DODD and county boards, service and support administrators conduct ongoing monitoring of service plan implementation. |
| The HCBS settings evaluation tool should be posted to the website. | The State agrees. | No | A copy of the final HCBS evaluation tool will be posted to DODD's website. |
| Full inclusion requires enhanced literacy | The State acknowledges the importance of literacy. | No | Case managers are responsible for linking individuals with supports necessary to support their desired outcomes. This may include referrals to literacy organizations, as appropriate. |

Section V: CMS's Initial Review of Ohio's Statewide Transition Plan (STP)

The Centers for Medicare and Medicaid Services (CMS) completed its initial review of Ohio's Statewide Transition Plan (STP) and issued the findings to the State on July 23, 2015. A copy of the CMS review is available at: <http://www.medicare.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/oh/oh-cmia.pdf>. Based upon its initial review of the statewide transition plan CMS said the STP needed to be revised and posted for public comment.

Ohio Response to the CMS Initial Review of the Statewide Transition Plan

Assessments

Site-specific assessment process. CMS would like additional information regarding the methods used to validate the results of the provider self-assessment surveys.

CMS: What percent of residential settings serving individuals with an ICF/IID Level of Care (LOC) were actually assessed by the county boards of developmental disabilities?

Ohio Response: 13% of all self-assessments of residential settings received were from county boards of developmental disabilities.

CMS: How will the state validate the survey results of existing non-residential settings providing adult day services serving individuals with an ICF/IID LOC?

Ohio Response: An HCBS Setting Evaluation Tool was developed with stakeholders representing county boards of developmental disabilities, providers of residential and non-residential services, individuals receiving services, and advocates. DODD personnel will use the tool during on-site reviews. It includes reviews of documentation including the provider's strategic plan, policies and procedures, and staff training. The review also takes into consideration the location of the setting and whether it appears to be integrated into the broader community. Interviews will be conducted with individuals receiving services, direct support professionals, and family members to gather information about the types of opportunities for access to the community that are available. On-site visits will occur by July 2017.

CMS: How will the state ensure that new providers will also be in compliance?

Ohio Response:

- An initial on-site assessment is conducted for all new settings that provide residential and non-residential HCBS.
- For settings that serve individuals with a NF-based level of care, the assessment is conducted prior to the entity being issued a Medicaid provider agreement to furnish HCBS waiver services.
- For individuals with an ICF-IID level of care, local service and support administrators will ensure that new settings comply with the HCBS settings standards prior to adding the service to Individual Service Plans. If a setting's non-compliance prevents a service from being added to an individual's plan, the individual will be afforded due process in accordance with Ohio Revised Code 5101:6-1 through 5101:6-9.
- DODD's Office of Provider Standards and Review conducts provider compliance reviews for all new providers within the first year of service provision. DODD's routine regulatory review will include an evaluation of the setting's compliance with the standard as outlined in OAC 5123:2-2-04- Compliance reviews of certified providers.
- Appendix 2 and 4 have been updated.

Outcomes of site-specific assessments. Additional information is needed with regard to the outcomes of the completed assessments, including the provider self- assessments and participant experience assessments.

CMS: The STP should include information on the outcomes of site-specific assessments by setting type. CMS would also like to understand the information the state used from the provider self- assessments (e.g., variables used to assess compliance and aggregated results) to determine the status of settings.

Ohio Response:

- A summary statement was added to the self-assessment surveys distributed to providers of both residential and non-residential services. Providers were asked to categorize each setting as one of the following: compliant, able to comply with modifications, having the effect of isolating and possibly requiring a heightened scrutiny review, or cannot comply. Representatives from DODD’s Office of Provider Standards and Review and the Division of Medicaid Development and Administration compared providers’ responses to survey questions with providers’ selected summary statements. If discrepancies were noted between the responses and the summaries, DODD personnel modified the setting’s classification based upon the results of the actual survey responses. Through the self-assessment process, the state also identified common trends of areas in which providers identified the need for improvement. They included the need to provide additional training for staff to assist individuals with community access/participation, the need to learn more about the types of activities/opportunities within individuals’ communities and making changes in person-centered plans to reflect interests and supports needed for individuals to access the community.
- For residential and non-residential settings that serve individuals with a NF- based level of care, the State used existing state regulations, rules, and standards, to categorize each setting as one of the following: compliant, able to comply with modifications, having the effect of isolating and possibly requiring a heightened scrutiny review, or cannot comply.
- Site-specific assessments will be conducted for 100 percent of both the residential and non-residential settings, which have been identified as having the effect of isolating individuals and may be subject to heightened scrutiny. The site-specific assessments process includes a participant experience component.

CMS: Once the State has completed the site-specific assessments (including on-site assessments), the State must update the STP with a description of the results by setting type, so the public can comment on the state's determinations.

Ohio Response: Upon completion of the site-specific assessments, the STP will be updated to include a description of the results by setting type. The State will make the revised STP available for public comment, in accordance with the regulation.

Ongoing Monitoring:

For all setting types, CMS would like more detail regarding ongoing monitoring and provider compliance reviews such as:

- The components of the monitoring process, including how the community surveys can be tied to specific settings and what action will be taken based on the findings.
- Whether the state intends to use state licensure entities to ensure settings remain in compliance after the end of the transition period.

Ohio Response:

- Continued compliance with the HCBS settings rule for all setting types is a component of the current ongoing monitoring and provider compliance reviews. The components of the monitoring process, including the entities responsible for conducting, prescribed time frames, event-based compliance reviews and consequences for non-compliance, are outlined in the approved waiver and in accordance with the following Ohio Administrative Code rules: OAC 5160-45-06, 5160-45-09, 173-39-04, 173- 39-05, 173-39-06 and 5123:2-2-04.
- Separate from the ongoing monitoring processed outlined above, additional mechanisms that contribute to the ongoing monitoring of the site-specific settings include but are not limited to case management oversight as outlined in the approved waivers, involvement of protection and advocacy entities, a complaint process, and participant experience surveys.
- Appendices 2 and 4 have been updated to provide more detail on the ongoing monitoring process.

Remedial Actions

Systemic remediation

CMS: The State's systemic remediation strategies are presented in a Systems Remediation Grid for the ICF/IID Level of Care (LOC) waiver settings and for the nursing facility (NF) LOC waiver settings. The grids "describe the impact of the federal regulation on applicable State statutes, administrative rules, administrative and operational policies" and identify the regulation, remediation required, action steps, and timeline.

Ohio Response: No response required.

Setting remediation

CMS: Setting remediation strategies are presented in a Settings Remediation Grid for the ICF/IID LOC settings and for the NF-LOC settings. The grids identify the regulation, remediation required, action steps, and timeline. Providers will develop remediation strategies to come into compliance. However, at this point there is little detail as to what these remediation strategies will entail.

Ohio Response: Appendices 2 and 4 have been updated to provide more detail on remediation strategies

CMS: Please provide additional detail under the ICF/IID LOC Adult Day Waivers Service Settings for two remediation and relocation activities listed to be completed "By March 2024".

These dates appear to indicate the state's plan for zero conflict of interest for this service. This information should not be included in the STP but should be reflected in the appropriate waiver(s). Please remove this reference. If this is an incorrect understanding by CMS, please provide information to clarify. CMS notes that the transition activities for settings should not exceed March 17, 2019.

Ohio Response: Currently 20,149 individuals with an ICF/IID level of care receive adult day waiver services, including Adult Day Support, Vocational Habilitation, and Adult Day Health Center services. There are currently 865 providers certified to deliver these services. In Ohio, these services are typically offered in traditional day program settings that offer varying levels of opportunities for community access and participation. Over the past two years, DODD has worked closely with providers of adult day waiver services, county boards of developmental disabilities, and advocates to redesign these services to promote enhanced employment opportunities and greater community participation. In addition to new service definitions, the group identified key changes to provider qualifications and rate methodologies needed to achieve these desired outcomes. The State will present the proposed amendments to CMS for consideration in 2016.

Due to the number of individuals receiving Adult Day waiver services, as well as the number and variety of providers delivering the services, Ohio has requested an additional five years to comply with the standard. This time is needed to implement the newly redesigned services, develop sufficient capacity of providers that meet the new qualifications, and transition individuals to new service models. During this period, Ohio will continue to conduct reviews of existing adult day waiver settings and ensure remediation, where needed, to comply with the standard.

As evidenced through public comment submitted in response to Ohio's proposed transition plan, as well as through legislative feedback provided to CMS, stakeholders have raised significant concerns about potential disruption in services that may result from abrupt changes to the service

delivery system. A successful transition requires sufficient time to ensure the appropriate infrastructure exists to support greater community access in order to minimize disruption to services for 20,149 individuals.

CMS: The state indicates they will be using data from Quality Reviews such as the National Core Indicators. The state must demonstrate how these Reviews can be cross-walked to specific setting locations.

Ohio Response: For the NF-based LOC system, the state will use data from Quality Reviews, such as the National Core Indicators survey, to assess system-wide trends with individuals' experiences with community integration and access. The Resident Satisfaction Survey results will be used to assess the individuals' experience with community integration and access with specific setting locations. Appendix 4 has been updated.

Relocation

CMS: The remediation strategies reference relocation in Appendices 2 and 4 at a high level as part of the processes for both residential and non-residential settings in the ICF/IID and NF- LOC waivers for settings that cannot comply with the HCBS characteristics, even with modifications. Please provide more detail regarding the relocation processes to include reasonable notice, assuring critical services are in place, and timeframes for planning these activities to ensure the effective transition by March 2019.

Ohio Response: Appendices 2 and 4 have been updated to add more detail regarding the relocation process.

Heightened Scrutiny

CMS: The state should clearly lay out its process for identifying settings that are presumed to have institutional characteristics. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based in nature and do not have the qualities of an institution. If the state determines it will not submit information on these settings, the presumption will stand, and the state must describe the process for informing and transitioning the individuals involved to either compliant settings or to non-Medicaid funding streams.

These settings include the following:

- Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS

from the broader community of individuals not receiving Medicaid HCBS.

Ohio Response: Appendices 2 and 4 have been updated to provide more detail regarding the heightened scrutiny process.

CMS: CMS is concerned that the state's assessment plan will not be completed until sometime in 2017. We would urge the state to consider any timeline efficiencies that will provide them and the stakeholders with information regarding the status of settings more expeditiously.

Ohio Response: The state is committed to timelines that prepare individuals and providers to participate in a comprehensive assessment process and afford individuals ample opportunities to make informed decisions regarding choice of compliant settings in which to reside and/or receive services.

Summary of Public Comment Process for Revised Initially Approved Plan

Ohio's third formal public comment period was held from December 12, 2016, through January 12, 2017. Ohio used the following electronic and non-electronic methods to announce the opportunity to review the state's responses to CMS' additional questions (Section VI) which were incorporated into the initially approved HCBS draft transition plan.

- **Web postings.** Ohio posted the revised initially approved plan, a public notice, and a summary of the changes on the Ohio Department of Medicaid's webpage at <http://medicaid.ohio.gov/RESOURCES/PublicNotices/CMSHCBSStatewideTransitionPlan.aspx>. In addition, the Ohio Department of Aging (ODA) and the Ohio Department of Developmental Disabilities (DODD) posted public notices on their websites, which linked to the ODM site.
- **Community postings.** The local County Department of Job and Family Services offices posted a copy of the Public Notice and Request for Comment announcement, which included information about how to obtain a non-electronic copy of the waiver and the proposed amendments. The Area Agencies on Aging, as the lead agency for the state's Aging and Disability Network, posted a copy of the Public Notice and Request for Comment announcement, which included information about how to obtain a non-electronic copy of the waiver and the proposed amendments.
- **Stakeholder advisory groups.** Announcements were issued to both DODD and ODM/ODA Stakeholder Advisory Groups regarding the formal public comment period with a request to disseminate the information to their respective colleagues and distribution lists.

Ohio provided four methods for the public to provide input on the revised initially approved plan which included:

1. **E-mail.** Ohio established a dedicated e-mail box named MCD-HCBSfeedback.

2. **Written comments.** Ohio also provided a U.S. Postal Service address, which was Ohio Department of Medicaid, ATTN: HCBS Transition Plan, P.O. Box 182709, 5th Floor, Columbus, OH 43218.
3. **Fax.** Ohio provided a fax number, which was (614) 466-6945.
4. **Toll-free phone number.** Ohio provided a toll-free number 1 (800) 364-3153 with a recorded message advising callers they had reached the CMS HCBS draft transition plan phone message box and offering five minutes in which to leave a message.

Ohio ensured accessibility to the HCBS draft transition plan by posting it on an Americans with Disabilities Act-compliant website. The state shared the draft plan broadly and also requested key stakeholder organizations share and discuss with their members. Throughout this process, individuals could access the revised initially approved plan both electronically and hard copy upon request.

Summary of Public Comment Process for Revised Initially Approved Plan

The state did not receive any comments during the formal public comment period held from December 12, 2016 through January 12, 2017. Ohio received one request for a hard copy. As a result, no changes were made to the revised initially approved plan.

Summary of Public Comment Process for the Final Plan

Utilizing the State's established public comment process, the formal public comment period for the final draft of the statewide transition plan was held from October 20, 2018, through November 20, 2018. The public notice and the final plan was posted on the Department of Medicaid's (ODM) webpage <https://www.medicaid.ohio.gov/RESOURCES/Public-Notices/HCBS-Statewide-Transition-Plan102018>. Non-electronic announcements and methods for providing input were provided. The State received two comments in support of the plan during the formal public comment period. One comment reinforced the importance of ongoing monitoring to ensure continued compliance with the settings requirements. One non-electronic copy of the plan was provided upon request. As a result, no changes were made to the final plan.

Summary of 2nd Public Comment Process for the Final Plan

Utilizing the State's established public comment process, the formal public comment period for the final draft of the statewide transition plan was held from June 15, 2019 through July 15, 2019. The public notice and the final plan were posted on the Department of Medicaid's (ODM) webpage <https://www.medicaid.ohio.gov/RESOURCES/Public-Notices/HCBS-Statewide-Transition-Plan6152019>. Non-electronic announcements and methods for providing input were provided.

The State received eight comments during the formal public comment period from five family members, one disability advocate, and two provider associations. One commenter was supportive

of the strategies and progress being made, reinforced the importance of ongoing monitoring to ensure continued compliance with the settings requirements, continued input from individuals and advocates on the settings, and person-centered training for case managers. Another commenter expressed support for the plan and noted adequate reimbursement for home health agencies was a key component to allowing more people to live and work in the community. Four commenters were linked with the appropriate system to address individual-specific experiences. In addition to individual-specific input, one commenter stated the use of acronyms (and implied the size of the document) made it difficult to read. Two non-electronic copies of the plan were provided upon request.

In response to the input received, the State posted an executive summary and a glossary of acronyms used in the plan on the ODM webpage. The State determined mechanisms are currently in place to ensure ongoing monitoring, individual/advocate input, and person-centered planning training. No changes were made to the final plan.

Section VI: CMS's Initial Approval of Ohio's Statewide Transition Plan (STP)

The Centers for Medicare and Medicaid Services (CMS) issued initial approval of Ohio's Statewide Transition Plan (STP) on June 2, 2016.

Upon granting the initial approval, CMS provided additional feedback on areas where improvement is needed in order for the State to receive final approval of the statewide transition plan. The following reflect the areas identified for improvement and the State's response.

Public Engagement

CMS: CMS notes the state includes suggestions for public outreach worthy of expanding. One is the communication plan developed with the Long-Term Care (LTC) Ombudsman to educate individuals on the community nature of a setting and how to lodge complaints about a setting. Another is the possibility of a public service announcement on the community integration regulation.

Ohio Response: Ohio acknowledges the importance of a robust public engagement strategy and will incorporate additional public outreach information in subsequent submissions of the plan. The state provides periodic updates to the Ohio Olmstead Task Force and a status report is also given at each meeting of the Community Living subcommittee of the Developmental Disabilities Council.

Systemic Remediation

CMS: Please update the systemic assessment remediation section of the STP with any additional actions that have been completed.

Ohio Response: The systemic assessment remediation section of the STP is up-to-date.

Site-Specific Setting Assessment, Validation and Remediation

CMS: *Individual, Private Homes:* In a situation where the state presumes any category of setting that receives HCBS funding to be automatically in full compliance with the rule, the state must outline how it came to this determination and how compliance of each of these categories will be monitored over time.

Ohio Response: Ohio presumes individuals' private homes or the homes in which they reside with relatives to be compliant in accordance with CMS guidance regarding HCBS setting requirements. These settings will be monitored over time through routine on-site visits conducted by service and support administrators (ICF/IID system), waiver case managers (NF/LOC system) and through provider compliance reviews conducted by the state agencies and their designees to ensure compliance with *Ohio Administrative Code (OAC) 5123:2-1-11 Services and support administration* and *OAC 5160-44-01 Nursing facility based level of care home and community-based service programs: home and community-based settings*. Training on the rules and HCBS requirement resources have been provided to the service and support administrator and waiver case managers.

CMS: *Group Settings:* As a reminder, all settings that group or cluster individuals for the purposes of receiving HCBS must be assessed by the state for compliance with the rule. This includes all group residential and non-residential settings, including but not limited to group supported employment and group day habilitation activities.

Ohio Response: Ohio understands it must assess all settings that group or cluster individuals for the purposes of receiving HCBS.

ICF/IDD Level of Care-Based Waivers:

CMS: *Non-Disability Specific Settings:* The systemic assessment does not mention ensuring that each individual has an option for a non-disability specific setting. The assessment discusses an overarching rule in development. Please provide more specific details demonstrating how the state assures beneficiary access to non-disability-specific settings in the provision of residential and non-residential services. This additional information should include how the state is strategically investing to build capacity across the state to assure non-disability specific options.

Ohio Response: *Ohio Administrative Code 5123:2-9-02 Home and community-based services waivers - ensuring the suitability of services and service settings* describes the purpose of home and community-based services as supporting full community participation and achievement of individual-specific outcomes. It requires service and support administrators to provide individuals with a description of all services and setting options available through the waiver, including non-disability-specific settings. Compliance with this regulation is monitored through both the person-centered planning review of the county board accreditation process and through the settings evaluation component of provider compliance reviews during which individuals/guardians are asked about the settings options made available.

In March 2016, DODD hired a Housing Development Manager within its Division of Residential Resources. The Housing Development Manager's role is to expand efforts to develop integrated community housing for people with disabilities. In addition, DODD has awarded a grant to the Ohio Association of County Boards of Developmental Disabilities, which is partnering with the Ohio Provider Resource Association, Ohio Association of Adult Services, and Ohio Waiver Network, and the Ohio Health Care Association, to provide technical support and training to their members on integrated supports.

CMS: *Residential Settings: Site Specific Assessment Process:* Please provide the state process for validating site-specific provider assessments (see below). The STP does not include response rates for the survey, and there is a discrepancy between the estimate of 2500 residential settings and the actual survey responses of 2163 settings. The STP is not clear how non-responders, if any, will be evaluated. The survey referenced 75 settings that are likely to have the effect of isolating individuals that are not co-located with institutions where on-site reviews will be conducted. Please provide more detail on these settings.

Ohio Response: The response rate to the survey was 87% (2163 settings responded out of 2500 surveyed). The responses incorporated residential settings in which 7,003 people with disabilities receive services. The settings that are not co-located with institutions whereon- site reviews will be conducted include campus-like settings in which day and residential services are co-located, disability-specific farms, cul-de-sacs, apartment complexes, or large licensed homes.

