

Indiana Family and Social Services Administration
HCBS Statewide Transition Plan



Division of Aging | Division of Disability and Rehabilitative Services | Division of Mental Health and Addiction | Office of Medicaid Policy and Planning



Statewide Transition Plan for Compliance with Home and Community-Based Services Final Rule

State of Indiana

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Version 3



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CMS Home and Community-Based Services: <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>

Division of Aging: <http://www.in.gov/fssa/2329.htm>

Division of Disability and Rehabilitative Services: <http://www.in.gov/fssa/2328.htm>

Division of Mental Health and Addiction: <http://www.in.gov/fssa/dmha/index.htm>

Family and Social Services Administration Calendar:

[http://www.in.gov/activecalendar/CalendarNOW.aspx?fromdate=10/1/2014&todate=10/31/2014&display=Month&displ](http://www.in.gov/activecalendar/CalendarNOW.aspx?fromdate=10/1/2014&todate=10/31/2014&display=Month&display=Month)
[ay=Month](http://www.in.gov/activecalendar/CalendarNOW.aspx?fromdate=10/1/2014&todate=10/31/2014&display=Month&displ)

Indiana Home and Community-Based Services Final Rule webpage: <http://www.in.gov/fssa/4917.htm>

Public Comment E-mail: HCBSrulecomments@fssa.in.gov

PURPOSE

On March 17, 2014, the Centers for Medicare & Medicaid Services (CMS) issued regulations that define the settings in which it is permissible for states to pay for Medicaid Home and Community-Based Services (HCBS) known as the HCBS Settings Final Rule. The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated and that support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive HCBS. These changes will maximize the opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting.

States must ensure all HCBS settings comply with the new requirements by completing an assessment of existing state standards including rules, regulations, standards, policies, licensing requirements, and other provider requirements to ensure settings comport with the HCBS settings requirements. States must submit a transition plan to CMS that includes timelines and deliverables for compliance with 42 CFR 441.301(c)(4)(5), and Section 441.710(a)(1)(2). States must be in full compliance with the federal requirements by the time frame approved in the transition plan but no later than March 17, 2019. More information on the rules can be found on the CMS website at: [CMS Home and Community-Based Services](#).

The Indiana Family and Social Services Administration (FSSA) has created a Statewide Transition Plan (STP) to assess compliance with the HCBS Final Rule and identify strategies and timelines for coming into compliance with it as it relates to all FSSA HCBS programs. Indiana's initial STP was submitted to CMS for review and approval in December 2014. In October 2015, CMS responded to Indiana's STP with a request for supplemental information, noting it was not approved by CMS at that time. Through guidance from CMS, Indiana submitted a modified STP on April 30, 2016 that provided additional detail from systemic assessments and incorporated changes related to October 2015 guidance from CMS. In the current revision due to CMS by September 30, 2016, Indiana is submitting an amended STP with the results of its site-specific assessments along with detailed plans for remediation, heightened scrutiny, ongoing monitoring, and relocation processes.

Overview of the Settings Provision

The HCBS Final Rule requires that all home and community-based settings meet certain criteria. These include:

- The setting is integrated in and supports full access to the greater community;
- The setting is selected by the individual from among setting options;
- Each individual has a right to privacy, is treated with dignity and respect, and is free from coercion and restraint;
- Provides individuals independence in making life choices; and
- The individual is given choice regarding services and who provides them.

In residential settings owned or controlled by a service provider, additional requirements must be met:

- The individual has a lease or other legally enforceable agreement providing similar protections;
- Each individual must have privacy in their living unit including lockable doors;
- Individuals sharing a living unit must have choice of roommates;
- Individuals must be allowed to furnish or decorate their own sleeping and living areas;
- The individual controls his/her own schedule including access to food at any time;
- The individual can have visitors at any time; and
- The setting is physically accessible.

Any modification to these additional requirements for provider-owned home and community-based residential settings must be supported by a specific assessed need and justified in the person-centered service plan.

The HCBS Final Rule clarifies settings in which home and community-based services cannot be provided. These settings include: nursing facilities, institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals.

It is not the intention of CMS or FSSA to take away any residential options or to remove access to services and supports. The intent of the federal regulation and the Indiana transition plan is to ensure that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community.

FSSA PROGRAMMATIC IMPACT

FSSA as the single state Medicaid agency is comprised of five divisions, all of which play a role in the operation, administration, and reimbursement of HCBS. The Division of Family Resources determines Medicaid eligibility. The Office of Medicaid Policy and Planning (OMPP) develops medical policy, ensures proper reimbursement of Medicaid services, and acts as the administrative authority for all HCBS programs. The remaining three divisions, listed below, operate multiple programs including Medicaid HCBS programs. The programs currently under review include 1915(c) HCBS Waivers and 1915(i) State Plan benefits operated by the following divisions within the FSSA:

Division of Aging (DA)

- Aged & Disabled (A&D) Waiver – IN.210
- Traumatic Brain Injury (TBI) Waiver – IN.4197