Non-responders (13% or 337 settings) will be evaluated through routine on-site visits by service and support administrators and provider compliance reviews conducted by DODD or county boards of developmental disabilities.

CMS: *Validation Process:* Please clarify the validation process for the residential assessment and indicate how the state will select a representative sample of provider responses to evaluate the accuracy of the provider self-assessment. Please clarify how DD county boards will validate residential assessments and what entity will validate day service settings. CMS notes strengthening direct feedback from participants is often an effective approach in validating providerself-assessments.

Ohio Response: DODD will conduct on-site reviews of 100% of all residential settings classified as those that may require heightened scrutiny or having an inability to comply with the regulation. For the remaining settings that have indicated the ability to comply with modifications, DODD will verify implementation of 50% of the remediation plans by July 2016 and the remaining 50% by July 2017. Services and support administrators will visit all settings, including those that did not respond to the survey, as part of routine monitoring. The frequency of monitoring visits is specified in each person-centered plan. Often, those visits occur quarterly. The frequency may be increased or decreased based upon the individual- specific circumstances, as specified in *Ohio Administrative Code 5123:2-1-11 (F)(2)(q)*.

Service and support administrators received guidance from DODD-related to observations that may indicate a setting may not comply with the home and community-based standards. Upon identifying one of these indicators, a referral is to be made to DODD’s Office of Provider Standards and Review (OPSR) for additional follow-up. Depending upon the concerns outlined in the referral, OPSR staff may contact the provider to request additional information regarding the services delivered at the location and conduct a desk review, or OPSR may determine a site visit is necessary to ensure compliance with the standards. DODD or the county board may conduct a special provider compliance review described in *Ohio Administrative Code 5123:2-2- 04 (C)(1)(b)*, (which includes the HCBS settings evaluation) when concerns are reported by a guardian, community member, protection and advocacy agency or other entity.

In accordance with the corrective action plan approved by CMS, some county boards of developmental disabilities continue to deliver adult day waiver services. Thirteen county boards no longer deliver waiver services. The remaining 75 boards are transitioning out of delivering adult day waiver services. As a result, county boards are not responsible for validating any day service setting. DODD maintains this responsibility.

Both routine monitoring and formal provider compliance reviews include interviews with individuals receiving services and/or their legal guardians to gain direct feedback regarding the options presented to them to help them access the broader community and to have greater independence and autonomy.

Formal provider compliance review sample sizes follow the guidelines, below:

| Individuals Served | Number of Individual Records | Number of Personnel Records |
|--------------------|------------------------------|-----------------------------|
| 1-2 | 1 | 1 |
| 3-7 | 2 | 2 |
| 8-10 | 3 | 3 |
| 11-15 | 4 | 5 |
| 16-20 | 5 | 6 |
| 21-35 | 5 | 6 |
| 36-50 | 6 | 7 |
| 51-74 | 7 | 8 |
| Over 75 | 10% | 10% |

CMS: *Non-Residential Settings in ICF/IID:* The STP provides inconsistent numbers for settings and number of providers. The STP states that 464 provider responses were received from nonresidential settings covering 25,000 individuals but it also says that 20,149 individuals across a total of 865 providers within ICF/IID LOC receive adult day services. Please provide further clarification.

Ohio Response: The language indicates that 464 providers responded to the survey. These settings provide services to more than 25,000 individuals, which includes people who are enrolled in waivers and people who are receiving locally funded supports from these providers. The plan also reflects there are currently 865 providers certified to deliver Adult Day Support, Vocational Habilitation, and Adult Day Health Center services through the waiver. Not all of these providers responded to the survey. In addition, 20,149 people served by these providers who have an ICF/IID level of care. The number of people served is fewer in this instance because it excludes all the individuals who are receiving services from the providers that are not funded through the waiver.

DODD suggests that the non-residential provider survey responses are likely unrealistically positive). It is not clear what DODD will use to validate this survey, or if the system redesign for adult day and employment services will require a new method of evaluating setting compliance. Without validation, this survey is not a sufficient basis for the compliance assessment.

CMS: Please describe the state's process for validation.

Ohio Response: DODD will use the settings evaluation tool that was developed with stakeholder input to validate non-residential provider survey responses through on-site review. Evaluations will be conducted in accordance with DODD's ongoing provider compliance schedule. In addition, service and support administrators from county boards are routinely visiting each site as part of their ongoing reviews of service plan implementation. These visits often occur quarterly. The frequency may be more or less often, based on individual-specific circumstances. The frequency of reviews is identified in each person-centered plan.

Service and support administrators received guidance from DODD related to observations that may indicate a non-residential setting may not comply with the home and community-based standards. Upon identifying one of these indicators, a referral will be made to DODD's Office of Provider Standards and Review (OPSR) for additional follow-up. Depending upon the concerns outlined in the referral, OPSR staff may contact the provider to request additional information regarding the services delivered at the location and conduct a desk review, or OPSR may determine a site visit is necessary to ensure compliance with the standards. The on-site visit may entail a special provider compliance review described in *Ohio Administrative Code 5123:2-2-04 (C)(1)(b)*, which includes the HCBS settings evaluation. Above and beyond the routine monitoring and settings evaluations described above, DODD is conducting on-site reviews of all settings that indicated through the self-assessment process that they may require relocation or heightened scrutiny. The results of those evaluations will be posted for public comment and submitted to CMS in accordance with the timelines specified in the statewide transition plan.

CMS: The suggested dates for identifying non-residential settings presumed to have institutional characteristics occur late in the process (Jan. 2018, submitted July 2018). Please consider moving up completion of these steps.

Ohio Response: DODD is conducting on-site reviews and identifying settings presumed to have institutional qualities. The amendments submitted to CMS, which included modified service definitions, provider qualifications, and rate methodologies for its vocational habilitation and employment services, as well as adult day support, have been delayed as a result of a formal RAI and will not be effective in November 2016. The goal was to modify services to improve alignment with the HCBS standards and to ensure rates supported increased access to the broader community for individuals receiving non-residential day supports. Most on-site reviews of non-residential settings was expected to occur after the services and related rules were implemented. Because of the delay in the implementation of the redesigned services, completion of on-site reviews and/or remediation of concerns noted during those reviews may be delayed.

In addition to the monitoring and compliance efforts described previously, DODD has been working with providers and county boards to provide ongoing training and technical assistance related to both the settings regulation and the proposed changes to the non-residential day and employment services. This effort involves direct stakeholder engagement by DODD via in-person and web-based training, developing resources for reference by providers and boards, as well as a grant awarded by DODD to the Ohio Association of County Boards of Developmental Disabilities, which is partnering with the Ohio Provider Resource Association, Ohio Association of Adult Services, and Ohio Waiver Network, and the Ohio Health Care Association, to provide technical support and training to their members on integrated supports.

Through these activities, communities of practice are being created to share innovative strategies for developing and implementing person-centered plans that support broader community engagement for individuals receiving non-residential day services. The intent is to support development of the necessary infrastructure and provider capacity prior to issuing a determination of whether a setting complies with the regulation.

CMS: In addition, Ohio appropriately questions the accuracy of its provider self-assessments, which identified 50% of DD adult day settings as being 100% compliant with the rule but does not propose an effective method to validate the results other than through triennial monitoring, which will not allow for the time necessary to be fully compliant by March of 2019. Please indicate how the state will supplement these monitoring efforts.

Ohio Response: In addition to the routine provider compliance reviews, DODD provided guidance to county board service and support administrators for when observations of non-residential settings conducted through their ongoing monitoring process should warrant a report to DODD for further review. DODD may conduct special provider compliance reviews, which includes the HCBS settings evaluation, when service and support administrators identify concerns or when another entity, such as a guardian, community member, or protection and advocacy agency, reports a concern.

CMS: CMS requests additional details regarding training state employees who are conducting onsite assessments and/or reviewing provider self-assessment data and other supplemental information are receiving to assure strong quality in the review process.

Ohio Response: A small group of management personnel was chosen to review the self-assessment data and the remediation plans submitted by providers to ensure consistency of the review. This group presents questionable scenarios to senior leadership for review prior to determining how to classify the self-assessment data or whether to approve a remediation plan. These personnel received training on the CMS regulation and corresponding guidance.

Members of this group and an expanded selection of management personnel were selected to conduct the initial on-site visits of settings that indicated they may require heightened scrutiny or may not be able to comply. This group was provided background on how the on-site evaluation tools were developed with stakeholder input and were trained to use the tool.

Personnel within DODD's Office of Provider Standards and Review (OPSR) received training on the use of the settings evaluation tool by their management team prior to incorporating the tool as part of routine compliance reviews. These staff direct all questions or concerns regarding settings evaluations to their management team.

CMS: CMS notes that states cannot comply with the rule simply by bringing individuals without disabilities from the community into a setting. Compliance requires a plan to integrate beneficiaries into the broader community. Reverse integration, or a model of intentionally inviting individuals not receiving HCBS into a facility-based setting to participate in activities with HCBS beneficiaries in the facility-based setting is not considered by CMS to be a sufficient strategy for complying with the community integration requirements outlined in the HCBS settings rule.

Under the rule, with respect to non-residential settings providing day activities, the setting should ensure that individuals can interact with the broader community of non-HCBS recipients and provide opportunities to participate in activities that are not solely designed for people with disabilities or elders, but rather for the broader community. Settings cannot comply with the community integration requirements of the rule simply by hiring, recruiting, or inviting individuals who are not HCBS recipients into the setting to participate in activities that a non-HCBS individual would normally take part of in a typical community setting.

Ohio Response: Ohio acknowledges that reverse integration is not sufficient evidence of community integration with the broader community.

CMS: *Remediation:* CMS requests the state provide additional details around the strategies it will implement to remediate any setting found to be in non-compliance with the HCBS settings rule. It appears that providers will develop their own plan (to be pre-approved by the state), but it is not clear how the state will verify that the provider's plan is sufficient or that proposed changes have been implemented. The timeline to have 50% of residential sites remediated prior to July 2016

seems unrealistic. The STP also suggests that planning for individuals receiving services in settings that will not comport will be complete by March 2017, but actual movement to settings that do comport will be complete by March 2019). It is not clear why there is a two-year lag.

Ohio Response: In settings determined able to comply with modifications, three primary areas of concern were noted. The first was a need for service plans to be more person-centered. The second was a need to develop improved strategies for linking individuals with their communities. Finally, providers expressed a need for improved staff development/training so staff would be better equipped to support people with accessing the community. Providers submitting remediation plans are also required to submit supporting documentation, such as evidence of staff training, modified service plans, etc.

DODD will use a combination of desk reviews and on-site reviews to verify remediation plans. Fifty percent of all remediation plans will be verified through one of these two methods by July 2016, with the remaining verified by July 2017. On-site reviews will be conducted at no less than 50% of the settings requiring remediation.

DODD requires relocation plans be submitted by March 2017 for those settings determined to require relocation. DODD expects many of these relocation plans to be completed prior to March 2019. However, to accommodate challenges that may be encountered for some individuals, DODD indicated that 100% completion is not required until the end of the transition period. The relocation plans will detail the anticipated timeframe by which relocation will be completed for each setting.

NF-LOC Waiver System

CMS: *Assisted Living:* CMS is concerned about the low response rate of Assisted Living settings to the state's on-line ALF provider self-assessment process. From the description in the STP, the Aug. 2014 provider self-assessment had a 31% response rate. Please describe any validation or verification checks of the assessment findings, indicate how many provider respondents have Medicaid HCBS participants, and how the state evaluated settings that did not respond to the survey.

Ohio Response: In advance of developing strategies for assessing its network of HCBS providers, the state conducted an informal survey of assisted living providers. The purpose of the survey was to encourage the provider network to become familiar with the regulation and to provide the state with background information to inform the development of strategies for HCB settings implementation. The formal provider self-assessment process began in April 2015. On-site validation of the provider self-assessment will be conducted on 100% of the settings beginning in July 2016 and will be completed by June 30, 2017.

CMS: The state appears to have shifted a number of AL settings in CCRCs out of the presumed institutional category and into the "meets with modifications" category, but the justification for this shift is unclear () and CMS requests additional details from the state.

Ohio Response: Beginning with the initial submission in March 2015, the state placed settings that furnish independent living, assisted living, and nursing facility services in the "Meets with Modifications" category. There has been no shift in how these settings are categorized. This approach was based on the CMS "Guidance on Settings that have the effect of isolating individuals receiving HCBS from the Broader Community." An on-site assessment of each of these settings will be conducted, no later than June 30, 2017, to validate the location of the setting does not isolate individuals from the broader community.

CMS: *Adult Day Providers:* The on-line self-assessment for adult day providers has no reported response rate, no clear description of validation for the self-assessment or indication of how the state will evaluate non-responders. Please provide information on how the state will validate the responses.

Ohio Response: In advance of developing strategies for assessing its network of HCBS providers, the state conducted an informal survey of adult day providers. The purpose of the survey was to encourage the provider network to become familiar with the regulation. The formal provider self-assessment process began in April 2015. Onsite validation of the provider self-assessment will be conducted on 100% of the settings beginning in July 2016 and will be completed by June 30, 2017.

CMS: *PASSPORT Administrative Agencies' Onsite Assessments:* It is not clear from the STP that the annual PASSPORT Administrative Agencies' on-site assessments have been updated to cover all aspects of the federal HCBS settings regulations. Similarly, CMS requests the state further explain its approach to soliciting participant satisfaction feedback and clarify how the feedback process was cross-walked to the federal rules and linked to individual settings.

Ohio Response: All HCBS settings will be reviewed for compliance with the HCBS rule.

PAA case management staff will monitor the experience of all program enrollees by including discussion about community integration and control over service delivery in conversations with the individuals they case manage.

The state is conducting on-site visits at Assisted Living and Adult Day Service providers serving individuals on Medicaid waivers. ODA's designee, the PASSPORT Administrative Agencies (PAAs), has been conducting on-site visits for providers in Category B (those that may meet with modifications). State staff are conducting the visits for providers in Category C (those that may be subject to heightened scrutiny).

ODA staff trained their designee, the PASSPORT Administrative Agencies (PAAs), on the federal HCBS requirements and how to use the state's HCBS assessment tool. ODA incorporated the HCBS

assessment into the Provider Structural Compliance Review process and then trained the PAAs on the process. The structural compliance review (SCR) process is currently used to ensure compliance with the federal settings regulation. The structural compliance review process now includes an assessment of the provider's compliance with *OAC 5160-44-01 Nursing facility based level of care home and community-based service programs: home and community-based settings*, which covers all aspects of the federal HCBS settings requirements.

The PASSPORT Administrative Agencies' (PAAs) onsite assessments are being conducted in accordance with *OAC 173-39-04 Provider structural compliance review (SCR)*, and *(OAC) 173-39-02 ODA provider certification: requirements for every provider*. ODA's rules were amended to include a certification requirement that a provider shall only provide services to individuals in settings which meet the home and community-based setting characteristics set forth in *OAC 5160-44-01*.

The on-site reviews of HCBS settings categorized as "may meet with modifications" are currently underway. The reviews are slated to be completed by June 30, 2017. The SCR process, which now includes an assessment of a provider's compliance with the HCBS requirements, will be used on an ongoing basis.

In October 2016, state staff began conducting on-site reviews of HCBS settings categorized as "presumed to have the effect of isolating and may be subject to heightened scrutiny." State staff are using the assessment tool to ensure compliance with the federal settings regulation. The reviews are slated to be completed by June 30, 2017.

In addition, the state will gather participant satisfaction through the SCR process, the staff from the PASSPORT Administrative Agency will gather information from individuals receiving services to monitor their experience and this information will contribute to the determination of compliance with *OAC rule 5160-44-01*. Again, case management staff will monitor the experience of all program enrollees by including discussion about community integration and control over service delivery in conversations with the individuals and they case manage.

As outlined in the STP, the state is working in conjunction with the Office of the State Long Term Care Ombudsman to include HCB settings in future resident satisfaction surveys for individuals who reside in a licensed residential care facility. The state cross-walked the questions included on the resident satisfaction survey against the federal requirements for all settings under the CMS HCBS Rule. The state determined the questions in the resident satisfaction survey reflect all of the elements included under the CMS HCBS Rule requirements for all residential providers in the NF-LOC system.

CMS: *Remediation:* Remediation efforts appear to rely on licensing and general state standards, rather than a site-specific remediation plan (pg. 21, 23). The timelines for remediation are not clear. Please clarify how the state will enforce compliance with remediation plans, beyond "using existing processes" (pg. 110) or further explain the existing processes.

Ohio Response: All existing providers were offered training on an HCBS settings evaluation tool developed in conjunction with the state’s HCBS settings rule. All existing providers must complete the HCBS settings evaluation tool prior to the on-site assessment.

The HCBS settings requirements have been incorporated into the SCR process, which includes demonstrating compliance with *OAC 5160-44-01 Nursing facility based level of care home and community-based service programs: home and community-based settings*. Site-specific assessments will be conducted in accordance with the current review schedule and according to the timeframes outlined in the statewide transition plan.

In accordance with *OAC 173-39-04* a provider has 45 business days to submit evidence of compliance with the ODA’s conditions of participation including the HCBS settings rule. For any remediation plan that requires longer than 45 business days to complete, quarterly compliance reports from the provider are required and reviews will be conducted to ensure the remediation plan remains in progress through completion. ODA or its designee reserves the right to conduct ad hoc reviews of providers to validate compliance with remediation plans submitted by providers.

State staff at the Ohio Department of Medicaid, Bureau of Long-Term Care Services and Supports and at the Ohio Department of Aging, Division for Community Living, will ensure all remediation plans submitted by providers are completed and result in compliance with the federal regulations. By October 31, 2018, 100% of providers who required a remediation plan will have completed the necessary remediation.

CMS: *Monitoring of Settings:* Please provide more details on the monitoring process the state intends to use to ensure continued compliance of its settings with the federal requirements, as well as a timeframe for each specific monitoring step listed. This section should also include details of how the staff responsible for conducting the ongoing monitoring process of current compliance across settings will be trained or informed of any change in requirements necessitated by the federal regulation.

Within the ICF/IID section, CMS requests additional details within the STP on the state's plans to utilize Protection & Advocacy reports and establish a robust complaint process and participant survey. The current section on ongoing monitoring for ICF/IID relies primarily on an HCBS setting evaluation tool, but this appears to only occur once every 3 years.

Ohio Response: Protection and advocacy entities are key partners in ongoing compliance by informing individuals of their right to file a complaint regarding a specific setting and/or to report directly to the State any concerns with a setting’s ability to comply. Upon receiving a report by an individual or another entity, the State will initiate a formal review, as appropriate.

CMS: The ODA plan for ongoing monitoring suggests compliance reviews every 3 years. The state should have other, more frequent mechanisms in place to reinforce periodic recertification. The ODA also suggests using the patient satisfaction survey but does not lay out a plan to modify that

survey to address all of the components of the federal HCBS settings regulation.

Ohio Response: In accordance with *OAC 173-39-04 Provider structural compliance review*, ODA conducts annual structural compliance reviews (SCRs) of HCBS providers. The HCBS settings 5160-44-01 have been incorporated into the SCR process, which includes demonstrating compliance with *OAC 5160-44-01 Nursing facility based level of care home and community-based service programs: home and community-based settings*.

Using state-developed resources, including a participant experience interview tool, case management staff will monitor the experience of all program enrollees by including discussion about community integration and control over service delivery in conversations with the individuals they case manage.

In conjunction with the Office of the State Long Term Care Ombudsman, the state cross-walked the questions included on the resident satisfaction survey against the federal requirements for all settings under the CMS HCBS rule. The state determined that the questions in the resident satisfaction survey do reflect all of the elements included under the CMS HCBS Rule requirements for all providers.

CMS: *Heightened Scrutiny:* Please describe in detail the processes the state used or will use to identify settings that fall under any of the three prongs of settings presumed to have institutional characteristics.

Ohio Response: The state primarily relied on the guidance issued by CMS describing the types of settings that may be presumed to have the effect of isolating. The settings that fall under any of the three prongs will be identified through on-site reviews. These reviews will verify if the setting demonstrates institutional characteristics. At the on-site review, the state is compiling information via observations and interviews with individuals and staff to determine if the setting affords access to and integration in the broader community, to the extent desired by the individuals. **Please see Process 3 in Attachment #1** for a detailed description of the on-site review process.

CMS: Please differentiate which specific settings fall into each of these categories due to their location (i.e., settings located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment, and settings located in a building on the grounds of, or immediately adjacent to, a public institution) and which specific settings meet the institutional presumption because they have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

Ohio Response: The following types of settings have been associated with each category:

- Settings located in a building that is also a publicly or privately-operated facility providing inpatient institutional treatment. Specific setting types may include those

operated in a nursing facility and ICF/IIDs.

- Settings located in a building on the grounds of or adjacent to a public institution. Specific setting types may include settings operated on the grounds of county- owned ICF/IIDs or nursing facilities.
- Settings that may have the effect of isolating individuals. Specific setting types may include intentional residential communities (farmsteads), settings in which both residential and day services occur on the same grounds, and disability-specific residential and non-residential settings.

Ohio is conducting on-site assessments of all settings presumed to fall into each of the heightened scrutiny categories. These reviews will be completed in accordance with the timeframes outlined in the transition plan. The results of these assessments will be reflected in the updated transition plan, including the specific settings that fall into each category.

CMS: Please provide additional detail describing the state process for review of a setting that falls under the institutional presumption to determine that it has the characteristics of a home and community-based setting and does not have institutional characteristics (including the steps the state is going to take to develop a robust evidentiary package on each setting).

Ohio Response: The State will conduct on-site reviews using a settings evaluation tool it developed with input from stakeholders. Upon verifying that a setting meets one of the three prongs of settings presumed to have institutional qualities, the State will compile an evidentiary package to submit to CMS. **(See Attachment #1)**

As a component of the site-specific remediation plan, the provider will be asked to present evidence demonstrating the setting meets the HCBS setting criteria by providing any of the following:

- Proximity to community settings and activities using pictures or maps
- Access to public transportation or other transportation
- Scope, type and frequency of interactions with people not receiving services
- Staff training supporting integration and choice
- Explanations of how the facility supports the individual in selecting and participating in community activities
- Statements from individuals and guardians regarding experiences and participation in activities of their own choosing
- Statements from members of the community describing his/her experience with

how the setting is integrated into the broader community;

- Photographs of the setting.

The final state agency site visit may include the following:

- Review of schedules and activities
- Review of service plans
- Evaluation of access to community and transportation options
- Observations of setting
- Interviews of individuals, guardians, family members and staff.

Once all site visits are complete and evidence prepared, the State will update the statewide transition plan, naming all providers remaining in Category III, and will facilitate a public comment process as outlined in the statewide transition plan milestone document.

CMS: Please explain how the state employees completing the onsite assessments of settings that are presumed to have institutional characteristics will determine the setting overcomes the presumption. The state must ensure that the onsite assessment process is implemented in a consistent manner across the state with accurate results that reflect each setting's particular features.

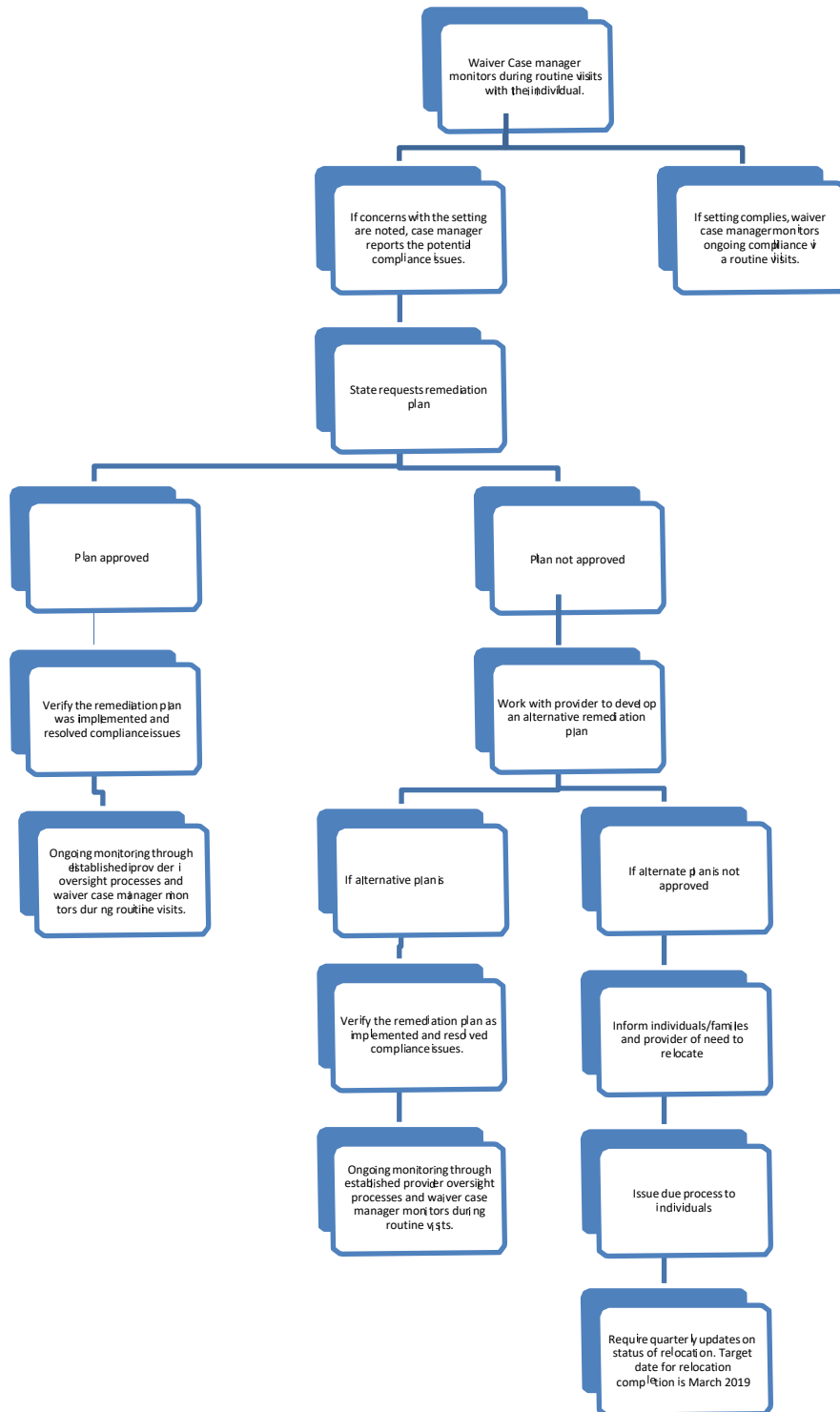
Ohio Response: To ensure consistent implementation of the onsite assessment process, each state agency will adopt a single assessment instrument to evaluate all settings on an ongoing basis. All state personnel responsible for completing the assessment will be trained on the setting evaluation tool. The training strategies include web-based and in-person training on the completion of the HCBS Setting Tool, and types of evidence that could indicate barriers to community integration and access, and the types of evidence that indicate community integration and access is occurring.

CMS: Milestones: CMS requests that the state resubmit an updated milestone chart reflecting anticipated milestones for completing systemic remediation, settings assessment and remediation, heightened scrutiny, communications with beneficiaries and ongoing monitoring of compliance. The milestone chart should be modeled on the most recent template supplied by CMS and also include timelines that address the feedback provided, no later than July 1, 2016.

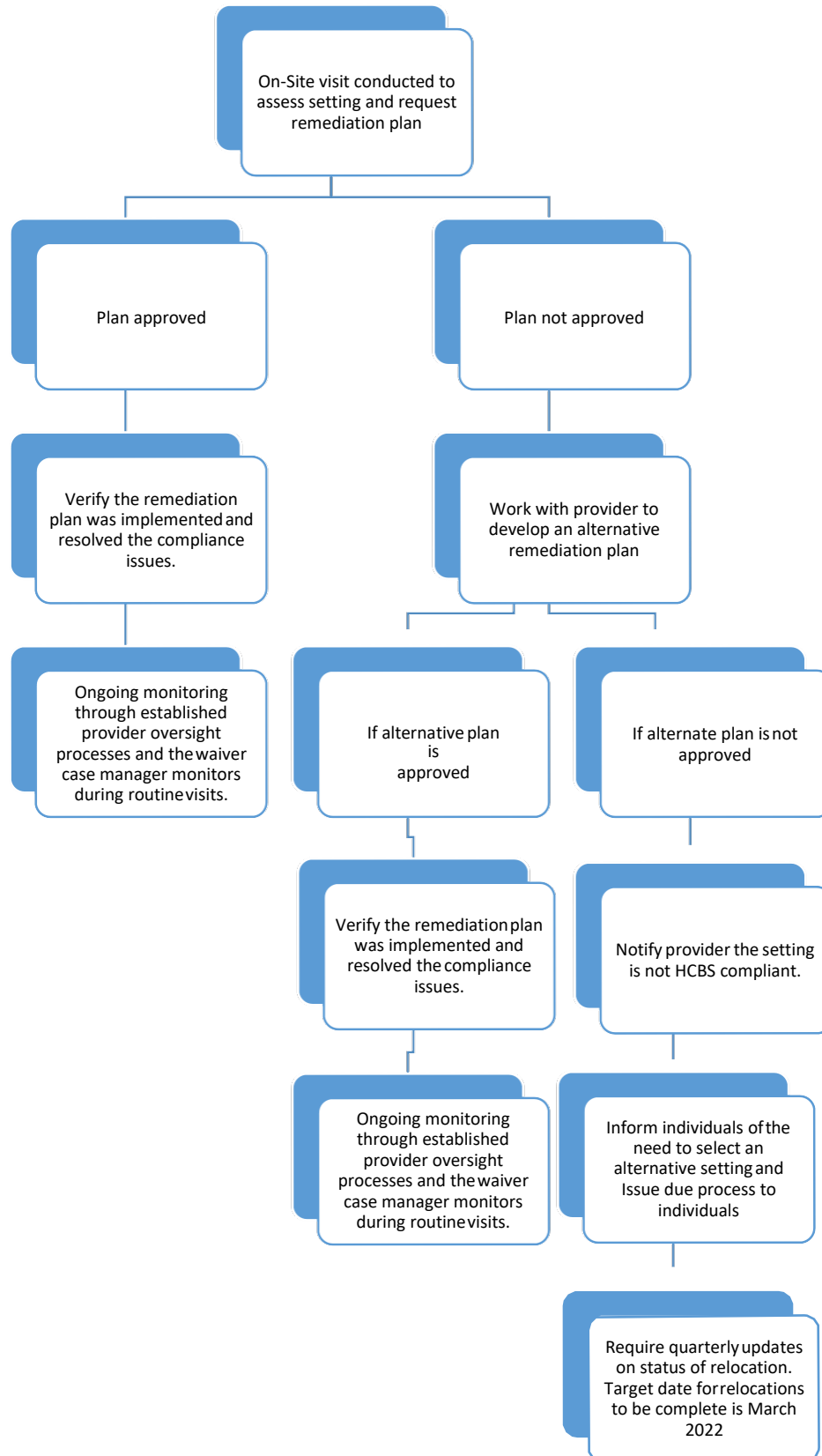
Ohio Response: The updated milestone chart was re-submitted to CMS on July 1, 2016.

Attachment 1: Monitoring of Settings Process Description

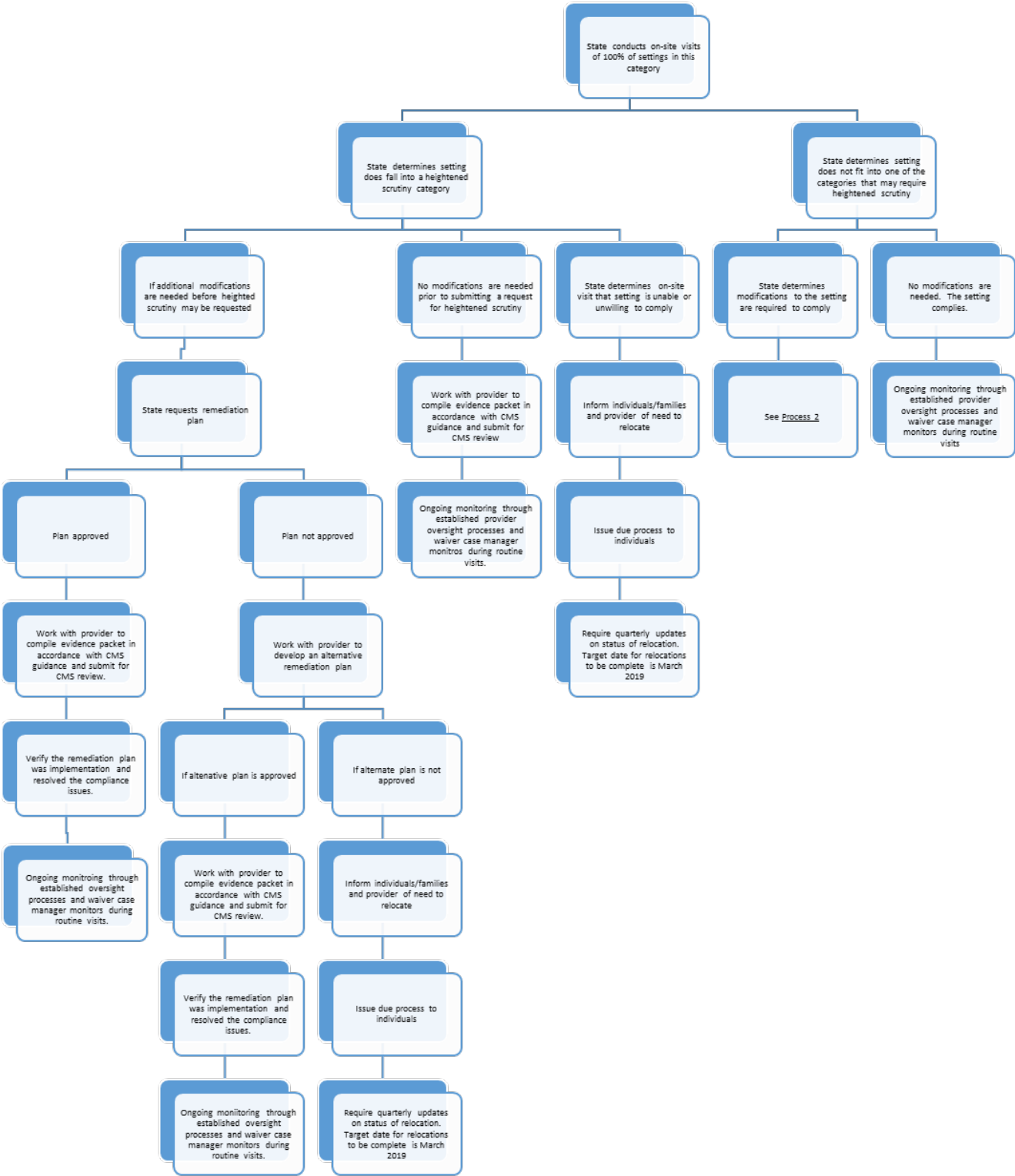
State Process 1: Settings presumed to be compliant (Individually-owned homes, Individualized supported employment, and Individualized community day activities)



State Process 2: Settings that are able to comply with modifications.



State Process 3: Settings that may require heightened scrutiny (in a public or private institution, on the grounds or adjacent to a public institution, settings that isolate).



Section VII: CMS feedback regarding steps to final approval (October 2017)

General

CMS: Please provide the updated site-specific setting assessment and validation results broken out by setting type by levels of compliance.

State Response: The updated site-specific setting assessments and validation results, broken out by setting type and levels of compliance, will be added to the plan upon completion. As outlined in the plan, the target date for completing this work statewide and in both delivery systems is 1/1/2018.

October 2018 Update: The site-specific setting assessments and validation results, broken out by setting type and levels of compliance, are included in the plan.

Public Engagement:

CMS: Ohio's milestones indicate that the state will incorporate the results of the settings assessment and validation process into the STP and release for public comment by 1/31/2018, followed by the submission of the final STP to CMS on 7/31/2018. Please confirm that this timeline is still accurate.

State Response: The submission of the final STP to CMS is 7/31/2018.

October 2018 Update: The revised submission date of the final STP to CMS is 11/30/2018.

CMS: The state indicated it will incorporate additional public outreach information in subsequent submissions of the plan. Please incorporate these additional examples of the state's activities to engage the public on an ongoing basis in the implementation of the federal HCBS settings criteria.

State Response: The State will incorporate the examples of activities to engage the public on an ongoing basis in the final submission of the STP to CMS. Recent examples include: [Posting the status of milestones](#) on the ODM webpage, announcing opportunities for public comment at established stakeholder meetings, [maintaining a dedicated webpage](#). At the February 2018 meeting of the Ohio Olmstead Task Force, the State will provide an update on the STP and the outcome of the site-specific assessments.

October 2018 Update: The examples of activities to engage the public are included in the plan.

Site-Specific Assessments

ICF-IID LOC Settings:

CMS: CMS asked the state to provide the state process for validating site-specific provider

assessments. The state noted that service and support administrators from county boards will evaluate non-responders to the provider survey through routine quarterly on-site visits. Please provide a timeline for when the routine quarterly on-site visits will be made and completed for non-responders. Additionally, the state should update the site-specific assessment and validation results within the STP accordingly.

State Response: As noted of the STP, the frequency of on-site reviews is specified in each individual support plan, in accordance with Ohio Administrative Code 5123:2-1-11. There is no timeline specified by the state for when these reviews will be completed. Any concerns noted in residential and non-residential settings during routine monitoring visits are reported to DODD's Office of Provider Standards and Review (OPRS) for follow-up. OPSR may conduct a desk review or on-site review of these settings. See work flow for "state Process 1" (attached). The state will update the site-specific assessment and validation results within the STP.

October 2018: The site-specific assessment and validation results are included in the plan.

CMS: For residential settings under the ICF/IID waiver, it appears that on-site visits will be conducted only for settings that may be subjected to heightened scrutiny or do not comply with the federal regulation. Other settings will be monitored for compliance as part of the regular monitoring process. It is unclear if the state is validating the assessment results for 100% of settings during the transition period. Please confirm all settings will be validated. Please resubmit the STP with an updated aggregation of findings once the validation strategies have been completed.

State Response: Yes, the State is validating assessment results for 100% of settings during the transition period in accordance with the timeframes outlined in the STP. The State will re-submit the STP with an updated aggregation of findings once the validation strategies have been completed.

October 2018 Update: The aggregation of findings is included in the plan.

CMS: The state responds to CMS' feedback on validating non-residential settings by stating, "DODD suggests that the non-residential provider survey responses are likely unrealistically positive." It is not clear what DODD will use to validate this survey, or if the system redesign for adult day and employment services will require a new method of evaluating setting compliance. However, then the state goes on to describe the use of a settings evaluation tool for non-residential settings that was informed by stakeholder input. Please clarify this in the STP.