Division of Disability and Rehabilitative Services (DDRS)

- Community Integration and Habilitation (CIH) Waiver – IN.378
- Family Supports Waiver (FSW) – IN.387

Division of Mental Health and Addiction (DMHA)

Youth Services

- Psychiatric Residential Treatment Facility (PRTF) Transition Waiver – IN.03
- Child Mental Health Wraparound Services (CMHW) – TN No. 12-013

Adult Services

- Behavioral and Primary Healthcare Coordination (BPHC) – TN No. 13-013
- Adult Mental Health Habilitation (AMHH) – TN No. 12-003

The following pages include plans presented by each of the three FSSA divisions that operate Indiana's HCBS programs. Each division is presenting a customized plan, including methods and timelines that best suit their operations as well as their members and stakeholder groups.

Although each plan is unique, they each include the following fundamental steps of the process necessary to comply with the HCBS Final Rule:

- A systemic assessment of HCBS programs, service definitions, rules and policies addressing all settings including both residential and non-residential.
- Site-specific assessment plans to determine whether the setting complies with the HCBS Final Rule.
- Remediation plans for issues discovered in systemic and site-specific assessments including plans for heightened scrutiny and relocation of members.
- Description of data collection to validate assumptions.
- Quality assurance processes to ensure ongoing compliance.
- Involvement of key stakeholders, associations, advocacy groups and members throughout the process of transition plan development through public comment.

Individuals who are enrolled in and receiving services from one of the HCBS programs may also be referred to in this STP as participants, members, beneficiaries, consumers, residents, individuals, or clients.

DIVISION OF AGING (DA)
HCBS Programs
Aged and Disabled (A&D) Waiver – 1915(c)
Traumatic Brain Injury (TBI) Waiver – 1915(c)

SECTION 1: ASSESSMENT OF SETTINGS

The Division of Aging’s analysis of settings where HCBS are provided has included:

- A crosswalk of Indiana Statute, Indiana Administrative Code (IAC), HCBS policy;
- A self-survey of residential providers to assess operating practices, waiver participation levels and general adherence to HCBS rule principles;
- Review of licensing rules and regulations, recently noted statute governing housing with services establishment (IC [12-10](#)) still to be added to this analysis; and
- Site surveys of all assisted living (AL), adult day service (ADS), and adult family care (AFC)

The DA has determined the following waiver services can be presumed to fully comply with the regulatory requirements because they are individualized services provided in a residential setting that is not provider owned or controlled.

- **Attendant Care (A&D, TBI):** Assistance with activities of daily living
- **Behavior Management/Behavior Program and Counseling (TBI):** Specialized therapies to address behavioral needs
- **Case Management (A&D, TBI):** Coordination of other waiver services, assuring freedom of choice and person-centered planning
- **Community Transition (A&D, TBI):** Funds to purchase household needs for participants transitioning into their own home
- **Environmental Modification Assessment (A&D, TBI):** Support to assure that home modifications are effective and efficient
- **Environmental Modifications (A&D, TBI):** Home modifications to meet the participant’s disability-related needs
- **Healthcare Coordination (A&D, TBI):** Specialized medical support for participants with complex medical needs
- **Home Delivered Meals (A&D, TBI):** Nutritional meals for participants who are unable to prepare them
- **Homemaker (A&D, TBI):** Assistance with cleaning and routine household tasks
- **Nutritional Supplements (A&D, TBI):** Liquid supplements such as “Boost” or “Ensure”
- **Personal Emergency Response System (A&D, TBI):** Medical emergency alert systems for participants who spend time alone
- **Pest Control (A&D, TBI):** Pest extermination services when health and safety is compromised
- **Residential Based Habilitation (TBI):** Specialized therapies in the home setting
- **Respite (A&D, TBI):** Short term relief for non-paid caregivers
- **Specialized Medical Equipment and Supplies (A&D, TBI):** Adaptive equipment and supplies to help participants live more independently
- **Structured Family Caregiving (A&D):** Around-the-clock residential support provided in a participant’s own home; the Structured Family Caregiving (SFC) service is designed to provide services in the individual’s home or the home of a caregiver selected by the individual, usually a close friend or relative. Typically, the individual and the caregiver are living in the same residence. DA will clarify in an upcoming waiver amendment service description that the service cannot be offered in a provider-owned setting. To date, no waiver residents are being served in SFC in a provider owned setting and the service cannot currently be provided by an individual provider, only by a provider agency.
- **Transportation (A&D, TBI):** Rides to assist participants in accessing community services, activities, and resources identified in the service plan
- **Vehicle Modifications (A&D, TBI):** Modifications to vehicles to meet a participant’s disability-related need

It is not the intention of CMS or DA of Indiana to take away any residential options, or to remove access to services and supports. The intent of the federal regulation and the Indiana transition plan is to ensure that individuals receive Medicaid

HCBS in settings that are integrated in and support full access to the greater community. The DA has identified four services which are provided in provider owned settings.