State Response: The settings evaluation tool, developed with stakeholder input, is the tool the State will use to evaluate compliance with non-residential settings. The State will clarify this in the STP.

October 2018 Update: The State documented the tool developed with stakeholders was used to

complete the on-site evaluations.

NF-LOC Settings:

CMS: The state noted that for NF-LOC settings “by October 31, 2018, 100% of providers who required a remediation plan will have completed the necessary remediation.” However, the end date for remediation noted in Appendix 4 is March 17, 2019). Please clarify which is the correct date. Recognizing the extension of the transition period to 2022, we note that both dates may change.

State Response: The 10/31/2018 date is correct. This end date is specific to providers categorized as “may meet with modifications” and those who required a remediation plan.

October 2018: The State has confirmed settings categorized as “may meet with modifications” have completed the required remediation or have an approved remediation plan to demonstrate compliance.

Ongoing Monitoring

CMS: The state implies that evaluating compliance with the setting criteria will be incorporated into many of the existing monitoring processes. However, it does not clearly indicate whether all of these activities will continue beyond the compliance deadline of March 2022. Please clarify that compliance with the settings requirements will continue to be monitored beyond the transition period and indicate the frequency with which the monitoring will occur.

State Response: Residential and non-residential settings serving individuals in both delivery systems will continue to be monitored beyond the transition period through scheduled provider compliance reviews and ongoing reviews completed by service and support administrators and waiver case managers. Event-based reviews will continue to be conducted upon receipt of complaints from individuals/guardians, community members, or others.

October 2018 Update: The State continues to use the established provider oversight functions in each delivery system to monitor compliance with the requirements.

Communication with Beneficiaries of Options When a Provider Will Not Be Compliant

CMS: CMS requests that the state include additional information in the STP about the state’s strategies for ensuring that all individuals are able to receive services in a compliant setting of their choice.

CMS: Report the estimated number of beneficiaries that may need to be transitioned to a different setting and update the state’s beneficiary relocation plan and timeline accordingly.

State Response: At this time, no beneficiaries in either delivery system have been identified as requiring relocation to another setting. For the settings presumed to be institutional, the number

of individuals being served by the setting will be included in the heightened scrutiny packages submitted to CMS.

October 2018 Update: At this time, no beneficiaries in either delivery system have been identified as requiring relocation to another setting. For settings submitted for heightened scrutiny review, the number of individuals served in the setting has been included in the evidence package. Site-specific evidence packages are posted by the Ohio Department of Medicaid on its website at: <http://medicaid.ohio.gov/INITIATIVES/HCBS-Transition#hsro>. Non- electronic copies are available upon request.

CMS: The STP notes that the state will work with individuals who choose to transition to an approved HCBS setting of their choice. Please clarify that any individual living in a setting that is not compliant must move to a compliant setting if they wish to continue receiving Medicaid HCBS, and that this will be fully explained to affected beneficiaries and their families/caregivers.

State Response: In the event a setting is determined not to be compliant and relocation is required, the affected beneficiaries and their families/caregivers will be informed, and assistance will be provided to ensure a smooth transition to a compliant setting. Individuals who choose to reside in a setting that is not compliant will not continue receiving Medicaid HCBS services.

October 2018 Update: No change.

Heightened Scrutiny

The details around the State's heightened scrutiny process should include:

CMS: An estimate of each category of settings flagged for heightened scrutiny by each of the three prongs (i.e., settings located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment; settings located in a building on the grounds of, or immediately adjacent to, a public institution; and settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS).

State Response: Upon completion of the on-site assessments and validation of provider self-assessments, the number of settings by category will be added to the STP.

October 2018 Update: The estimated number of settings by category are included in the plan.

CMS: A description clearly articulating how the final decision will be made as to whether to proceed with moving a setting to CMS for Heightened Scrutiny review by the state. In other words, what is the threshold and determining factors that bring the state to a yes or no for moving the evidence package forward for Heightened Scrutiny review?

State Response: Each delivery system has established a State-level review committee to determine if the evidence compiled can demonstrate the setting has overcome the institutional

presumption. Acceptable evidence of compliance includes but is not limited to: photographs, summaries of interviews with individuals; summaries of interviews with staff, on-site observations of the setting assisting individuals in selecting and participating in community-based activities, complying with additional conditions requirements, and facilitating interaction with individuals not receiving HCBS services; testimonials from members of the community, person-centered service plans, staff training curriculum, access to transportation, and a description of the administrative/financial structure of the setting. The threshold is met when the combined elements of the evidence package result in a comprehensive and cohesive description of how each HCBS characteristic is present in the setting.

October 2018 Update: The description of the decision-making process is included in the plan.

Section VIII: Site-Specific Assessments and Validations

Using the methodology described in the plan, the State completed site-specific assessments for 100% of the settings identified in Appendices 2 and 4.

- The settings categorized as “may meet with modifications” developed remediation plans because of either a provider self-assessment (ICF-IID system) OR an on-site assessment by State staff or its designee (NF-based LOC system). Using a combination of desk review and on-site reviews, the State reviewed 100% of remediation plans to determine proposed action steps and timeframes will result in compliance with the regulation no later than the end of the transition period.
 - ICF-IID System: Using the HCBS Setting Evaluation Tool developed with stakeholders representing county boards of developmental disabilities, providers of residential and non-residential services, individuals receiving services, and advocates, State personnel used the tool during on-site reviews of all settings (residential and non-residential), including adult foster care, shared living, and group employment support settings, to validate the provider self-assessments. The on-site review included reviews of documentation including the provider’s strategic plan, policies and procedures, and staff training. The review also took into consideration the location of the setting and whether it appeared to be integrated into the broader community. Interviews were conducted with individuals receiving services, direct support professionals, and family members to gather information about the types of opportunities for access to the community that are available.
- The settings categorized as “presumed to have the effect of isolating individuals” underwent an on-site evaluation conducted by State staff. The outcome of the on-site evaluation verified if the setting met one of the three prongs, collected evidence of compliance, and when remediation was indicated, determined

whether the proposed action steps and timeframes would result in compliance with the regulation no later than the end of the transition period.

The chart below summarizes the results of the assessments and validations.

- **Total Number of Initially Identified Settings:** The number of settings identified in Appendices 2 and 4.
- **Total Number of Validated Settings:** The number of site-specific assessments conducted.
- **Total Number of Validated Settings determined to be compliant:** Settings that demonstrate full compliance.
- **Total Number of Validated Settings that may comply with remediation:** Settings that have an approved remediation plan that is expected to result in compliance no later than the end of the approved transition plan.
- **Total Number of Validated Settings to be Submitted for Heightened Scrutiny Review:** Settings that met one of the three prongs and that provided evidence of having overcome the institutional presumption **OR** have an approved remediation plan that is expected to result in compliance with the regulation no later than the end of the transition period.
- **Total Number of settings that voluntarily terminated the contract:** Settings that had an active Medicaid contract to furnish the waiver services subject to the regulation and chose to terminate the contract. Examples include settings that, prior to or at the time of assessment, were not furnishing the services subject to the regulation, settings not interested in furnishing the service in the future; settings that were not willing to demonstrate compliance with the regulation, prior to or after the assessment. The voluntary contract terminations did not result in loss of waiver services to any beneficiaries in either delivery system.
- **Total Number of Settings the State terminated the contract:** Settings that had an active Medicaid contract but did not furnish the services subject to the regulation. As a result, site-specific assessment and remediation was not completed. Examples: hospice providers, home health providers, settings that were no longer in business; and issues unrelated to the settings requirements. The contract terminations did not result in the loss of waiver services to any beneficiaries in either delivery system.

Variance: The difference between the total number of validated settings and the sum of number of settings that complied, were submitted for heightened scrutiny, and whose contracts were terminated. The following tables provide a summary of the site-specific assessment and validation results:

ICF-IID Residential

| Category | Total |
|--|--------------|
| Number of settings initially identified | 655 |
| Number of settings validated | 659 |
| Number of validated settings that comply | 570 |
| Number of validated settings that may comply with remediation | 0 |
| Number of validated settings submitted for heightened scrutiny | 2 |
| Number of settings that voluntarily terminated the contract | 20 |
| Number of settings the state terminated the contract | 8 |
| Variance | 59 |

Explanation for the Variance

State staff reviewed the self-evaluation survey responses to verify the appropriateness of how settings characterized themselves. Through the review, staff identified duplicate responses and sites which were ineligible survey responders. The latter of these sites were those that should not have been initially identified as HCBS settings, for example, ICFs-IID and privately-owned residential settings. Non-residential settings that were misidentified as residential settings also account for the noted variance. There are an additional four settings, captured in the variance, which were not initially identified, but identified and reviewed at a later date. For individuals who were impacted by a contract termination, the County Board of Developmental Disabilities offered options including alternate setting locations and the choice not to relocate. The individuals played an active role in the decision-making process and when applicable, the selection of a roommate.

ICF-IID Non-Residential Settings

| Category | Total |
|--|--------------|
| Number of settings initially identified | 82 |
| Number of settings validated | 82 |
| Number of validated settings that comply | 50 |
| Number of validated settings that may comply with remediation | 0 |
| Number of validated settings submitted for heightened scrutiny | 0 |
| Number of settings that voluntarily terminated the contract | 7 |
| Number of settings the state terminated the contract | 1 |
| Variance | 24 |

Explanation for the Variance

State staff reviewed the self-evaluation survey responses to verify the appropriateness of how settings characterized themselves. Through the review, staff identified duplicate responses and sites which were ineligible survey responders. The latter of these sites were those that should not have been initially identified as HCBS settings, for example, ICFs-IID and privately-owned residential settings. Residential settings that were misidentified as non-residential settings also account for the noted variance. For individuals who were impacted by a contract termination, the County Board of Developmental Disabilities offered options including alternate setting locations and the choice not to relocate. The individuals played an active role in the decision-making process.

NF-LOC Residential Settings

| Category | Total |
|--|-------|
| Number of settings initially identified | 335 |
| Number of settings validated | 366 |
| Number of validated settings that comply | 274 |
| Number of validated settings that may comply with remediation | 0 |
| Number of validated settings submitted for heightened scrutiny | 60 |
| Number of settings that voluntarily terminated the contract | 32 |
| Number of settings the state terminated the contract | 0 |
| Variance | 0 |

Explanation

For individuals who were impacted by a contract termination, the PAA case managers met with the individuals to offer options including the choice to disenroll from the waiver, an alternate assisted living setting, a private residence, or a nursing facility. When requested, the long-term care ombudsman participated in the options counseling and planning.

NF-LOC Non-Residential Settings

| Category | Total |
|--|-------|
| Number of settings initially identified | 280 |
| Number of settings validated | 269 |
| Number of validated settings that comply | 123 |
| Number of validated settings that may comply with remediation | 0 |
| Number of validated settings submitted for heightened scrutiny | 7 |
| Number of settings that voluntarily terminated the contract | 117 |
| Number of settings the state terminated the contract | 22 |
| Variance | 0 |

Explanation

Individuals who were impacted by a contract termination received the necessary support to select an alternative provider. The PAA case managers met with the individuals to offer options including the choice to disenroll from the waiver, an alternate assisted living setting, a private residence, or a nursing facility. When requested, the long-term care ombudsman participated in the options counseling and planning.

Section IX: Heightened Scrutiny Review Requests

Following Process Three in Attachment 1 and using the setting evaluation tools developed with stakeholder input, the State completed an on-site assessment for each residential and non-residential setting that was initially categorized as “*presumed to have the effect of isolating individuals*”.

The respective state-level committees reviewed the evidence compiled for each setting. Examples of evidence reviewed included, but was not limited to photographs, summaries of interviews with individuals and staff, summaries of on-site observations, testimonials from members of the community, review of person-centered service plans and descriptions of the administrative and financial structure of the setting. The state-level committees determined the combined elements in each site-specific evidence package provided a comprehensive and cohesive description of how the setting had overcome the institutional presumption. Following the required public comment periods, the State submitted the heightened scrutiny evidences packages to CMS for review. The results of the on-site assessments are summarized in Tables 1 and 2 below. Site-specific heightened scrutiny evidence packages are posted on the Ohio Department of Medicaid’s webpage: <https://medicaid.ohio.gov/INITIATIVES/HCBS-Transition>. Non-electronic copies of the heightened scrutiny evidence packages and non-personally identifiable information related to a specific presumptively institutional setting are available by submitting a request to medicaid@medicaid.ohio.gov or mailing the request to the following address: Ohio Department of Medicaid, P.O. Box 182709, 5th Floor, Columbus, Ohio 43218, Attention: HCBS Statewide Transition Plan.

The State process for applying CMS feedback to similarly situated settings is based on the following principles: transparency, consistency, and quality assurance.

- **Transparency:** The State will notify the settings included in the sample of the CMS final determinations. The State will notify external stakeholders and advocates of the final determinations. The State will post the site-specific final determinations on ODM’s dedicated webpage. The State will post a list of the “similarly situated” settings that have overcome the institutional presumption, based on the CMS determinations.

- Consistency** Each delivery system has established a state-level review committee to determine if the evidence demonstrated by Prong 1 and 2 settings could overcome the institutional presumption. These committees will review the CMS determinations of the settings included in the review sample. Following this review, the state level committees will review the evidentiary packages of other similarly situated settings that were not part of CMS’ review sample, communicate CMS’ final determinations to those settings and give them the opportunity to remediate. In the event other issues are identified in those similarly situated settings that were not in the CMS review sample, the State may, on a case-by-case basis, request a CMS site-specific review and determination of those settings.
- Quality Assurance:** Using existing processes, the State will convey the results to the appropriate on-going monitoring teams to ensure the CMS approved strategies and remediation actions are maintained. The State will use existing ongoing monitoring process to ensure outstanding remediation for similarly situated settings is completed in accordance with the time lines outlined in the State approved remediation plan.

Settings by Prong Submitted for Heightened Scrutiny Review

ICF-IID Residential Settings

| Category | Total |
|--|--------------|
| Number of settings initially identified for heightened scrutiny | 73 |
| Number of settings to be submitted for heightened scrutiny Prong 1: 0 Prong 2: 2 Prong 3: 0 | 2 |
| Number of settings that cannot overcome the institutional presumption by the end of the transition period | 0 |
| Number of settings that were previously identified as presumptively institutional due to isolation that can demonstrate compliance by July 1, 2020 | 4* |
| Variance | 67 |

*The following is a list of the settings that the State previously identified as presumptively institutional due to isolation and subsequently submitted for heightened scrutiny review: Bittersweet Farms #1; Bittersweet Farms #2; Bittersweet Farms #3; and Bittersweet Farms #4. The State determined these four settings demonstrate compliance with the settings criteria and has rescinded the request for heightened scrutiny review. Information supporting remediation for these settings is available upon request.

Explanation for the Variance: The number of settings initially identified for heightened scrutiny submission was based on provider self-assessments. The variance is the result of the findings from the on-site visits to validate the provider-self-assessments. Two settings previously identified in the “cannot overcome the institutional presumption” category were subsequently evaluated and moved to this category.

ICF-IID Non-Residential Settings

| Category | Total |
|--|--------------|
| Number of settings initially identified for heightened scrutiny | 19 |
| Number of settings to be submitted for heightened scrutiny Prong 1: 0 Prong 2: 0 Prong 3: 0 | 0 |
| Number of settings that cannot overcome the institutional presumption by the end of the transition period. | 0 |
| Number of settings that were previously identified as presumptively institutional due to isolation that can demonstrate compliance by July 1, 2020 | 0 |
| Variance | 19 |

Explanation for the Variance: The number of settings initially identified for heightened scrutiny submission was based on provider self-assessments. The variance is the result of the findings from the on-site visits to validate the provider-self-assessments.

NF-LOC Residential Settings

| Category | Total |
|--|--------------|
| Number of settings initially identified | 37 |
| Number of settings to be submitted for heightened scrutiny Prong 1: 59 Prong 2: 1 Prong 3: 0 | 60 |
| Number of settings that cannot overcome the institutional presumption by the end of the transition period. | 0 |
| Number of settings that were previously identified as presumptively institutional due to isolation that can demonstrate compliance by July 1, 2020 | 0 |
| Variance | 23 |

Explanation for the Variance: The number of settings initially identified for heightened scrutiny submission was based on an administrative desk review. The variance is the result of the findings from the individual site-specific assessments.

NF-LOC Non-Residential Settings

| Category | Total |
|--|--------------|
| Number of settings initially identified | 22 |
| Number of settings to be submitted for heightened scrutiny Prong 1: 6 Prong 2: 1 Prong 3: 0 | 7 |
| Number of settings that cannot overcome the institutional presumption by the end of the transition period. | 0 |
| Number of settings that were previously identified as presumptively institutional due to isolation that can demonstrate compliance by July 1, 2020 | 0 |
| Variance | 15 |

Explanation for the Variance: The number of settings initially identified for heightened scrutiny submission was based on an administrative desk review. The variance is the result of the findings from the individual site-specific assessments.