- **Adult Family Care (A&D, TBI):** Residential services provided in a family-like setting; the AFC homes are approved to serve not more than four residents in a home-like setting in a residential community with a live-in caregiver. While the HCBS waiver service definition reflects the requirements set forth in the final rule, it lacks the specificity of the rule. A self-survey of AFC providers was conducted as an initial assessment to identify areas in need of remediation. There are currently 40 enrolled AFC homes. There are 44 current waiver consumers in 21 AFC sites. The remaining 19 homes have no current waiver consumers residing in them. The self-survey indicates that at least 73% of AFC homes will need to implement changes to address the standards:
 - The individual can have visitors at any time;
 - The individual controls his/her own schedule including access to food at any time;
 - The setting is integrated in and supports full access to the greater community;
 - The individual has choice of roommates; and
 - Results also indicate that approximately 64% of providers use a lease or residency agreement, but it has not been determined if these are legally enforceable.

23 sites surveys were completed between February 2016 and June 2016. The site surveys confirmed the issues identified in the self-survey process. The most common areas of non-compliance include:

- Freedom and support to control own schedule and activities.
 - Are residents able to participate in activities of their choice in the community alone?
- Ability to have visitors of choosing at any time
- Optimizes individual initiative, autonomy, and independence in making life choices.
 - Medications maintained and distributed in a way that promotes individual control and privacy.
- Units have locking doors; with only appropriate staff having keys/privacy in sleeping or living unit
- Setting is physically accessible to the individual - entrances, common areas, and dining rooms in the setting handicap accessible.

There may also be issues with lease agreements but additional document review will be necessary at each site.

There are no regulatory barriers to remediation. Providers will be notified of the issues identified at each site. The DA will provide technical assistance to those providers who wish to remediate. For those providers that do not wish to remediate, the DA will work with case managers to provide person centered service planning and support to each individual to transition them into compliant HCBS settings as they may choose. At this time, the DA believes all providers will participate in remediation and no individual transitions will be needed. No AFC sites are co-located with nursing facilities.

- **Assisted Living (A&D, TBI):** Residential services offering an increased level of support in a home or apartment-like setting.

Assisted Living facilities are, by nature, somewhat isolating as they provide a full range of services within a facility. DA fully supports the concept of “aging in place” for elderly residents who choose to receive services conveniently or in a residence which allows them to remain close to a loved one in a nearby nursing facility. The majority of Indiana’s assisted living sites are co-located with nursing facilities. The physical arrangement varies from being completely under the same roof to sharing common areas, sharing a parking lot, sharing a breezeway, etc.

There are currently 95 enrolled Assisted Living providers. There are 2,190 current waiver consumers in 89 assisted living sites. 40% of the enrolled AL providers have 10 or fewer waiver residents and 6 sites with no current waiver consumers. The self-surveys completed by AL providers in the fall of 2014 indicated a high percentage of compliance with isolated incidents of remediation needed to achieve the following standards:

- The individual controls his/her own schedule including access to food at any time
- The individual has privacy in their unit including lockable doors
- The individual has choice of roommates
- The individual has a lease or other legally enforceable agreement providing similar protections
- The setting is integrated in and supports full access to the greater community

- The setting ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint
- The individual can have visitors at any time

Documentation review of AL providers was completed in February 2016 with 56% of providers responding to the request for documentation, including policies, procedures, handbooks, staff training schedules, lease agreement templates, client rights documents, etc. Documentation review and site surveys completed between February 2016 and June 2016 indicated more widespread lack of compliance in several key areas. These areas included:

- Freedom and support to control own schedule and activities.
 - Are residents able to freely move about inside and outside the site?
 - Are residents able to participate in activities of their choice in the community alone?
- Privacy in sleeping or living unit
 - Staff and/or other residents knock on each other's doors or ask for permission before entering residents' rooms.
 - Lockable bathrooms
- Ability to have visitors of choosing at any time – with appropriate privacy considerations.
- Access to food at any time – flexibility in meal times.
- Is the site free from gates, locked doors, or other barriers preventing individuals' entrance to and exit from all areas of the setting?
- Optimizes individual initiative, autonomy, and independent in making life choices.
 - Are medications maintained and distributed in a way that promotes individual control and privacy?
 - Are residents able to dine alone or in a private area?
 - Do residents have easy access to have private communications with people outside the site by telephone, e-mail, and/or mail?
- Units have locking doors; with only appropriate staff having keys.

In total, 84 Assisted Living locations were surveyed as part of the site assessments. Following the visits, it was determined that:

1. 30 Assisted Living sites are co-located with a nursing facility but they did not house a secure memory care.
2. 15 Assisted Living sites are both co-located and have a secure memory care.
3. 12 Assisted Living sites were not co-located but do have a secure memory care.
4. 24 sites were not co-located and did not have a secure memory care.
5. All 84 sites (plus 6 that plan to stop participating and so were not surveyed) are licensed as residential care facilities.