LIST OF SETTINGS SUBJECT TO HEIGHTENED SCRUTINY REVIEW

| <u>SETTING NAME</u> | <u>SETTING TYPE</u> | <u>PRONG</u> |
|---|----------------------------|---------------------|
| <u>Acacia Place</u> | Non-Residential | 1 |
| <u>Algart Healthcare</u> | Residential | 1 |
| <u>Altercare of Navarre Center</u> | Residential | 1 |
| <u>Amherst Manor</u> | Residential | 1 |
| <u>Anchor Lodge Retirement Village</u> | Residential | 1 |
| <u>Arbors of Milford Assisted Living</u> | Residential | 1 |
| <u>Astor House at Spring Meadows</u> | Residential | 1 |
| <u>Belmont Manor</u> | Residential | 1 |
| <u>Birch Place Apartments</u> | Residential | 1 |
| <u>Brandy Woods</u> | Residential | 1 |
| <u>Briar Hill Health Campus</u> | Residential | 1 |
| <u>Briarfield Manor</u> | Residential | 1 |
| <u>Briarwood Leasing</u> | Residential | 1 |
| <u>Colonial Healthcare</u> | Residential | 1 |
| <u>Consumer Support Services 1</u> | Residential | 2 |
| <u>Consumer Support Services 2</u> | Residential | 2 |
| <u>Country Club Rehabilitation Campus</u> | Residential | 1 |
| <u>Daybreak Adult Day Services and Nutrition</u> | Non-Residential | 1 |
| <u>Daybreak Adult Day Services and Transportation</u> | Non-Residential | 1 |
| <u>Diversicare of Bradford Place</u> | Residential | 1 |
| <u>Easter Seals of Springfield</u> | Non-Residential | 2 |
| <u>Elms Retirement Community</u> | Residential | 1 |
| <u>Elmwood of Freemont</u> | Residential | 1 |
| <u>Forest Hill Center</u> | Non-Residential | 1 |
| <u>Gardens of Paulding</u> | Residential | 1 |
| <u>Glenwood Care and Rehabilitation</u> | Residential | 1 |
| <u>Grand Lake Healthcare Center</u> | Residential | 1 |
| <u>Hawthorne Glen Senior Living Center</u> | Residential | 1 |
| <u>Heartland of Woodridge</u> | Residential | 1 |
| <u>Humility House</u> | Residential | 1 |
| <u>Heritage Manors</u> | Non-Residential | 1 |
| <u>Hyde Park Health Center</u> | Residential | 1 |
| <u>Jenkins Community Care</u> | Residential | 1 |
| <u>Legacy Place of Twinsburg</u> | Residential | 1 |
| <u>Legacy Place of Parma</u> | Residential | 1 |
| <u>Liberty Retirement Center</u> | Residential | 1 |
| <u>Mason Health Center</u> | Residential | 1 |
| <u>Meridian Arms Living Center</u> | Residential | 1 |
| <u>Merit House Senior Community</u> | Residential | 1 |
| <u>Premier Estates of Norwood Towers</u> | Residential | 1 |
| <u>Red Carpet Healthcare</u> | Residential | 1 |

| | | |
|---|-----------------|---|
| <u>Regina Health Center</u> | Residential | 1 |
| <u>Riverside Landing</u> | Residential | 1 |
| <u>Riverview Daybreak</u> | Non-Residential | 1 |
| <u>Roselawn Manor</u> | Residential | 1 |
| <u>Royal Meadows</u> | Residential | 1 |
| <u>Sanctuary at Wilmington Place</u> | Residential | 1 |
| <u>Shaker Gardens</u> | Residential | 1 |
| <u>Singleton Health Center</u> | Residential | 1 |
| <u>Summit's Trace Healthcare Center</u> | Residential | 1 |
| <u>The Gardens of Celina</u> | Residential | 1 |
| <u>The Gardens at St. Henry</u> | Residential | 1 |
| <u>The Hudson Elms</u> | Residential | 1 |
| <u>The Meadows of Kalida</u> | Residential | 1 |
| <u>The Merriman</u> | Residential | 1 |
| <u>The Oaks of Shady Lawn</u> | Residential | 1 |
| <u>The Pristine of Willard</u> | Residential | 1 |
| <u>The Sanctuary at Tuttle Crossing</u> | Residential | 1 |
| <u>The Suites at Sarah Moore</u> | Residential | 1 |
| <u>The Villas at Bennington Glen</u> | Residential | 1 |
| <u>Vancrest of Ada</u> | Residential | 1 |
| <u>Vancrest of Delphos</u> | Residential | 1 |
| <u>Vancrest of Eaton</u> | Residential | 1 |
| <u>Vancrest of Holgate</u> | Residential | 1 |
| <u>Vancrest of New Carlisle</u> | Residential | 1 |
| <u>Vancrest of Urbana</u> | Residential | 1 |
| <u>Wadsworth Pointe</u> | Residential | 1 |
| <u>West Park Commons</u> | Residential | 1 |

APPENDIX 1: ICF/IID Level of Care Waivers System Remediation Grid Initial Approval: June 2, 2016

The system grid describes the impact of the federal regulation on applicable State statutes, administrative rules, administrative and operational policies.

*The proposed timelines are contingent upon approval of the plan by the Centers for Medicare and Medicaid Services (CMS)

The State's milestone progress report is posted here: <http://www.medicaid.ohio.gov/INITIATIVES/HCBSTransition.aspx>

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|---|---|---|---|
| Setting is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS. | Prior to the implementation of Ohio Administrative Code 5123:2-9-02, state regulations required that person-centered plans support community connections, but did not directly address the requirement for settings to be integrated and support full access to the greater community. With the implementation of the new regulation, the state is now fully compliant. | Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and recognizes the individual's opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports. | <ul style="list-style-type: none"> Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS Formal clearance for draft rule Final file Implementation. | January 1, 2016 |
| | Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections. http://codes.ohio.gov/oac/5123%3A2-1-11 | http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf | Revise service definition of Homemaker/Personal Care under the Individual Options and Level One waivers to include language that supports the use of this service to promote individuals' | <ul style="list-style-type: none"> Submit waiver amendments to CMS Formal clearance for draft rule Final file Implementation. |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|---|---|--|------------------------|
| | | <p>integration in and access to the greater community.</p> <p>http://dodd.ohio.gov/PipelineWeekly/Lists/Posts/Post.aspx?ID=115</p> | | |
| | | <p>Implement a new HCBS settings evaluation tool utilized to conduct compliance reviews of providers of HCBS to include prompts for ensuring HCBS are provided in settings that comport with the regulation.</p> <p>http://dodd.ohio.gov/OurFuture/Documents/HCBS%20Settings%20Evaluation.pdf</p> | <ul style="list-style-type: none"> • Convene workgroup with broad cross-section of individuals/families, providers of HCBS, and county board personnel • Develop draft tool • Share draft with stakeholders for feedback • Provide training on new tool • Begin implementation. | <p>January 1, 2016</p> |
| <p>The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.</p> | <p>The State regulation, policy or other standards are fully complaint. The sections of Ohio Administrative Code and Ohio Revised Code listed below require each individual have opportunities to seek employment and work in competitive integrated settings and are fully compliant with the regulation.</p> <p>Section 5123.022 of the Revised Code requires that employment services for individuals with developmental disabilities be directed at community employment and that individuals with developmental disabilities are</p> | <p>Create new service definitions, provider qualifications, and rate methodologies for integrated community supports and integrated employment services.</p> <p>http://dodd.ohio.gov/PipelineWeekly/Lists/Posts/Post.aspx?ID=115</p> | <ul style="list-style-type: none"> • Convened workgroup that includes advocates/self-advocates, as well as representatives from providers of HCBS and county boards • Submit waiver amendments to CMS • Formal clearance for draft rule • Final file • Implementation. | <p>October 1, 2016</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|---|--|---|---|--|
| | <p>presumed capable of community employment.</p> <p>http://codes.ohio.gov/orc/5123.022</p> | | | |
| | <p>SSA and Employment First rules require path to community employment to be identified in each person-centered plan.</p> <p>http://codes.ohio.gov/oac/5123%3A2-1-11 (Service and Supports Administration rule)</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-05%20Effective%202014-04-01.pdf (Employment First rule)</p> | <p>The Transitions DD Waiver does not include a service that supports individuals in seeking and working in competitive, integrated settings. The State intends to submit a phase-out plan for this waiver which will include offering individuals the opportunity to enroll in the Level One (LV1), Individual Options (IO) or SELF waivers.</p> | <ul style="list-style-type: none"> • Convened stakeholder group that includes family members of individuals served, providers of TDD services, and county boards • Develop phase-out plan • Secure public input on phase-out • Submit amendment to CMS • Initiate phase-out plan, if approved • Phase-out complete. | <p>Initiate phase-out July 1, 2015 to be concluded by June 30 2017</p> |
| | <p>LV1, IO, SELF include services that support individuals on their path to employment, such as supportive employment and integrated employment.</p> | | | |
| <p>The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.</p> | <p>The State regulation, policy or other standards are fully complaint. Prior to the implementation of Ohio Administrative Code 5123:2- 9-02, state regulations required that person-centered plans support community connections, but did not directly address the requirement for settings to be integrated and support full access to the greater community. With regulation,</p> | <p>Revise service definition of Homemaker/Personal Care under the IO and LV1 waivers to include language that supports the use of this service to promote individuals' integration in and access to the greater community.</p> <p>http://dodd.ohio.gov/PipelineWeekly/Lists/Posts/Post.aspx?ID=115</p> | <ul style="list-style-type: none"> • Formal clearance for draft rule • Final file • Implementation | <p>October 1, 2016</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|--|---|---|------------------------|
| | <p>the state is now fully compliant.</p> <p>Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections.</p> <p>http://codes.ohio.gov/oac/5123%3A2-1-11</p> | | | |
| | | <p>Create new service definitions, provider qualifications, and rate methodologies for integrated community supports and integrated employment services.</p> <p>http://dodd.ohio.gov/PipelineWeekly/Lists/Posts/Post.aspx?ID=115</p> | <ul style="list-style-type: none"> • Convened workgroup that includes advocates/self-advocates, as well as representatives from providers of HCBS and county boards • Submit waiver amendments to CMS • Formal clearance for draft rule • Final file • Implementation. | <p>October 1, 2016</p> |
| <p>The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.</p> | <p>The State regulation, policy or other standards are fully complaint.</p> <p>Section 5123.62 of the Ohio Revised Code requires that individuals have the right to control personal financial affairs, based on individual ability to do so.</p> <p>http://codes.ohio.gov/orc/5123.62</p> | <p>Develop a new rule addressing personal funds of individuals.</p> <p>http://dodd.ohio.gov/RulesLaws/Documents/5123-2-2-07%20Effective%202016-10-01.pdf</p> | <ul style="list-style-type: none"> • Convened workgroup • Formal clearance for draft rule • Final file • Implementation. | <p>June 1, 2016</p> |
| <p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting.</p> | <p>Prior to the implementation of Ohio Administrative Code 5123:2-9-02, the state standards were silent. The new regulation requires that individuals have the</p> | <p>Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may</p> | <ul style="list-style-type: none"> • Convened workgroup that includes advocates, as well as representatives of providers of HCBS and county boards | <p>April 1, 2015</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|--|--|--|---------------------|
| <p>The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board.</p> | <p>opportunity to pursue activities with persons of his or her choosing and in settings not created exclusively for individuals with disabilities. The regulation also requires service and support administrators to provide a description of all services and settings options available through the waiver.</p> | <p>impact an individual’s free choice of Homemaker/Personal Care provider. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-11%20Effective%202015-05-01.pdf</p> | <ul style="list-style-type: none"> • Formal clearance for draft rule • Final file • Implementation | |
| | | <p>Implement a new HCBS settings evaluation tool utilized to conduct compliance reviews of providers of HCBS to ensure services are provided in settings that comport with the regulation. http://dodd.ohio.gov/OurFuture/Documents/HCBS%20Settings%20Evaluation.pdf</p> | <ul style="list-style-type: none"> • Convene workgroup with broad cross-section of individuals/families, providers of HCBS, and county board personnel • Develop draft tool • Share draft with stakeholders for feedback • Provide training on new tool • Implementation. | <p>June 1, 2015</p> |
| <p>An individual’s essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p> | <p>The State regulation, policy or other standards are fully complaint. Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. http://codes.ohio.gov/orc/5123.62</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|------------|--|----------------------|--------------|-----------|
| | <p>Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. http://codes.ohio.gov/orc/5123.63 (Ohio Revised Code Distributing copies of rights)</p> | | | |
| | <p>http://dodd.ohio.gov/RulesLaws/Documents/5123-2-2-01.pdf (Provider certification – includes requirements for initial and annual training on the rights of people with developmental disabilities)</p> | | | |
| | <p>Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-1-02%20Effective%202015-01-01.pdf (See paragraph P for county board accreditation) https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf (Compliance reviews of certified providers)</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|--|---|--|----------------------|
| <p>Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.</p> | <p>The State regulation, policy or other standards are fully complaint. With the implementation of Ohio Administrative Code 5123:2-9-02, however, this requirement is additionally reinforced.</p> | | | |
| | <p>Ohio Administrative Code 5123:2-1-11 outlines the decision-making responsibility of individuals receiving services and a requirement for person-centered plans to assist the individual with self-advocacy, if desired. http://codes.ohio.gov/oac/5123%3A2-1-11</p> | | | |
| <p>Individual choice regarding services and supports, and who provides them, is facilitated.</p> | <p>Prior to the implementation of Ohio Administrative Code 5123:2-9-02 and the revision of 5123:2-9-11, the state was partially compliant. Previously, OAC 5123:2-9-11 required service and support administrators to assist individuals, as needed with exercising their free choice of provider. However, it lacked specificity regarding the supports available and the impact of an individual choosing to receive services in a licensed setting.</p> | <p>Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual’s free choice of homemaker/personal care provider. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-11%20Effective%202015-05-01.pdf</p> | <ul style="list-style-type: none"> • Convened workgroup that includes advocates, as well as representatives of providers of HCBS and county boards • Formal clearance for draft rule • Final file • Implementation | <p>April 1, 2015</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|--|--|--|------------------------|
| <p>Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State,</p> | <p>The State regulation, policy or other standards are silent.</p> | <p>Amend Ohio Administrative Code to specify the required contents of a residency agreement or other written agreement for individuals residing in a provider-owned or controlled setting. Ohio Administrative Code 5123:2-9-02 (F) (1-4) requires the use of a legally enforceable agreement. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> | <ul style="list-style-type: none"> • Convened workgroup • Formal clearance for draft rule • Final file • Implementation. | <p>January 1, 2016</p> |
| <p>county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> | <p>The State regulation, policy or other standards are silent.</p> | <p>Implement a new HCBS settings evaluation tool utilized to conduct compliance reviews of providers of HCBS to ensure services are provided in settings that comport with the regulation. http://dodd.ohio.gov/OurFuture/Documents/HCBS%20Settings%20Evaluation.pdf</p> | <ul style="list-style-type: none"> • Convene workgroup with broad cross-section of individuals/families, providers of HCBS, and county board personnel • Develop draft tool • Share draft with stakeholders for feedback • Provide training on new tool • Implementation. | <p>June 1, 2015</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|--|---|--|------------------------|
| <p>Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> | <p>The State regulation, policy or other standards are partially compliant.</p> <p>This section of Ohio Revised Code addressed the right for privacy. It did not specifically address the individual’s ability to have lockable doors.</p> <p>Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. http://codes.ohio.gov/orc/5123.62</p> | <p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings. Ohio Administrative Code 5123:2-9-02 (F) (3) (f) (ii) ensures the individual’s right to privacy and security including locks and keys to his or her living unit. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> <p>Sub-regulatory guidance will be issued related to implementation of Ohio Administrative Code 5123:2-9-02 which specifies only appropriate staff shall have keys to lockable doors.</p> | <ul style="list-style-type: none"> • Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file • Implementation. | <p>January 1, 2016</p> |
| | <p>Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-2-01%20Effective%202015-10-01.pdf (Provider certification – includes requirements for initial and annual training on the rights of people with developmental disabilities)</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|------------|--|----------------------|--------------|-----------|
| | <p>Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-1-02%20Effective%202015-01-01.pdf (See paragraph P for county board accreditation)</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf (Compliance reviews of certified providers)</p> | | | |
| | <p>Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures.</p> <p>http://codes.ohio.gov/oac/5123:2-2-06</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|---|--|--|---|------------------------|
| <p>Provider owned or controlled residential settings: Individuals sharing units have a choice of roommates in that setting.</p> | <p>The State regulation, policy or other standards are silent.</p> | <p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings. Ohio Administrative Code 5123:2-9-02 (F) (3) (f) (i) ensures the individual's choice of roommates. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> | <ul style="list-style-type: none"> • Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule Final file • Implementation. | <p>January 1, 2016</p> |
| <p>Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> | <p>The State regulation, policy or other standards are partially compliant. The statute includes the right for people to have and use personal possessions so as to maintain individuality and personal dignity. It did not specifically include a requirement for individuals to have the freedom to furnish and decorate sleeping/living units in provider owned or controlled residential settings. That requirement is now incorporated in Ohio Administrative Code 5123:2-9-02.</p> | <p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings. Ohio Administrative Code 5123:2-9-02 (F) (3) (f) (iii) ensures the individual is able to furnish or decorate his or her living unit. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> | <ul style="list-style-type: none"> • Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule Final file • Implementation. | <p>January 1, 2016</p> |
| | <p>Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. http://codes.ohio.gov/orc/5123.62</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|------------|---|----------------------|--------------|-----------|
| | <p>Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-2-01%20Effective%202015-10-01.pdf (Provider certification – includes requirements for initial and annual training on the rights of people with developmental disabilities)</p> | | | |
| | <p>Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-1-02%20Effective%202015-01-01.pdf (See paragraph P for county board accreditation)</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-04%20Effective%202013-03-14.pdf (Compliance reviews of certified providers)</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|---|---|--|--|------------------------|
| <p>Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> | <p>The State regulation, policy or other standards are partially compliant. This statute includes the rights of all people, regardless of living arrangement, to participate in activities of their choosing and have access to opportunities to help them develop to their full potential. With the implementation of Ohio Administrative Code 5123:2-9-02, the state is now fully compliant.</p> <p>Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. http://codes.ohio.gov/orc/5123.62</p> | <p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings. Ohio Administrative Code 5123:2-9-02 (F) (3) (f) (v -vi) ensures the individual is able to control his or her schedule and activities and have access food at any time. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> | <ul style="list-style-type: none"> • Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule Final file Implementation. | <p>January 1, 2016</p> |
| | <p>Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-2-01%20Effective%202015-10-01.pdf (Provider certification – includes requirements for initial and annual training on the rights of people with developmental disabilities)</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|---|--|---|---|------------------------|
| | <p>Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-1-02%20Effective%202015-01-01.pdf (See paragraph P for county board accreditation)</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf (Compliance reviews of certified providers)</p> | | | |
| | <p>Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures.</p> <p>http://codes.ohio.gov/oac/5123:2-2-06</p> | | | |
| <p>Provider owned or controlled residential settings: Individuals are able to have visitors of their choosing at any time.</p> | <p>The State regulation, policy or other standards are partially compliant. This statute includes the rights of all people, regardless of living arrangement, to have visitors of their choosing at any time. With the implementation of Ohio Administrative Code 5123:2-9-02, the state is now fully compliant.</p> | <p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings. Ohio Administrative Code 5123:2-9-02 (F) (3) (f) (iv) ensures the individual is able to have visitors</p> | <ul style="list-style-type: none"> • Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule Final file Implementation | <p>January 1, 2016</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|------------|--|---|--------------|-----------|
| | <p>Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.</p> <p>http://codes.ohio.gov/orc/5123.62</p> | <p>of his or her choosing at any time.</p> <p>http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> | | |
| | <p>Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.</p> <p>http://dodd.ohio.gov/RulesLaws/Documents/5123-2-2-01%20Effective%202015-10-01.pdf (Provider certification – includes requirements for initial and annual training on the rights of people with developmental disabilities)</p> | | | |
| | <p>Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-1-02%20Effective%202015-01-01.pdf (See paragraph P for county board accreditation)</p> <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-</p> | | | |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|---|---|---|---|-----------------|
| | 14.pdf (Compliance reviews of certified providers) | | | |
| | Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures. http://codes.ohio.gov/oac/5123:2-2-06 | | | |
| Provider owned or controlled residential settings: The setting is physically accessible to the individual. | <p>The State regulation, policy or other standards are fully compliant. The state standards state the need for all areas of the setting to be physically accessible to individuals.</p> <p>Ohio Administrative Code 5123:2-3-10 addresses the physical environment standards in licensed settings. http://codes.ohio.gov/oac/5123%3A2-3-10</p> <p>Ohio Administrative Code 5123:2-3-02 (C) (2) addresses that all areas of the residential facility must adequately meet the needs of the individuals. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-3-02%20Effective%202016-10-01.pdf</p> <p>In addition, OAC 5123:2-3-08(D)(1)(a-b), (D)(4) and (5) addresses for the setting to be</p> | Implement new HCBS and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings. Ohio Administrative Code 5123:2-9-02 http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf | <ul style="list-style-type: none"> • Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule Final file Implementation. | January 1, 2016 |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|--|---|---|---|------------------------|
| | <p>physically accessible to all residents. http://dodd.ohio.gov/RulesLaws/Documents/5123-2-3-08%20Effective%202016-10-01.pdf</p> | | | |
| <p>Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.</p> | <p>The State regulation, policy or other standards are silent.</p> | <p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and recognizes the individual’s opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports. Ohio Administrative Code 5123:2-9-02 (C) (6) (a-b). http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf</p> | <ul style="list-style-type: none"> • Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file • Implementation. | <p>January 1, 2016</p> |
| <p>Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.</p> | <p>The State regulation, policy or other standards are silent.</p> | <p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and recognizes the individual’s opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid</p> | <ul style="list-style-type: none"> • Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file • Implementation. | <p>January 1, 2016</p> |

| Regulation | Areas of Compliance | Remediation Required | Action Steps | *Timeline |
|------------|---------------------|--|--------------|-----------|
| | | supports. Ohio Administrative Code 5123:2-9-02 (C) (5) (a-d). http://dodd.ohio.gov/RulesLaws/Documents/5123-2-9-02%20New%202016-04-15.pdf | | |

APPENDIX 2: ICF/IID Level of Care Waivers Settings Remediation Grid Initial Approval: June 2, 2016

The settings grid describes the impact of the federal regulation on the where services are delivered.