In February 2016, a comprehensive crosswalk was completed comparing the CMS Final Rule HCBS setting requirements to both current and proposed DA and Indiana State Department of Health (ISDH) regulations. This crosswalk focused on the services that had been identified as having possible compliance issues: assisted living, adult day service, adult family care, and structured day programs. The results of this comparison mapped out areas where regulations could include more specific provisions to ensure that sites are compliant with the HCBS requirements. Changes will be made in conjunction with stakeholder groups before the rule is put out for formal public comment.

The ISDH regulations are significant in regards to the Medicaid waiver service of assisted living. It should be noted though that ISDH does not have licensure or regulations specific to the service of assisted living. ISDH regulations do not actually define or regulate "assisted living". Currently both the A&D and TBI waivers require providers of the service of assisted living to be licensed by ISDH. These providers are therefore licensed as what ISDH rules refer to as residential care facilities. The residential care facility regulations clearly force providers towards institutional characteristics. Even the language used, residents, discharge, admission, etc. all speak to an institutional model. Removing the licensure requirement will not in and of itself make these settings home and community-based. However, it can remove substantial barriers that the regulations create for HCBS providers. A drawback to this option is the need to create a new oversight and monitoring structure in the absence of licensure. Most of the "assisted living" market in Indiana is private pay. According to our best data, Medicaid waiver accounts for about

10% of the licensed residential care capacity in the state. To impact this private pay market with large scale changes to the residential care licensure does not seem appropriate. A provider workgroup has been considering changes to the licensure but DA does not find that those proposed changes go far enough. Furthermore, DA has had extensive discussion with ISDH and they agree that it would not be appropriate to make changes to the residential care licensure driven by the Medicaid requirements for HCBS settings.

DA will be taking a two tiered approach to resolving this conflict. First, there will be an approximately six-month hiatus on new AL provider enrollment beginning in September 2016. During this time DA will enter into a memorandum of understanding (MOU) with ISDH to waive certain provisions of the residential licensure requirements for those providers participating in the Medicaid waiver program. This waiver is allowed under [IC 16-28-1-10](#). DA will work with ISDH and providers to draft this MOU. Additionally, DA staff will undergo training to be prepared to appropriately review and certify new AL providers after the hiatus is over. During this time, DA will conduct webinars for providers exploring each HCBS characteristic and what indicators need to be present as evidence of compliance. This will allow existing licensed residential care facilities certified as waiver AL providers to continue participating in the current waiver programs, assuming they do meet all of the HCBS characteristics and pass heightened scrutiny review if they are presumed institutional. This will represent a minimally compliant tier 1 standard.

For tier 2, DA will design, submit to CMS, and upon approval, implement a new Medicaid HCBS program. This program will include a congregate, residential option for consumers. It may or may not be called assisted living. DA will work with stakeholders and obtain technical assistance to evaluate the appropriate vehicle for this new program, possibly a Community First Choice or 1915(i) state plan service. DA will also engage with stakeholders to redefine the service definitions and requirements for the new program. A residential care facility license will not be required to participate in the new program. Standards will be developed to support a new certification system for these providers that will be administered through DA and not ISDH. These standards will be based on HCBS characteristics, Money Follows the Person qualified community setting guidelines, and state statute regarding housing with services establishments. Administrative rules will be amended to reflect these standards. DA hopes to implement this program no later than July 2018. Upon successful implementation, qualified providers and consumers in the current (c) waivers will be migrated to the new program.

- **Adult Day Services (A&D, TBI):** Activities provided in a group setting, outside the home; in February of 2015, a self-survey was requested of ADS providers to determine the level of compliance with the HCBS rule. The results of that self-survey of ADS providers indicates a high percentage of compliance with isolated incidents of remediation needed to achieve the following standards:
 - The individual can have visitors at any time
 - The individual can have privacy when desired, for instance to take a phone call
 - The individual receives activities of daily living (ADL) assistance and other care in areas of the center than allow them appropriate privacy
 - The individual's service plan is not posted in a public area
 - The individual has a secure place in which to store personal items
 - There are no physical barriers which prevent mobility-impaired individuals from accessing restrooms, appliances or other program areas which other participants can access
 - Settings are not restricted to individuals of one specific diagnosis or to a specific age group
 - Service plans are developed individually, taking into account personal preferences for activities and individualized schedules and routines
 - The individual is able to access food at times of their choosing
 - The individual is provided opportunities for activities outside the service site to allow interaction with the general community

Current service standards require the service be "...community-based group programs designed to meet the needs of adults with impairments through individual service plans."

Current waiver requirements forbid any use of individual restraint but do not extend this definition to include the restriction of facilities which may have secured perimeters or delayed egress systems. A significant percentage of ADS sites do have secured perimeters that in many cases prevent the ability of participants to leave the building.

This will require remediation strategies as described below as well as person centered planning practices to identify individuals who require such a safety measure as part of their service plan.

There are currently 43 enrolled ADS providers. There are 572 current waiver consumers receiving services in these 38 of these settings. The assessment and remediation strategies delineated below will be implemented to identify and correct deficiencies.

Documentation review of ADS providers was completed in February 2016 with 62% of providers responding to the request for documentation, including policies, procedures, handbooks, staff training schedules, lease agreement templates, client rights documents, etc.

Site visits were conducted at 37 of these sites serving current participants. The site surveys confirmed the issues identified in the self-survey process. There are 3 sites that are co-located with nursing facilities. The DA will conduct a heightened scrutiny review of these sites including public comment and only submit to CMS for consideration as an HCBS site if they are found to have no institutional qualities and they fully comply with the HCBS requirements. The most common areas of non-compliance are:

- Freedom and support to control own schedule and activities.
 - Are residents able to freely move about inside and outside the site?
 - Are residents able to participate in activities of their choice in the community alone?
- Setting is physically accessible to the individual - entrances, common areas, and dining rooms in the setting handicap accessible.
- Optimizes individual initiative, autonomy, and independent in making life choices.
 - Medications maintained and distributed in a way that promotes individual control and privacy.
 - Presence of gates, locked doors, or other barriers preventing individuals' from freely coming and going.
- Access to food at any time - flexibility in meal times.

For the remaining sites, there are no regulatory barriers to remediation. Providers will be notified of the issues identified at each site. The DA will provide technical assistance to those providers who wish to remediate. For those providers that do not wish to remediate, the DA will work with case managers to provide person centered service planning and support to each individual to transition them into compliant HCBS settings as they may choose. With ADS, the site is not the residence of the individual. So, the transition process would be less complicated. Part of the transition planning must include efforts to recruit more providers in order to fully cover the state and offer choice to consumers. At this time though, the DA believes all providers will participate in remediation, excluding the three sites that are co-located, and no individual transitions will be needed.

Some ADS sites do have secure perimeters, but the DA believes these can be modified to allow participants to come and go freely and only restrict those for whom a person centered planning process has identified an appropriate modification be made (such as to address safety issues caused by a documented issue with wandering due to dementia).

- **Structured Day Program (TBI):** Activities and rehabilitative services provided in a group setting outside the home. Current service standards do require the service to be tailored to the needs of the individual participant. Current waiver requirements forbid any use of individual restraint but do not extend this definition to include the restriction of facilities which may have secured perimeters or delayed egress systems.

Structured day programs provide assistance with acquisition; retention; or improvement in self-help, socialization, and adaptive skills. Services take place in a nonresidential setting, separate from the home in which the individual resides. There are currently 66 enrolled structured day providers certified under the TBI waiver. Twelve of these providers have active waiver consumers through the TBI waiver program. There are 16 TBI waiver consumers receiving this service (12 in one on one, 4 in groups).

The structured day programs under the TBI waiver provides assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills and takes place in a non-residential setting, separate from the home in which the individual resides. The approved TBI waiver providers also serve individuals with intellectual and

developmental disabilities in congregate community-based settings. The DA will work in conjunction with DDRS to evaluate these sites shared by the TBI waiver population and the individuals with intellectual disabilities/developmental disabilities (IID/DD) population. Since the TBI waiver has so very few active structured day providers and program participants compared to the DDRS operated waivers in Indiana, the DA will not utilize a separate assessment process for these providers. DA will abide by the conclusions reached in the DDRS site assessment process.

- Supported Employment (TBI):** Supported employment includes activities needed to sustain paid work by individuals receiving waiver services, including supervision and training. Supported employment is conducted in a variety of settings, particularly worksites where persons without disabilities are employed. There are 61 certified providers for the TBI waiver. There are currently only three waiver participants receiving this service under the DA’s TBI waiver, served by three providers. DA has reviewed the settings in which these three participants receive this service. One participant has not yet begun employment but is planning to work at a provider owned setting just as the other two do. These are settings that serve a number of other individuals served on the DDRS waivers. Since the TBI waiver has so very few active supported employment providers and program participants compared to the DDRS operated waivers in Indiana, the DA will not utilize a separate assessment process for these providers. DA will abide by the conclusions reached in the DDRS provider assessment process.

Initial Grouping of Settings	Description	Approximate Number of Sites/Participants
Settings that are not HCB	NF, IMDs, ICF/ID, hospitals	0/0
Settings that are presumed not to be HCB	Co-located AL and ADS sites; AL sites with secure memory care	60/1638 (3/17 ADS sites; 57/1621 AL sites)
Settings that could meet the HCB Rule with modifications	AL and ADS sites that are not co-located and do not have a secure memory care; all AFC sites	81/1743 (35/555 ADS sites; 21/44 AFC sites; 32/569 AL sites)
Settings presumed to be HCB and meet the rule without any changes required	All private residences that are not provider owned or controlled.	Maximum 11,500/Approximately 11,500

This table summarizes the four more specific groups into which provider owned and controlled sites are classified as a result of the participant experience surveys, site surveys and documentation reviews.