***The proposed timelines are contingent upon approval of the plan by the Centers for Medicare and Medicaid Services(CMS)**
The State’s milestone progress report, which includes the validation status of site-specific assessments, is posted here:
<http://www.medicareid.ohio.gov/INITIATIVES/HCBSTransition.aspx>

I. Settings which currently meet HCBS characteristics. (Settings serving 90.9% of ICF-IID waiver population or 31,341 individuals)

| | |
|------------------------|--------------------|
| A. Setting Type | Living alone |
| | Living with family |
| | Shared living |

II. Settings which currently do not meet HCBS characteristics but may with modifications.

| Setting Type | Remediation Required | Action Steps | Timeline | |
|--|--|--|--|--|
| | | | Start Date | End Date |
| A. Residential Settings 5.9% (578 settings) | | | | |
| | <ul style="list-style-type: none"> Adopt and implement an overarching DODD HCBS Waiver Administration rule that reflects the characteristics of settings where HCBS may be provided and recognizes the individual’s opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports. | <ul style="list-style-type: none"> Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS Post draft rule for comment, make necessary revisions, final file, and final file with proposed implementation date by January 2016. Submit waiver amendment to CMS and modify service rules. | <p>June 2015</p> <p>January 1, 2016</p> <p>June 30, 2016</p> | <p>June 2015</p> <p>April 30, 2016</p> <p>Submit waiver amendment to CMS June 1, 2016, effective date of October 1, 2016</p> |

| | | | | |
|--|---|--|--|--|
| | <ul style="list-style-type: none"> • Modify Homemaker/Personal Care (HPC) service definition to incorporate CMS' required HCBS community integration/access characteristics. • Implement a new HCBS settings evaluation tool to assess the HCBS settings standards. • Incorporate the evaluation of settings into existing processes for provider certification, licensing and ongoing compliance monitoring | <ul style="list-style-type: none"> • Form a workgroup with a broad cross-section of individuals/families, providers of HCBS and county boards to develop an HCBS settings evaluation tool utilized to conduct compliance reviews of providers to ensure that HCBS services are provided in settings that comport with the regulation. • The tool will be used during on-site compliance reviews conducted by the DODD personnel. It includes reviews of documentation including the provider's strategic plan, policies/procedures, and staff training. The review also takes into consideration the location of the setting and whether it appears to be integrated into the broader community. Interviews will be conducted with individuals receiving services, direct support professionals, and family members to gather information about the types of opportunities for access to the community that are made available. • DODD will incorporate the setting evaluation in all provider compliance reviews, which take place at least once every three years. • DODD will conduct compliance reviews of the providers using the process for regulatory review of certified providers outlined in Ohio Administrative Code 5123:2-2-04. https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf • These reviews will be conducted in accordance with the current review schedule without modification for the compliant settings. | <p>June 2016</p> <p>July 2015</p> <p>January 1, 2016</p> <p>January 1, 2016</p> <p>January 1, 2016</p> | <p>June 2016</p> <p>July 2015</p> <p>March 17, 2019*</p> <p>March 17, 2019*</p> <p>March 17, 2019*</p> |
|--|---|--|--|--|

| | | | | |
|--|--|---|-----------------|--|
| | | <ul style="list-style-type: none"> An on-site evaluation will occur prior to enrollment of applicants seeking to provide residential and non-residential HCBS. For individuals with an ICF-IID level of care, local service and support administrators (SSA) will ensure that new settings comply with the HCBS settings standards prior to adding the service to Individual Service Plans. In the event that a setting's non-compliance prevents a service from being added to an individual's plan, the individual will be afforded due process in accordance with Ohio Administrative Code 5101:6-1 through 5101:6-9. http://codes.ohio.gov/oac/5101:6 | January 1, 2016 | March 17, 2019* |
| | | <ul style="list-style-type: none"> Additional mechanisms that contribute to the ongoing monitoring of the site-specific setting include, but are not limited to, case management oversight as outlined in the approved waivers, involvement of protection and advocacy entities, a complaint process, and participant experience surveys. | January 1, 2016 | March 17, 2019* |
| | | <ul style="list-style-type: none"> Based upon the provider self-assessment, the provider indicated the ability to make modifications to ensure compliance by 2019. | October 2015 | October 2015 |
| | | <ul style="list-style-type: none"> Remediation plans from providers who identified the ability to comply with the regulation with modifications. Providers will be asked to detail the steps they will take and the timelines by which each action will occur in order to comply. If a remediation plan is not accepted, a DODD internal team will meet with the provider to develop an acceptable remediation plan. | November 2015 | November 2015 |
| | <ul style="list-style-type: none"> Implement setting-specific remediation strategies. | <ul style="list-style-type: none"> Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. | March 1, 2016 | DODD will verify 50% complete by July 31, 2016 remainder by July 31, 2017. |
| | <ul style="list-style-type: none"> Ongoing compliance monitoring will be incorporated into current oversight processes. | <ul style="list-style-type: none"> Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. | January 1, 2016 | March 17, 2019* |

| B. ADULT DAY WAIVER SERVICES SETTINGS 8.4% (50 settings) | | | | |
|---|--|--|---|---|
| | <ul style="list-style-type: none"> • Create and implement a new Adult Day Waiver Service (ADWS) package (service definitions, provider qualifications, rate structure) that maximizes opportunities for integrated employment and integrated wrap-around supports. • Monitor compliance with the provision of services in integrated settings. | <ul style="list-style-type: none"> • Submit waiver amendment to CMS and modify service rules. • Submit the new Day Services rules through rule review and implementation process. • Form a workgroup with a broad cross-section of individuals/families, providers of HCBS and county boards to develop an HCBS settings evaluation tool utilized to conduct compliance reviews of providers to ensure that HCBS services are provided in settings that comport with the regulation. • The tool will be used during on-site compliance reviews conducted by DODD personnel. It includes reviews of documentation including the provider's strategic plan, policies/procedures, and staff training. The review also takes into consideration the location of the setting and whether it appears to be integrated into the broader community. Interviews will be conducted with individuals receiving services, direct support professionals, and family members to gather information about the types of opportunities for access to the community that are made available. • DODD will incorporate the setting evaluation in all provider compliance reviews, which take place at least once every three years. | <p>June 2015</p> <p>July 1, 2016</p> <p>June 2015</p> <p>July 2015</p> <p>January 1, 2016</p> | <p>Submit by waiver amendment by July 1, 2016 for effective date of October 1, 2016</p> <p>October 1, 2016</p> <p>June 2015</p> <p>July 2015</p> <p>March 17, 2019*</p> |

| | | | | |
|--|--|---|---|---|
| | <ul style="list-style-type: none"> Incorporate the evaluation of settings into existing processes for provider certification, licensing and ongoing compliance monitoring | <ul style="list-style-type: none"> DODD will conduct compliance reviews of the providers using the process for regulatory review of certified providers outlined in Ohio Administrative Code 5123:2-2-04. https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf These reviews will be conducted in accordance with the current review schedule without modification for the compliant settings. An on-site evaluation will occur prior to enrollment of applicants seeking to provide residential and non-residential HCBS. For individuals with an ICF-IID level of care, local service and support administrators (SSA) will ensure that new settings comply with the HCBS settings standards prior to adding the service to Individual Service Plans. In the event that a setting's non-compliance prevents a service from being added to an individual's plan, the individual will be afforded due process in accordance with Ohio Administrative Code 5101:6-1 through 5101:6-9. http://codes.ohio.gov/oac/5101:6 Additional mechanisms that contribute to the ongoing monitoring of the site-specific setting include, but are not limited to, case management oversight as outlined in the approved waivers, involvement of protection and advocacy entities, a complaint process, and participant experience surveys. Based upon the provider self-assessment, the provider indicated the ability to make modifications to ensure compliance by 2019. | <p>January 1, 2016</p> <p>January 1, 2016</p> <p>January 1, 2016</p> <p>January 1, 2016</p> <p>October 2015</p> | <p>March 17, 2019*</p> <p>March 17, 2019*</p> <p>March 17, 2019*</p> <p>March 17, 2019*</p> <p>October 2015</p> |
|--|--|---|---|---|

| | | | | |
|--|--|--|--|---|
| | <ul style="list-style-type: none"> Implement setting-specific remediation strategies. Ongoing compliance monitoring will be incorporated into current oversight processes. | <ul style="list-style-type: none"> Remediation plans from providers who identified the ability to comply with the regulation with modifications. Providers will be asked to detail the steps they will take and the timelines by which each action will occur in order to comply. If a remediation plan is not accepted, a DODD internal team will meet with the provider to develop an acceptable remediation plan. Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators (SSA) and ongoing provider compliance reviews using the process for regulatory review of certified providers outlined in Ohio Administrative Code 5123:2-2-04. https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf | <p>October 1, 2015</p> <p>March 1, 2016</p> <p>January 1, 2016</p> | <p>November 30, 2015</p> <p>DODD will verify 50% complete by July 31, 2016, remainder by July 31, 2017</p> <p>March 17, 2019*</p> |
|--|--|--|--|---|

III. Settings that are Presumed to have the effect of isolating individuals receiving HCBS from the broader community and may be Subject to Heightened Scrutiny Process.

In accordance with the process set forth in Attachment 1, State Process # 3 the decision to submit a request for heightened scrutiny is made when the State’s review of the setting’s evidence (i.e., the on-site assessment, proposed remediation plan, and subsequent progress toward completion of the remediation plan) determines the setting has overcome the institutional presumption.

The list of settings, by name and locations and the site specific evidence package for each settings submitted for heightened scrutiny is posted on the Ohio Department of Medicaid’s webpage: <http://www.medicaid.ohio.gov/INITIATIVES/HCBS-Transition>. Non-electronic copies of the heightened scrutiny evidence packages are available upon request.

| Setting Type | Remediation Required | Action Steps | Timeline | |
|---|---|--|--|---|
| | | | Start Date | End Date |
| RESIDENTIAL SETTINGS 1% (73 settings) Estimated 5% of settings will fall into Prong 2 and 95% of setting will fall into Prong 3. | | | | |
| | <ul style="list-style-type: none"> Adopt and implement an overarching DODD HCBS Waiver Administration rule that reflects the characteristics of settings where HCBS may be provided and recognizes the individual’s opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports. Modify Homemaker/Personal Care (HPC) service definition to incorporate CMS’ required HCBS community integration/access characteristics. | <ul style="list-style-type: none"> Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS. Post draft rule for comment, make necessary revisions, final file, and final file with proposed implementation date by January 2016. Submit waiver amendment to CMS and modify Homemaker/Personal (HPC) service rules. | <p>June 2015</p> <p>January 1, 2016</p> <p>June 2015</p> | <p>June 2015</p> <p>April 30, 2016</p> <p>Submit waiver amendment to CMS by June 30, 2016 for effective date of October 1, 2016</p> |

| | | | | |
|--|---|--|---|--|
| | <ul style="list-style-type: none"> • Implement a new HCBS settings evaluation tool to assess the HCBS settings standards. • The State will conduct on-site evaluations of all settings which, based upon self-assessment, may be subject to heightened scrutiny. • For settings the state determines, based upon the on-site evaluation, do not currently comply, but have the ability to do so with modifications, settings specific remediation plans will be implemented. • For settings the state determines, based upon the on-site evaluation, require requests for heightened scrutiny | <ul style="list-style-type: none"> • Form a workgroup with a broad cross-section of individuals/families, providers of HCBS and county boards to develop an HCBS settings evaluation tool utilized to conduct compliance reviews of providers to ensure that HCBS services are provided in settings that comport with the regulation. • Conduct on-site evaluations of locations, which include interviews with individuals served to gain insight into the opportunities for integration they experience at the setting and also a review of policies/practices adopted by the provider to promote these opportunities. • Based upon the on-site evaluation by the state, the provider will be asked to detail the steps it will take and the timelines by which each action will occur in order to comply. If a remediation plan is not accepted, a DODD internal team will meet with the provider to develop an acceptable remediation plan. DODD will require semi-annual status reports from the provider. • Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. • Compile evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics based upon the on-site evaluation. • Update and post the transition plan with description of the assessment results and identification of the settings for which CMS heightened scrutiny is requested. • Submit requests for heightened scrutiny to CMS. | <p>June 2015</p> <p>March 1, 2016</p> <p>March 1, 2016</p> <p>March 1, 2016</p> <p>March 1, 2016</p> <p>January 1, 2018</p> <p>July 1, 2018</p> | <p>June 2015</p> <p>December 31, 2016</p> <p>December 31, 2016</p> <p>DODD will verify 50% complete by July 31, 2016; remainder by July 31, 2017</p> <p>December 31, 2017</p> <p>January 31, 2018</p> <p>July 31, 2018</p> |
|--|---|--|---|--|

| | | | | |
|--|--|--|---|---|
| | <ul style="list-style-type: none"> For settings the state determines, based upon the on-site evaluation, require relocation plans and/or those for which CMS determines the setting does not meet the HCBS regulatory requirements. Ongoing compliance monitoring will be incorporated into current oversight processes. | <ul style="list-style-type: none"> Work with individuals, providers, and county boards to identify new locations in which individuals may receive HCBS services. Relocation plans for individual's transition to a new setting. DODD will inform individuals served in these settings that the location does not meet HCBS criteria. DODD will ensure the individuals' service and support administrators assist individuals to transition to a setting that does comply with the criteria and, if necessary, with choosing a new provider. Individuals will be given timely notice and due process, will have a choice of alternative settings and critical services are in place through a person-centered planning process. DODD will require quarterly status reports from the provider. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators (SSA) and ongoing provider compliance reviews, using the process for regulatory review of certified providers outlined in Ohio Administrative Code 5123:2-2-04. <p>https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf</p> | <p>January 1, 2018</p> <p>January 1, 2018</p> <p>January 1, 2018</p> <p>January 1, 2016</p> | <p>March 31, 2018</p> <p>March 31, 2018</p> <p>March 17, 2019*</p> <p>March 17, 2019*</p> |
|--|--|--|---|---|

| B. ADULT DAY WAIVER SERVICES SETTINGS 4.1% (19 settings) Estimated 100% of settings will fall into Prong 3 | | | | |
|--|---|--|---------------|--|
| Facility-based work Facility-based non-work Facility-based combination of work/non-work | <ul style="list-style-type: none"> • Create and implement a new Adult Day Waiver Service (ADWS) package (service definitions, provider qualifications, rate structure) that maximizes opportunities for integrated employment and integrated wrap-around supports. | <ul style="list-style-type: none"> • Submit waiver amendment to CMS and modify service rules. | June 2015 | Submit Adult Day Services white paper to CMS by March 31, 2016; submit waiver amendment for new services by July 1, 2016 for effective date of October 1, 2016 |
| | <ul style="list-style-type: none"> • The State will conduct on-site evaluations of all settings which, based upon self-assessment, may be subject to heightened scrutiny. | <ul style="list-style-type: none"> • DODD will conduct on-site evaluations of locations, which include interviews with individuals served to gain insight into the opportunities for integration they experience at the setting and also a review of policies/practices adopted by the provider to promote these opportunities. | March 1, 2016 | December 31, 2016 |
| | <ul style="list-style-type: none"> • For settings the state determines, based upon the on-site evaluation, do not currently comply, but have the ability to do so with modifications, settings specific remediation plans will be implemented. | <ul style="list-style-type: none"> • Based upon the on-site evaluation by the state, the provider will be asked to detail the steps they will take and the timelines by which each action will occur in order to comply. If a remediation plan is not accepted, a DODD internal team will meet with the provider to develop an acceptable remediation plan. | March 1, 2016 | October 31, 2016 |
| | <ul style="list-style-type: none"> • For settings the state determines, based upon the on-site evaluation, require requests for heightened scrutiny | <ul style="list-style-type: none"> • Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. | March 1, 2016 | DODD will verify 50% complete by July 31, 2016; remainder by July 31, 2017 |
| | <ul style="list-style-type: none"> • Compile evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics based upon the on-site evaluation. | | March 1, 2016 | December 31, 2017 |

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| | <ul style="list-style-type: none"> For settings the state determines, based upon the on-site evaluation, require relocation plans and/or those for which CMS determines the setting does not meet the HCBS regulatory requirements. Ongoing compliance monitoring will be incorporated into current oversight processes. | <ul style="list-style-type: none"> Update and post the transition plan with description of the assessment results and identification of the settings for which CMS heightened scrutiny is requested. Submit requests for heightened scrutiny to CMS. Work with individuals, providers, and county boards to identify new locations in which individuals may receive HCBS services from the provider of their choice. Relocation plans for individual's transition to a new setting. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to a setting that does comply with the criteria and, if necessary, with choosing a new provider. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to a setting that complies with the criteria and, if necessary, with choosing a new provider. Individuals will be given timely notice and due process, will have a choice of alternative settings and critical services are in place through a person-centered planning process. DODD will require quarterly status reports from the provider. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators (SSA) and ongoing provider compliance reviews using the process for regulatory review of certified providers outlined in Ohio Administrative Code 5123:2-2-04. https://doddportal.dodd.ohio.gov/rules/ineffect/Documents/5123-2-2-04%20Effective%202013-03-14.pdf | <p>January 1, 2018</p> <p>July 1, 2018</p> <p>January 1, 2018</p> <p>January 1, 2018</p> <p>January 1, 2018</p> <p>January 1, 2016</p> | <p>January 31, 2018</p> <p>July 31, 2018</p> <p>March 31, 2018</p> <p>March 31, 2018</p> <p>March 17, 2019*</p> <p>March 17, 2019*</p> |
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IV. Settings which cannot meet the HCBS characteristics (such as a nursing facility, ICF/IID, and hospitals, or other locations that have qualities of an institutional setting, as determined by the Secretary.)

| Setting Type | Remediation Required | Action Steps | Timeline | |
|---|--|--|----------------|----------------------------------|
| | | | Start Date | End Date |
| A. RESIDENTIAL SETTINGS .1% (4 Settings) | | | | |
| No settings have been identified at this time. | <ul style="list-style-type: none"> The state will determine if location does or does not meet the HCBS characteristics through on-site evaluations. For settings the state determines, based upon the on-site evaluation, do not currently comply, but have the ability to do so with modifications, setting-specific remediation plans will be implemented. | <ul style="list-style-type: none"> DODD will conduct site visits of the four settings whose providers indicated through the self-assessment survey that relocation may be necessary. An on-site visit was scheduled to occur no later than 8/31/15. The on-site visit included a face-to-face meeting with the provider, observations of 100 percent of the setting, and interviews of individuals, family/guardian and staff and when not possible, the interviews were conducted via phone within 14 days of the on-site review. The HCBS Settings Evaluation Tool was used during on-site and phone reviews. | September 2015 | September 2015 |
| | | <ul style="list-style-type: none"> If necessary, DODD will provide technical assistance to the provider regarding modifications which may be made to enable the setting to comply with the HCBS characteristics. | September 2015 | September 2015 |
| | | <ul style="list-style-type: none"> These visits will include interviews with individuals served to gain insight into the opportunities for integration they experience at the setting and also a review of policies/practices adopted by the provider to promote these opportunities. | September 2015 | September 2015 |
| | | <ul style="list-style-type: none"> Based upon the State’s on-site evaluation, the provider will be asked to detail the steps it will take and the timelines by which each action will occur in order to comply. If a remediation plan is not accepted, a DODD internal team will meet with the provider to develop an acceptable remediation plan. | November 2015 | November 2015 |
| | | <ul style="list-style-type: none"> Verify implementation of providers’ remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. | March 1, 2016 | DODD will verify 50% complete by |