	Sites Not Subject to Heightened Scrutiny	Sites Subject to Heightened Scrutiny due to Co-Location	Sites That May be Subject to Heightened Scrutiny due to the presence of a Secure Memory Care Unit
Found to be institutional in nature – provider not able or willing to make modifications	Group 1	Group 1	Group 1
Found to be fully compliant with HCBS settings requirements	Group 3	Group 2	
Found to be partial compliant with HCBS settings requirements but can become fully compliant with modifications	Group 4	Group 4	
Modifications can remove characteristics that have the effect of isolating individuals as well as become fully compliant HCBS setting requirements			Group 4
Modifications can remove characteristics that have the effect of isolating individuals but the site is still found to be institutional in nature			Group 1
Modifications cannot remove the characteristics that have the effect of isolating but the site, with other modifications is found to be compliant by DA			Group 2

- Group 1 settings are not HCBS compliant. Provider will be decertified and afforded an appropriate appeal and review process. Participants in these settings will be transitioned to compliant settings.
- Group 2 settings will be submitted to CMS through the heightened scrutiny process for approval as a compliant HCBS setting.
- Group 3 settings are HCBS compliant and not subject to heightened scrutiny. Participants may remain in this setting with ongoing monitoring measures in place.
- Group 4 settings will make modifications in the remediation process and if successfully completed, will be fully compliant. Participants may remain in this setting with ongoing monitoring measures in place. Settings that do not successfully complete remediation will be moved to Group 1.

Based on current information from the completed site surveys,

- All AFC sites are in Group 4 and remediation activities will begin in early 2017.
- All ADS sites, except the three that are co-located, are also in Group 4 and will begin remediation activities in fall 2016
- The three co-located ADS sites will undergo further consideration and review by the Division if they will remain in Group 1 or move to Group 2.
- With respect to AL sites, additional systemic analysis is required to classify these sites:
 - At most 24 sites could be in Group 4
 - All other AL sites would have to be in Group 1 or Group 2
 - No AL sites are found to be in Group 3

Setting Modifications

For Group 4 providers, a corrective action plan will be developed and monitored to ensure the setting comes into compliance within a specified time period. The timeline will be dependent upon the modifications required but as specified in the table in Section 2, all remediation must be completed no later than September of 2018. Most will be much earlier than that. Specific corrective action(s) will be based on the noncompliance findings. For example, if there is a restriction in place for health or safety reasons that are not documented in the person centered plan, the corrective action would be for the person centered plan to be updated to include the required information consistent with DA policy.

Indiana Code and Indiana Administrative Code already provide for issuance of citation for violations of provider requirements, remedies, and considerations in determining remedy. Specifically, [455 IAC 2-6-4](#) provides for a monitoring, corrective action process. This process will be utilized in the setting modification process. Code and rule also provide guidance regarding appeal rights and remedies for violations. This will also provide an appeal process for those sites that are found to be institutional and thus will be decertified as waiver providers.

Heightened Scrutiny Process

Using site assessment information, the DA will determine which settings are presumed institutional and subject to heightened scrutiny. This will include settings with the following characteristics:

- A waiver setting that is co-located in the same building as a provider of inpatient care or treatment; and/or
- A waiver setting that is operating under the same institutional license as a provider of inpatient care or treatment; and/or
- A waiver setting that is secured for the purpose of providing care to persons with dementia.

These providers will all receive a letter from the DA, notifying them that they have been identified as presumed institutional. They will be informed that, should they wish to continue providing services after March 2019, they will need to remediate any institutional characteristics and provide evidence of having done so to the DA. Such evidence shall include, but will not be limited to: policy documentation, copies of lease/residency agreements; organizational charts, specialized training in dementia care and/or person-centered care and planning; redacted service plans and the surrender of any institutional license. This evidence will be validated through resident survey input, site visits by DA or DA contractor staff, and public comment on each site requesting heightened scrutiny review.

If a setting has institutional qualities that cannot be addressed by modifications by the provider, the setting will be considered institutional (Group 1). If a setting does not have institutional qualities, it will be reviewed for HCBS settings characteristics.

Heightened scrutiny requests for any sites the DA believes have overcome the presumption of institutionalization will be submitted by December of 2017 or sooner if the provider has completed remediation to overcome the presumption of institutionalization.

Transition of Beneficiaries from Non-Compliant Settings

The DA has not yet determined the number of individuals who may be affected by relocation. This will be determined as a result of the systemic assessment and site visit verifications. For Group 1 sites, a transition plan will be established both for the site and each individual participant. The site transition plan shall include a list of participants requiring transition, a plan for communicating with these individuals and their person centered support circle throughout the transition period, a timeline for decertification of the provider, and regular progress reports to be submitted to DA. Currently available appeal and administrative review processes will be provided to participants impacted, as well as to the providers that must be decertified. The participant specific transition plan will be developed and monitored by the waiver case manager. It will provide for appropriate notice to the individual and their person centered support circle regarding the site's noncompliance, the action steps that will occur, and procedural safeguards available to them. The case manager will work with the participant and their representatives to examine all available options. Timelines will be established to insure the individuals is transitioned to a compliant setting no later than December 2018 provided they wish to remain in the waiver program. Beginning in late summer of 2016, training will be provided to case managers and providers to ensure a smooth transition for the participant(s) requiring transition.

Ongoing Monitoring

The Division of Aging currently monitors providers and service delivery through a variety of activities. Two of these are Provider Compliance Reviews (PCR) and Participant-Centered Compliance Reviews (PCCRs). These assessments will continue throughout the transition process and will be updated to include the new standards as we move through the transition period.

The Participant Centered-Compliance Review is conducted for a statistically significant random sample of waiver participants each year. This review focuses on how the individual experiences the services they receive and how each individual's chosen providers comply with waiver standards in the delivery of services. The PCCR sample size is based on a 95% confidence level, 5% margin of error, and 50% response distribution using the Raosoft tool. Distribution is proportionate to waiver participants by geographic areas of the state and all service types were included. TBI waiver sample size is approximately 132 using the above formula and an estimated total population of 200. A&D Waiver is approximately 375 using the above formula and an estimated total population of 15,000.

The PCR is conducted every three years for all waiver providers not licensed by the ISDH. The PCR focuses on the provider's policies and procedures and looks for evidence that those are being followed.

With both types of reviews, all negative findings must be addressed through a "corrective action plan" (CAP) which allows the provider to describe how it intends to address the problem. The DA then either approves the CAP, or works with the provider to develop an acceptable plan. DA intends to use these same tools and processes to assess and correct many of the areas which are identified as non-compliant with the HCBS rule, and will also continue to use updated versions of these tools to assure compliance with the HCBS rule over the long-term.

Additionally, in 2016 DA began participating in the National Core Indicators survey for the aged and disabled population (NCI-AD). NCI-AD is being administered to a statistically valid sampling of participants in all of the DA's HCBS programs, Medicaid and non-Medicaid. This survey tool replaces the Participant Experience Survey (PES) that had been used with waiver participants for many years. The NCI-AD focuses on how participants experience the services they receive and how they impact the quality of life they experience. A number of the NCI-AD questions will crosswalk to the characteristics of a HCBS setting.

Additionally, the Person Centered Monitoring Tool (PCMT), formerly the 90 Day Review tool is administered by the case manager for every waiver participant, face-to-face, every 90 days. To complete the PCMT, the case manager conducts an interview with the participant as well as anyone else the participant has identified. This tool has already been updated to include an assessment of the service and setting as experienced by the individual and reports have been developed to identify

specific settings for which a service participant has indicated any state of non-compliance within the setting. These reports will be reviewed on a monthly basis and corrective actions required at that time.

Crosswalk of NCI-AD and PCMT to HCBS Setting Characteristics:

HCBS Settings Characteristics	NCI-AD Survey Questions	Person Centered Monitoring Tool (PCMT) Questions
The setting is integrated in and supports full access to the greater community	7. Can you see or talk to your friends and family (who do not live with you) when you want to? 48. Are you able to do things you enjoy outside of your home when and with whom you want to? (For example, visit with friends or neighbors, go shopping, go to a movie or a show or out to eat, to religious functions, to volunteer in the community)? 50. Do you have transportation when you want to do things outside of your home, like visit a friend, go for entertainment, or do something for fun? 53. Do you have a paying job in the community, either full-time or part-time?	F-2 Has the individual participated in community activities in the past 90 days? F-3 Does the individual have family or friends nearby who provide socialization on a regular basis? F-7 Does the individual participate in vocational activities as desired? (paid, training, or volunteer) NRS-1) Does the participant have the freedom to come and go from the setting as they please?
The setting is selected by the individual from among setting options	2. In general, do you like where you are living right now? 4. Would you prefer to live somewhere else? We are not talking about geography, but rather the kind of place you'd like to live in.	D-1 Has the individual or their legal guardian been provided information on their right to choose and change service providers and case managers?
Each individual has a right to privacy, is treated with dignity and respect, and is free from coercion and restraint	27. Do you feel that the people who are paid to help you treat you with respect? 44. Can you use the phone privately whenever you want to? 46. Do people read your mail or email without asking you first?	D-5 Is the individual free to receive and open mail in private? D-6 Is the individual free to use the telephone and internet at desired times? E-1 Does the individual make statements that indicate they may be feeling exploited? E-2 In the last 90 days has the individual experienced harm and/or abuse that resulted in a report of any kind? E-3 In the last 90 days has the individual experienced any unexplained injuries or bruises, or exhibited unusual fearful behaviors? G-3 Does the individual feel that they are being treated with respect by staff?
Provides individuals independence in making life choices	59. Do you get up and go to bed at the time when you want to? (No one else decides for you when you get up or go to bed, and you get the help you need to get up and go to bed when you want to?) 60. Can you eat your meals when you want to? (no one else decides for you when you eat)	A-6) Is the participant happy with their daily routine and how they spend their days? D-7 Does the individual have choices in what foods are available and when they eat?
The individual is given choice regarding services and who provides them	16. Can you choose or change what kind of services you get and determine how often and when you get them? 17. Can you choose or change who provides your services if you want to? 86. Do you feel in control of your life?	D-1 Has the individual or their legal guardian been provided information on their right to choose and change service providers and case managers?
Responsibilities and rights of tenant, legally enforceable agreement		RS-7) Does the individual have a lease or other legally enforceable agreement subject to applicable tenant protection laws?