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| | <ul style="list-style-type: none"> For settings, the State determines, based upon the on-site evaluation, requests for heightened scrutiny. For settings the State determines, based upon the on-site evaluation, require relocation plans and/or those for which CMS determines the setting does not meet the HCBS regulatory requirements. Providers will be given the option to relocate the place where they provide waiver services to more integrated setting or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. Develop relocation plans for settings that, based upon the on-site evaluation, and/or CMS determines the setting does not meet the HCBS regulatory requirements. | <ul style="list-style-type: none"> If, upon completing the on-site reviews, DODD determines that a request for heightened scrutiny must be submitted to CMS for consideration, DODD will work with the provider and individuals/families to compile evidence that the setting does have HCBS characteristics. Update and post the transition plan with description of the assessment results and identification of the settings for which CMS heightened scrutiny is requested. Submit requests for heightened scrutiny to CMS. If the site visits confirm the setting has the qualities of an institution, DODD will inform these providers the location where they are providing waiver services does not meet HCBS Criteria. DODD will inform individuals served in these settings that the location does not meet HCBS criteria. Work with individuals, providers, and county boards to identify new locations in which individuals may receive HCBS services. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to a setting that does comply with the criteria and, if necessary, with choosing a new provider. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to a setting that complies with the criteria and, if necessary, with choosing a new provider. DODD will require quarterly status reports from the provider. Individuals will be given timely notice and due process, will have a choice of alternative settings and critical services are in place through a person-centered planning process. | <p>March 1, 2016</p> <p>January 1, 2017</p> <p>July 1, 2017</p> <p>January 1, 2017</p> <p>January 1, 2017</p> <p>January 1, 2017</p> <p>January 1, 2017</p> | <p>July 31, 2016; remainder by July 31, 2017</p> <p>December 31, 2017</p> <p>January 31, 2017</p> <p>July 31, 2017</p> <p>January 31, 2017</p> <p>January 31, 2017</p> <p>January 31, 2017</p> <p>March 17, 2019</p> |
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| B. ADULT DAY WAIVER SERVICES SETTINGS 2.8% (or 13 settings) | | Adult Day Health Center Waiver Settings under Transitions DD Waiver | | |
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| <p>Located inside, on the grounds of, or adjacent to a public institution.</p> <p>Located inside a private institution.</p> | <ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. | <ul style="list-style-type: none"> Inform these providers the location where they are providing services does not meet HCBS Criteria. Updated and post the transition plan with description of the assessment results and identification of the settings that do not meet the HCBS regulatory requirements. DODD will inform individuals served in these settings that the location does not meet HCBS criteria. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to a setting that does comply with the criteria and, if necessary, with choosing a new provider. Individuals will be given timely notice and due process, will have a choice of alternative settings and critical services are in place through a person-centered planning process. | January 1, 2018 | January 31, 2018 |
| | | | January 1, 2018 | January 31, 2018 |
| | | | January 1, 2018 | March 17, 2019 |
| <p>DODD certified Adult Day Health Centers</p> | <ul style="list-style-type: none"> Adult Day Health Center waiver service under the Transitions DD Waiver will end effective June 30, 2017. | <ul style="list-style-type: none"> The Adult Day Health Center waiver services under the Transitions DD waiver offers only facility-based options and no employment supports to individuals enrolled in the waiver. CMS approved a Transitions DD waiver phase- out plan effective July 1, 2015. Individuals will have the option to enroll in another DD waiver, which will have other options of adult day array services. | July 1, 2015 | June 30, 2017 |

Appendix 3: NF-LOC Waivers System Remediation Grid Initial Approval: June 2, 2016

The system grid describes the impact of the federal regulation on applicable State statutes, administrative rules, administrative and operational policies.

*The proposed timelines are contingent upon approval of the plan by the Centers for Medicare and Medicaid (CMS)

The State's milestone progress report is posted here: <http://www.medicaid.ohio.gov/INITIATIVES/HCBSTransition.aspx>

| Regulation | Areas of Compliance | Remediation Required | Action Steps | Timeline* | |
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| Setting is integrated in and supports full access of individual receiving Medicaid HCBS to the greater community, includes opportunities to seek employment and work in competitive integrated settings, opportunities to engage in community life, and to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS. | The State regulation, policy or other standards are partially compliant. The state's determination was the result of the assessment methodology | Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings. Amend the following administrative rules to incorporate HCBS community integration/access characteristics. | Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers. | July 1, 2015 – July 1, 2016 | |
| | Assisted Living Service | Residents Rights ORC 3721.13 | OAC 5160-44-01 (B) (1) requires the setting to be fully integrated. | Training: Modify Provider and case management operational manuals and applicable forms as needed. | January 1, 2016 – June 30, 2016 |
| | Licensure Rules OAC 3701-17-50 | Adult Day Health Service | http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01_PH_OF_N_RU_20160415_1352.pdf | Issue guidance to impacted providers and case management entities. | July 1, 2017 – March 17, 2019 |
| | Consumer Choice & Control Rules OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42 | Assisted Living OAC 173-39-02.16 | Adult Day Health OAC 5160-46-04 (C) OAC 173-39-02.1 | Ongoing Compliance: On site I provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules. | October 1, 2017 – March 17, 2019 |
| | ORC 3721.13 affords individuals the right to participate in decisions that affect their life, access to opportunities to achieve | Modify the ongoing provider oversight process. | Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience | | |

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| | <p>their fullest potential, and to manage their personal financial affairs.</p> <p>State standards require individuals to receive services that maximize personal independence.</p> <p>State laws regulating residential care facilities provide for access to the community.</p> <p>The state standards are silent on opportunities to seek employment and work in competitive integrated settings.</p> | | <p>with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>July 1, 2017 – March 17, 2019</p> |
| <p>The setting is selected by the individual from among setting options including non-disability-specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p> | <p>The State regulation, policy or other standards are silent. The State's determination was the result of the assessment methodology</p> <p>Assisted Living</p> <p>Service Specification OAC 173-39-02.16</p> <p>Room and Board obligation documented in the care plan.</p> <p>Adult Day Health</p> <p>N/A</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (B)(2), (2)(a) ensure the individual is able to select a setting from among options that include non-disability specific settings and a private unit in a residential setting.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01_PH_OF_N_RU_20160415_135_2.pdf</p> <p>OAC 5160-44-02 (B)(1)(a) and(i) also ensure the individual's ability to choose a setting that is integrated in and supports full access to the community.</p> | <p>Rule Process: Utilize rule development and filing processes that includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> |

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| | | http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-02 PH OF N RU 20160415 135 2.pdf | <p>the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019</p> |
| An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected. | <p>The State regulation, policy or other standards are partially compliant. The State's determination was the result of the assessment methodology</p> <p>Assisted Living</p> <p>Residents' Rights ORC 3721.10</p> <p>Resident Agreement OAC 3701-17-57</p> <p>Adult Day Health</p> <p>Consumer Choice and Control</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (B)(3) requires the setting to ensure an individual's right to privacy.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 135 2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which include individuals, advocates, and providers.</p> <hr/> <p>Training: Modify provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> |

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| | <p>OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42-06</p> <p>PASSPORT Bill of Rights (provided to the individual upon waiver enrollment and available to the public upon request)</p> <p>OHCW Consumer Handbook http://medicaid.ohio.gov/Portals/0/For%20Ohioans/Programs/HCBS/WaiverHandbook2015(002).pdf</p> <p>ORC 3721.13 addresses essential personal rights of dignity, respect, and freedom from coercion and restraint.</p> <p>State regulations for residential care facility permit the use of a risk agreements.</p> <p>State standards require individuals to be treated with respect and dignity and protected from abuse, neglect, exploitation, or other threats to health, safety, or well-being.</p> | <p>Consumer Handbook will be updated to reflect the requirements set forth in OAC rules 5160-44-01 and 5160-44-02</p> | <p>setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>October 1, 2017 – March 17/2019</p> <p>July 1, 2017 – March 17, 2019</p> |
| <p>Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.</p> | | | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> | <p>July 1, 2015 – July 1, 2016</p> |

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| | | | <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019.</p> |
| <p>Individual choice regarding services and supports, and who provides them, is facilitated.</p> | <p>The State regulation, policy or other standards are partially compliant. The State's determination was the result of the assessment methodology</p> <p>Assisted Living Service Residents' Rights ORC 3721.13</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (B)(5) ensures the individual can choose amongst service providers.</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> | <p>July 1, 2015 – July 1, 2016</p> |

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| | <p>Service Specifications OAC 173-39-02.16 OAC 3701-17-57 OAC 5160-58-03</p> <p>Adult Day Health Service</p> <p>Consumer Choice and Control OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42-06</p> <p>ORC 3721.13 gives individuals the right to participate in decisions that affect the individual's life.</p> <p>State regulations establish individuals have choice and control over the arrangement and provision of home and community-based waiver services, and the selection and control over the direction of approved waiver service providers.</p> <p>State regulations for residential care facility permit the use of a risk agreements.</p> | <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 135 2.pdf</p> | <p>Training: Modify provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted foreach setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019.</p> |
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| <p>Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> | <p>The State regulations, policy or other standards are partially compliant. The State's determination was the result of the assessment methodology</p> <p>Assisted Living</p> <p>Transfer and Discharge Rights ORC 3721.16</p> <p>Residents' Rights ORC 3721.13(A)(30)</p> <p>Resident Agreement OAC 3701-17-57</p> <p>Service Provision OAC 173-39-02 (E)</p> <p>Adult Day Health N/A</p> <p>ORC 3721.16 specifies the circumstances under which an individual's residency may be terminated and the appeal procedures.</p> <p>State regulations for a residential facility require a written resident agreement with the individual prior to the beginning of residency in the setting.</p> <p>The State standards do not specifically require the protections that address eviction and appeals to be comparable to the jurisdiction's landlord tenant law.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (C)(1) requires the use of a legally enforceable agreement.</p> <p>OAC 5160-44-01 (C)(1)(b) ensures that the individual has a lease, residency agreement or other form of written agreement documents protections that addresses eviction processes and appeals comparable to those provided under Ohio Law.</p> <p>OAC 5160-44-01(C)(2)(b) ensures the individual's choice of roommate.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01_PH_OF_N_RU_20160415_135_2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019.</p> |
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| <p>Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> | <p>The State regulations, policy or other standards are partially compliant. The State’s determination was the result of the assessment methodology</p> <p>Assisted Living</p> <p>Residents’ rights ORC 3721.13</p> <p>Space Requirements OAC 3701-17-64,</p> <p>Living Unit Characteristics OAC 173-39-02.16 (B)(2)</p> <p>Adult Day Health N/A</p> <p>ORC 3721.13 allows doors to be closed, upon reasonable request.</p> <p>State regulations for residential care facilities prescribe the space requirements but does not address lockable doors.</p> <p>State standards for the waiver require lockable doors.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (C)(2) ensures the individual has privacy in his or her living unit, including lockable doors.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01_PH_OF_N_RU_20160415_135_2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual’s experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019.</p> |
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| <p>Provided owned or controlled settings: Individuals sharing units have a choice of roommates in that setting.</p> | <p>The State regulations, policy or other standards are partially compliant. The State’s determination was the result of the assessment methodology</p> <p>Assisted Living Residents' Rights ORC 3721.13</p> <p>Living Unit Characteristics OAC 173-39-02.16 (B)(2)</p> <p>Adult Day Health N/A</p> <p>ORC 3721.13 requires the individual be given reasonable notice before a roommate change.</p> <p>State standards for the waiver require an individual have an existing relationship with someone in order to share a living unit.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (C)(2)(b) ensures the individual is able to have a choice of roommates.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 1352.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual’s experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17/2019</p> <p>July 1, 2017 – March 17, 2019</p> |
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| <p>Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> | <p>The State regulations, policy or other standards are partially compliant. The state’s determination was the result of the assessment methodology outlined on pages 17-20.</p> <p>Assisted Living Supplies OAC 3701-17-65 (C)</p> <p>Community Transition Service OAC 173-39-02.17</p> <p>Adult Day Health N/A</p> <p>The State standards provide methods for the individual to obtain items to furnish their sleeping or living unit.</p> <p>The State standards do not specifically state the individual has the freedom to furnish and decorate their sleeping or living unit.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (C)(3) ensures the individual is able to furnish or decorate their living unit within the lease or other agreement.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 135 2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual’s experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017- March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019</p> |
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| <p>Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> | <p>The State regulations, policy or other standards are partially compliant. The State’s determination was the result of the assessment methodology outlined on pages 17-20.</p> <p>Assisted Living service</p> <p>Residents' Rights ORC 3721.13</p> <p>Service Specifications OAC 173-39-02.16 OAC 3701-17-57 OAC 5160-46-04 (C) OAC 173-39-02.1</p> <p>Dietary Services OAC 3701-17-60</p> <p>Adult Day Health Service</p> <p>Consumer Choice and Control OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42-06</p> <p>ORC 3721.13 gives individuals the right to participate in decisions that affect the individual's life.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>Non-Residential Provider Owned/Controlled Settings</p> <p>OAC 5160-44-01 (B)(4) ensures the individual is able to exercise independence in making life choices including but not limited to daily activities.</p> <p>Residential Provider Owned/Controlled Settings</p> <p>OAC 5160-44-01 (C)(4) ensures the individual is able to control their own schedule and have access to food at any time.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01_PH_OF_N_RU_20160415_135_2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes that includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On-site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators- Aging and Disability (NCI-AD) survey, to assess system wide trends with waiver participants experience with community integration and access.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> |
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| | <p>State regulations establish individuals have choice and control over the arrangement and provision of home and community-based waiver services, and the selection and control over the direction of approved waiver service providers.</p> <p>State regulations for residential care facility permit the use of a risk agreements.</p> <p>State regulations for residential care facilities describe the options for dietary services and require the setting to specify in policy the amount and type of meal services furnished.</p> <p>State regulation for the assisted living waiver service requires the coordination of three meals a day and snacks.</p> <p>State regulations for the adult day health service require the provision of no more than 2 meals a day and snacks.</p> <p>The state regulations do not specifically state the individual has access to food at any time.</p> | | <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>July 1, 2017 – March 17, 2019</p> |
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| <p>Individuals are able to have visitors of their choosing at any time.</p> | <p>The State regulation, policy, and other standards are partially compliant. The State’s determination was the result of the assessment methodology</p> <p>Assisted Living</p> <p>Residents’ rights ORC 3721.13</p> <p>Service Specifications OAC 173-39-02.16</p> <p>ORC 3721.13 affords the right to private visits at any reasonable hour.</p> <p>The State standards do not specifically support an individual's ability to have visitors of their choosing at any time.</p> <p>Adult Day Health Service</p> <p>The State regulation, policy, and other standards applicable to adult day health are silent.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics.</p> <p>Residential Provider Owned/Controlled Settings.</p> <p>OAC 5160-44-01 (C)(5) ensures the individual is able to have visitors of their choosing at any time.</p> <p>Non-Residential Provider Owned/Controlled Settings</p> <p>OAC 5160-44-01 (B)(4) ensures the individual is able to exercise independence in making life choices including daily activities and with whom to interact.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01_PH_OF_N_RU_20160415_1352.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On-site provider reviews, including the experience of individuals residing in the setting, in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey, to assess system-wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual’s experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019</p> |
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| <p>The setting is physically accessible to the individual.</p> | <p>The State regulations, policy or other standards are partially compliant. The State’s determination was the result of the assessment methodology</p> <p>Assisted Living</p> <p>Conditions of Participation OAC 173-39-02</p> <p>Adult Day Health</p> <p>Conditions of Participation OAC 173-39-02 OAC 5160-46-04 OAC 5160-45-10</p> <p>Conditions of participation rules require providers to comply with all federal, state, and local laws.</p> <p>The State standards do not specifically require the setting to be physically accessible.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required.</p> <p>OAC 5160-44-01 (C)(6) requires the setting is physically accessible to the individual.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 135 2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual’s experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019</p> |
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| <p>Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.</p> | <p>The State regulations, policy, or other standards are silent.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings.</p> <p>OAC 5160-44-01 (A)(2) identifies the locations that are not home- and community-based settings.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 135 2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019</p> |
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| <p>Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.</p> | <p>The State regulation, policy, or other standards are silent.</p> | <p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings.</p> <p>OAC 5160-44-01 (A) (2) identifies the locations that are not home- and community-based settings.</p> <p>http://www.registerofohio.state.oh.us/pdfs/5160/0/44/5160-44-01 PH OF N RU 20160415 135 2.pdf</p> | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess system wide trends with waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual’s experience with community inclusion.</p> | <p>July 1, 2015 – July 1, 2016</p> <p>January 1, 2016 – June 30, 2016</p> <p>July 1, 2017 – March 17, 2019</p> <p>October 1, 2017 – March 17, 2019</p> <p>July 1, 2017 – March 17, 2019</p> |
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Appendix 4: Residential Waivers Settings Remediation Grid Initial Approval: June 2, 2016

The settings grid describes the impact of the federal regulation on the where services are delivered.

***The proposed timelines are contingent upon approval of the plan by the Centers for Medicare and Medicaid (CMS)**

The State's milestone progress report, which includes the validation status of site-specific assessments, is posted here:

<http://www.medicaid.ohio.gov/INITIATIVES/HCBSTransition.aspx>

I. Settings which currently meet HCBS characteristics.

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| A. Setting Type | A1. Living alone in a private residence |
| | A2. Living with family/friends in a private residence |

II. Settings which currently do not meet HCBS characteristics but may with modifications.

| Setting Type | Remediation Required | Action Steps | *Timeline | |
|---|--|---|-----------------|---------------|
| | | | Start Date | End Date |
| A. RESIDENTIAL SETTINGS 89% (298) | | | | |
| Free standing licensed residential care facilities furnishing the assisted living waiver service | <ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings. | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Provider Education: Develop an HCBS settings evaluation tool for provider self-assessment and ongoing monitoring, and training to identify changes needed to demonstrate full compliance.</p> | July 1, 2015 | July 1, 2016 |
| | | | January 1, 2016 | June 30, 2016 |
| Licensed residential care facilities located on a privately-operated continuing care retirement | <ul style="list-style-type: none"> Modify the assisted living service specification to incorporate CMS' required HCBS community integration/access characteristics. | <p>Educate provider network on how to use tools to identify current level of compliance and changes needed.</p> <p>Develop and implement an HCBS setting evaluation tool to ensure consistent assessment of the level of compliance at initial enrollment and ongoing.</p> | April 4, 2016 | June 30, 2016 |
| | | | January 1, 2016 | June 30, 2016 |

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| community campus | <ul style="list-style-type: none"> Modify the provider enrollment and ongoing provider oversight process. Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. | <p>Communication Plan: In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics, including communicating the process for individuals and families to raise concerns regarding the community nature, or lack thereof, of a specific setting.</p> <hr/> <p>Compliance Time Frame</p> <p>Site Specific Assessments</p> <p>Settings were assigned a category of compliance based on the State’s administrative review of existing regulations and an analysis of paid claims for HCBS and institutional services delivered from the same address.</p> <p>The State will notify each provider of the category of compliance assigned to its setting.</p> <p>The State will educate the provider network on how to use the HCBS setting evaluation tool.</p> <p>The provider completes the self-assessment using the HCBS setting evaluation tool and develops remediation plan to ensure full compliance.</p> <p>Ongoing Monitoring</p> <p>State conducts on-site provider compliance reviews, including the experience of individuals residing in the setting, for each setting in accordance with <u>OAC 5160-45-06, 5160-45-09, 5160-45-10, 173-39-02, 173-39-04, 173-39-05.</u></p> <p>The reviews will be conducted using the HCBS setting evaluation tool developed for the HCBS settings rule and will be conducted in accordance with the current review schedule.</p> | January 1, 2016 | June 30, 2016 |
| | | | October 1, 2014 | October 15, 2015 |
| | | | April 4, 2016 | April 4, 2016 |
| | | | April 4, 2016 | June 30, 2016 |
| | | | April 4, 2016 | June 30, 2016 |
| | | | July 1, 2016 | March 17, 2019* |
| | | | July 1, 2016 | March 17, 2019* |

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| | | In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion. | July 1, 2017 | March 17, 2019 |
| B. Adult Day Health waiver service settings. 92% (258 settings) | | | | |
| Free Standing Adult Day Health settings furnishing the waiver service Adult Day Health settings located on a privately-operated continuing care retirement community campus | <ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings. Modify the adult day health service specification rule to incorporate CMS' required HCBS community integration/access characteristics. Modify provider oversight process, including the evaluation of settings for initial certification and ongoing monitoring. Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. | Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers. | July 1, 2015 | July 1, 2016 |
| | | Provider Education: Develop an HCBS settings evaluation tool for provider self-assessment and ongoing monitoring and training to identify changes needed to demonstrate full compliance. | January 1, 2016 | March 31, 2016 |
| | | Educate provider network on how to use tools to identify current level of compliance and changes needed. | April 4, 2016 | June 30, 2016 |
| | | Develop and implement an HCBS evaluation tool to ensure consistent assessment of the level of compliance at initial enrollment and ongoing. | January 1, 2016 | June 30, 2016 |
| | | Communication Plan: In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics, including communicating the process for individuals and families to raise concerns regarding the community nature, or lack thereof, of a specific setting. | January 1, 2016 | June 30, 2016 |
| | | Compliance Time Frame Site Specific Assessments | | |
| | | Settings were assigned a category of compliance based on the State's review of existing regulations and the analysis of paid claims for HCBS and institutional services delivered from the same address. | October 1, 2014 | October 15, 2015 |

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| | | <p>The State will notify each provider of the category of compliance assigned to its setting.</p> | April 4, 2016 | April 4, 2016 |
| | | <p>The State will educate the provider network on how to use the HCBS setting evaluation tool.</p> | April 4, 2016 | June 30, 2016 |
| | | <p>The provider completes self-assessment using the HCBS setting evaluation tool and develops remediation plan to ensure full compliance.</p> | April 4, 2016 | June 30, 2016 |
| | | <p>Ongoing Monitoring</p> <p>State conducts on-site provider compliance reviews, including the experience of individuals residing in the setting, for each setting in accordance with OAC 5160-45-06, 5160-45-09, 5160-45-10, 173-39-02, 173-39-04, 173-39-05.</p> <p>The reviews will be conducted using the HCBS setting evaluation tool developed for the HCBS settings rule and will be conducted in accordance with the current review schedule.</p> <p>Additional mechanisms that contribute to the ongoing monitoring of the site-specific setting include but are not limited to case management oversight as outlined in the approved waivers, involvement of protection and advocacy entities, a complaint process, and participant experience surveys.</p> | July 1, 2016 | March 17, 2019 |
| | | <p>Setting Remediation</p> <p>For settings that do not demonstrate compliance with the HCBS settings rule, the provider will submit acceptable evidence of compliance using existing processes and in accordance with OAC rules 5160-45-09, 5160-45-10, 173-39-04, 173-39-05. The evidence of compliance details the steps to be taken to come into compliance and the expected timelines for compliance.</p> | July 1, 2016 | March 17, 2019 |

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| | | <p>Remediation strategies will address areas that include but are not limited to policy and procedures, lease agreements, staff training, service options and access, service delivery methods, staffing patterns, interaction with the broader community, and the presence of institutional physical characteristics at the setting.</p> <p>Using existing processes, the State will monitor the provider's progress implementing the plan required to bring the setting into full compliance.</p> <hr/> <p>Quality Strategy:</p> <p>Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey, to assess system-wide trends of waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey results, which can be cross-walked to specific setting locations, to assess the individual's experience with community inclusion.</p> | <p>October 1, 2017</p> | <p>March 17, 2019</p> |
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III. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny process.

In accordance with the process set forth in Attachment 1, State Process # 3, the decision to submit a request for heightened scrutiny is made when the State’s review of the setting’s evidence (i.e., the on-site assessment, proposed remediation plan, and subsequent progress toward completion of the remediation plan) determines the setting has overcome the institutional presumption.

The list of settings, by name and locations and the site specific evidence package for each settings submitted for heightened scrutiny is posted on the Ohio Department of Medicaid’s webpage: <http://www.medicaid.ohio.gov/INITIATIVES/HCBS-Transition>. Non-electronic copies of the heightened scrutiny evidence packages are available upon request.

| Setting Type | Remediation Required | Action Steps | Timeline | |
|---|--|---|-----------------|----------------|
| | | | Start Date | End Date |
| A. RESIDENTIAL SETTINGS | | | | |
| 11 percent (37 settings) are licensed residential care facilities certified as an HCBS assisted living provider are in the same building as a nursing facility and operate separately and in accordance with residential care facility licensure rules and the CMS approved 1915 (c) Assisted Living Waiver. Further analysis is required to determine the settings do not have the effect of isolating individuals from the greater community. Estimated 100% of settings will fall into Prong 1 | | | | |
| Licensed residential care facilities located in the same building as a nursing facility and furnishing the assisted living waiver service | <ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings. Identify the settings for which heightened scrutiny will be requested. | Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers. | July 1, 2015 | July 1, 2016 |
| | | Standards: With input from individuals, advocates, and providers, establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community. | January 1, 2016 | March 31, 2016 |
| | | Provider Education: Develop an HCBS settings evaluation tool for provider self-assessment and ongoing monitoring and training to identify changes needed to demonstrate full compliance. | January 1, 2016 | March 31, 2016 |
| | | Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed. | April 4, 2016 | June 30, 2016 |
| | | Develop and implement an HCBS evaluation tool to ensure consistent assessment of the level of compliance at initial enrollment and ongoing. | January 1, 2016 | June 30, 2016 |

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| | <ul style="list-style-type: none"> Develop a communication strategy to education individuals and families about the implementation of the community characteristic standards. | <p>Communication Plan In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics, including communicating the process for individuals to raise concerns regarding the community nature, or lack thereof, of a specific setting.</p> <p>Compliance Timeframe:</p> <p>Site Specific Settings Assessment</p> <p>Settings were assigned a category of compliance based on the State's review of existing regulations and an analysis of paid claims for HCBS and institutional services delivered from the same address.</p> <p>The State will notify each provider of the category of compliance assigned to their setting.</p> <p>The State will educate the provider network on how to use the HCBS setting evaluation tool.</p> <p>The provider completes the self-assessment using the HCBS setting evaluation tool and develops remediation plan to ensure full compliance.</p> <p>Settings Remediation</p> <p>Providers submit to the State a written remediation plan describing actions to be taken to remediate each issue to achieve full compliance. Remediation strategies will address the following areas, which include but are not limited to, policy and procedures, lease agreements, staff training, service options and access, service delivery methods, staffing patterns, interaction with the broader community, and the presence of institutional physical characteristics at the setting.</p> | <p>January 1, 2016</p> <p>October 1, 2014</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>April 4, 2016</p> | <p>June 30, 2016</p> <p>October 15, 2015</p> <p>April 4, 2016</p> <p>June 30, 2016</p> <p>September 1, 2016</p> <p>September 1, 2016</p> |
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| | <p>The State will conduct on-site evaluations of every setting in this category to identify those settings for which CMS heightened scrutiny review will be requested.</p> | <p>Heightened Scrutiny Process On-site evaluations</p> <ul style="list-style-type: none"> • Interviews with individuals served to gain insights into the opportunities for integration they experience at the setting; • Interviews with direct support staff; • Review of policies and practices adopted by the provider to promote these opportunities; • Observations of the implementation and effectiveness of the provider’s remediation plan • Review of relevant information submitted by stakeholders regarding the characteristics of the setting. <p>Outcome of on-site evaluations</p> <p>The State compiles evidence for settings that were initially presumed to have institutional qualities but were determined to meet with modifications, based on the on-site evaluation.</p> <p>The State requests remediation plans from these settings, which detail the action steps and timelines to bring the setting into full compliance.</p> <p>The State compiles evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics, based on the on-site evaluation.</p> <p>The State updates the transition plan with the description of the results and identification of the settings for which CMS heightened scrutiny review is requested.</p> <p>The State submits requests for heightened scrutiny to CMS for settings initially presumed to be institutional that the State determined, through the on-site evaluations, do have qualities that are home and community-based.</p> | <p>October 1, 2016</p> <p>October 1, 2016</p> <p>October 1, 2016</p> <p>October 1, 2016</p> <p>July 1, 2017</p> <p>October 31, 2017</p> | <p>June 30, 2017</p> <p>June 30,2017</p> <p>June 30, 2017</p> <p>June 30, 2017</p> <p>Sept 30, 2017</p> <p>October 31, 2017</p> |
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| | | <p>Ongoing Monitoring for settings which CMS determines, through the heightened scrutiny review, that all the regulatory requirements for HCBS are met.</p> <p>The State conducts on-site provider compliance reviews, including the experience of individuals residing in the setting, for each setting in accordance with OAC 5160-45-06, 5160-45-09, 5160-45-10, 173-39-02, 173-39-04, 173-39-05.</p> <p>Relocation Process</p> <p>For those settings that the state does not submit requests for heightened scrutiny review OR for the settings that CMS determines, through heightened scrutiny review, do not meet the regulatory requirements for HCBS, the State’s established relocation team, led by the State Long Term Care Ombudsman will work with individuals who choose to transition to an approved HCBS setting of their choice.</p> <p>The relocation process includes the following components:</p> <ul style="list-style-type: none"> • Timely notice and due process through in-person notification that the setting does not meet HCBS requirements; • The choice of alternative settings selected through the person-centered planning process; • Care coordination to ensure continuity of services and critical services are in place prior to the relocation; • Post-relocation follows up. <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators- Aging and Disability (NCI-AD) survey, to assess system-wide trends of waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize Resident Satisfaction Survey results, which can be cross-walked to specific settings, to assess the individual’s experience with community inclusion.</p> | <p>January 1, 2018</p> <p>October 31, 2017</p> <p>October 1, 2017</p> <p>July 1, 2017</p> | <p>March 17, 2022</p> <p>March 17, 2022</p> <p>March 17, 2022</p> <p>March 17, 2022</p> |
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Non-Residential: Adult Day Health waiver service settings. 8% (22 settings) are in the same building as a nursing facility and operate in accordance with the adult day health service specification outlined in the CMS approved 1915 (c) waivers.

Further analysis is required to determine to what extent these settings demonstrate the settings do not have the effect of isolating individuals from the greater community. Estimated 100% of settings will fall into Prong 1.

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| Adult Day Health settings in the same building as a nursing facility furnishing the adult day health waiver service | <ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider-controlled settings. | <p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> | July 1, 2015 | July 1, 2016 |
| | <ul style="list-style-type: none"> Identify the settings for which heightened scrutiny will be requested. | <p>Standards: With input from individuals, advocates, and providers, establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community</p> | January 1, 2016 | March 31, 2016 |
| | <ul style="list-style-type: none"> Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. | <p>Provider Education: Develop an HCBS settings evaluation tool for provider self-assessment and ongoing monitoring and training to identify changes needed to demonstrate full compliance.</p> | January 1, 2016 | March 31, 2016 |
| | | <p>Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed.</p> | April 4, 2016 | June 30, 2016 |
| | | <p>Communication Plan: In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics including communicating the process for individuals and families to raise concerns regarding the</p> | January 1, 2016 | June 30, 2016 |

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| | <p>The State will conduct on-site evaluations of every setting in this category to identify those settings for which CMS heightened scrutiny review will be requested.</p> | <p>Compliance Timeframe</p> <p>Settings Assessment Settings were assigned a category of compliance based on the State’s review of existing regulations and the analysis of paid claims for HCBS and institutional services delivered from the same address.</p> <p>The State will notify each provider the category of compliance assigned to the setting.</p> <p>The State will educate the provider network on how to use the HCBS setting evaluation tool.</p> <p>The provider completes the self-assessment using the HCBS setting evaluation tool and develops remediation plan to ensure full compliance.</p> <p>Settings Remediation</p> <p>Providers submit to the State a written remediation plan describing actions to be taken to remediate each issue to achieve full compliance. Remediation strategies addressing the following areas include but are not limited to, policy and procedures, lease agreements, staff training, service options and access, service delivery methods, staffing patterns, interaction with the broader community, and the presence of institutional physical characteristics at the setting.</p> <p>Heightened Scrutiny Process On-site evaluations</p> <ul style="list-style-type: none"> • Interviews with individuals served to gain insights into the opportunities for integration they experience at the setting; • Interviews with direct support staff; • Review of policies and practices adopted by the provider to promote these opportunities; • Observations of the implementation and effectiveness of the provider’s remediation plan | <p>October 1, 2014</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>April 4, 2016</p> <p>October 1, 2016</p> | <p>October 15, 2015</p> <p>April 4, 2016</p> <p>June 30, 2016</p> <p>September 1, 2016</p> <p>September 1, 2016</p> <p>June 30, 2017</p> |
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| | | <ul style="list-style-type: none"> Review of relevant information submitted by stakeholders regarding the characteristics of the setting. <p>Outcome of on-site evaluations</p> <p>The State compiles evidence for settings that were initially presumed to have institutional qualities but were determined to meet with modifications, based on the on-site evaluation.</p> <p>The State requests remediation plans from these settings, which detail the action steps and timelines to bring the setting into full compliance.</p> <p>The State compiles evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics, based on the on-site evaluation.</p> <p>The State updates the transition plan with the description of the results and identification of the settings for which CMS heightened scrutiny review is requested.</p> <p>The State submits requests for heightened scrutiny to CMS for settings initially presumed to be institutional that the State determined, through the on-site evaluations, have qualities that are home and community-based.</p> <p>Ongoing monitoring for settings which CMS determines, through the heightened scrutiny review, that all the regulatory requirements for HCBS are met</p> <p>Conduct on-site provider compliance reviews, including the experience of individuals residing in the setting, for each setting in accordance with <u>OAC 5160-45-06, 5160-45-09, 5160-45-10, 173-39-02, 173-39-04, 173-39-05.</u></p> | <p>October 1, 2016</p> <p>October 1, 2016</p> <p>October 1, 2016</p> <p>July 1, 2017</p> <p>July 1, 2017</p> <p>January 1, 2018</p> <p>January 1, 2018</p> | <p>June 30, 2017</p> <p>June 30, 2017</p> <p>June 30, 2017</p> <p>September 30, 2017</p> <p>September 30, 2017</p> <p>March 17, 2022</p> <p>March 17, 2022</p> |
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| | | <p>Relocation Process</p> <p>For those settings that the state does not submit requests for heightened scrutiny review OR for the settings that CMS determines, through heightened scrutiny review, do not meet the regulatory requirements for HCBS, the State’s established relocation team, led by the State Long Term Care Ombudsman will work with individuals who choose to transition to an approved HCBS setting of their choice.</p> <p>The relocation process includes the following components:</p> <ul style="list-style-type: none"> • Timely notice and due process through in-person notification that the setting does not meet HCBS requirements; • The choice of alternative settings selected through the person-centered planning process; • Care coordination to ensure continuity of services and access to critical services are in place prior to the relocation; • Post-relocation follows up. <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators- Aging and Disability (NCI-AD) survey, to assess system-wide trends of waiver participants’ experience with community integration and access.</p> | <p>November 1, 2017</p> <p>October 1, 2017</p> | <p>March 17, 2022</p> <p>March 17, 2022</p> |
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| IV. Settings which cannot meet the HCBS characteristics | | | | |
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| Setting Type | Remediation Required | Action Steps | Timeline | |
| | | | Start Date | End Date |
| A. RESIDENTIAL SETTINGS: No NF-LOC services are currently being furnishing in a nursing facility, a hospital, or an ICF-IID. July 2018: The state has completed the onsite assessments and has not identified any settings which cannot meet the HCBS characteristics. | | | | |
| | <p>Providers will be given the option to relocate the place where they provide waiver services to more integrated setting or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings.</p> <p>If a provider chooses the 2nd option above, individuals will be given the option of relocating to an HCBS-compliant location in a manner that is least disruptive to them.</p> | <p>Relocation Process:</p> <p>Inform these providers the location where they are providing waiver services do not meet HCBS Criteria.</p> <ul style="list-style-type: none"> • Work with provider to develop a transition plan for coming into compliance. <p>Inform the individuals receiving services the setting does not meet HCBS criteria.</p> <p>In the event the provider is not willing/able to come into compliance, the State’s established relocation team, led by the Office State Long Term Care Ombudsman will work with individuals who choose to transition to an approved HCBS setting of their choice. The relocation process includes the following components:</p> <ul style="list-style-type: none"> • Timely notice and due process through in-person notification that the setting does not meet HCBS requirements, • The choice of alternative settings selected through the person-centered planning process; • Care coordination to ensure continuity of services and access to critical services are in place prior to the relocation; • Post-relocation follows up. | <p>July 1, 2016</p> <p>July 1, 2016</p> <p>July 1, 2017</p> <p>July 1, 2017</p> | <p>June 30, 2017</p> <p>June 30, 2017</p> <p>March 17, 2022</p> <p>March 17, 2022</p> |

| B. Non-Residential: Adult Day Health waiver service settings. No NF-LOC adult day health waiver services are currently being furnishing in a nursing facility, a hospital, or an ICF/IID. | | | | |
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| N/A | <ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. If a provider chooses the second option above, individuals will be given the option of relocating to an HCBS-compliant location in a manner that is least disruptive to them. | <p>Relocation Process:</p> <p>Inform these providers the location where they are providing waiver services do not meet HCBS Criteria.</p> | July 1, 2016 | June 30, 2017 |
| | | <ul style="list-style-type: none"> Work with provider to develop a transition plan for coming into compliance. | July 1, 2016 | June 30, 2017 |
| | | <p>Inform the individuals receiving services the setting does not meet HCBS criteria.</p> | July 1, 2017 | March 30, 2017 |
| | | <p>In the event the provider is not willing/able to come into compliance, the State's established relocation team, led by the Office State Long Term Care Ombudsman will work with individuals who choose to transition to an approved HCBS setting of their choice. The relocation process includes the following components:</p> <ul style="list-style-type: none"> Timely notice and due process through in-person notification that the setting does not meet HCBS requirements, The choice of alternative settings selected through the person-centered planning process; Care coordination to ensure continuity of services and access to critical services are in place prior to the relocation; Post-relocation follows up. | July 1, 2017 | March 30, 2017 |