Privacy in sleeping or living unit	38. Do people ask your permission before coming into your home/apartment? 40. Do you have enough privacy in your home? (<i>Can you have time to yourself?</i>)	D-8 Is the individual afforded a level of privacy that is acceptable and comfortable to the individual?
Lockable doors, staff have keys only as needed	39. Are you able to lock the doors to your room if you want to?	RS -1) Does the individual have privacy in their unit including a lockable door?
Freedom to furnish and decorate	41. Are you able to decide how you furnish and decorate your room?	RS-2) Does the participant have the freedom to furnish and decorate their residential unit?
Choice of roommates for shared rooms	47. Are you able to choose who your roommate is here?	F-4 Does the individual have the choice to have a roommate? RS-6) Does the individual have the freedom to live without a roommate, or with a roommate of their own choosing?
Control own schedule and activities and access to food at any time	45. Do you have access to food at all times of the day? Can you get something to eat or grab a snack when you get hungry?	D-7 Does the individual have choices in what foods are available and when they eat? F-5 Does the individual have a choice of activities and control over their schedule? RS-5) Does the participant have access to food at the times of their choosing?
Able to have visitors at any time	42. Are your visitors able to come at any time, or are there only certain times of day that visitors are allowed? 43. Do you have privacy with visitors at home if you want it?	D-4 Is the individual able to have visitors at times of their choosing? RS-4) Does the participant have the freedom to entertain visitors at the times of their choosing?
Physically accessible	32. Are you able to get to safety quickly in case of an emergency like a fire or a natural disaster? 30. Many people make changes to their homes, for example, adding grab bars, ramps, or bathroom modifications to make it easier for you to live at home. Do you have or need any of the following changes made to your home (or an upgrade to the one you have)? To clarify, we are not talking about general repairs to the house, but rather specialized modifications.	B-2 Can you walk safely in your own home? B-3 Is the individual able to exit the home UNASSISTED in an emergency? C-25 Are all identified environmental modifications/assistive devices needed by the individual in place? NRS-6) Are all program and personal service areas physically accessible to the participant?

SECTION 2: PROPOSED REMEDIATION STRATEGIES

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
General Affects all settings	Changes are needed to Indiana Administrative Code 455 IAC 2 to incorporate and reinforce the requirements of the HCBS Final Rule	DA cross-walk of existing rules, 455 IAC 3-1-8 , 410 IAC 16.2-5-0.5 , A&D, TBI, and MFP approved waiver documents, IHCP Provider Bulletin dated 6/17/09 and proposed rule 455 IAC 2.1 Legal review of existing State legislation and the HCBS rule to identify s necessary changes to State code	9/2014 1/2016	

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
		<p>Development and adoption of policies allowing enforcement of HCBS Final Rule requirements prior to finalization of legislation.</p> <p>Finalization of legislative action amending state code to incorporate the requirements of the HCBS Final Rule.</p>	<p>7/2016</p> <p>09/2018</p>	
<p>General</p> <p>Affects all settings</p>	<p>Changes are needed to both 1915(c) Medicaid Waivers (A&D and TBI), the initial and on-going assessment tools, and the HCBS Waiver Provider Manual to incorporate and reinforce the requirements of the HCBS Final Rule</p>	<p>Identify needed changes to service definitions of all residential and facility-based services.</p> <p>Create a work group, including waiver participants and advocates, to more clearly define requirements for privacy, choice, and other quality of life components as well as safeguards for privacy and freedom from coercion and restraint as specified in final rule for all HCBS program services</p> <p>Open and submit modifications for TBI waiver</p> <p>Open and submit modifications for A&D waiver</p>	<p>07/2016</p> <p>03/2016</p> <p>09/2016</p> <p>09/2016</p>	
<p>Adult Family Care (AFC)</p> <p>21 active service sites; 44 waiver consumers</p>	<p>The individual can have visitors at any time</p> <p>The individual controls his/her own schedule including access to food at any time</p> <p>The setting is integrated in and supports full access to the greater community</p> <p>The individual has choice of roommates</p> <p>Optimizes autonomy and independence in making life choices;</p>	<p>Conduct a provider self-survey to determine general compliance with the HCBS Final Rule</p> <p>Conduct onsite visits to all AFC settings to determine compliance with the HCBS Final Rule</p> <p>DA will partner with key AFC stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities</p> <p>Communicate expectations to specific AFC providers identified to be out of compliance through the self-assessment process, requiring a response indicating a corrective action plan. The participant's waiver case manager will conduct PCMT reviews with the individual AL resident to identify any concerns indicating provider non-compliance with HCBS characteristics.</p> <p>Review of provider-specific corrective action plans, either approving or requiring additional actions</p> <p>Verify implementation of approved corrective actions through on-site</p>	<p>10/2014</p> <p>3/2016 - 06/2016</p> <p>7/2016</p> <p>9/2016</p> <p>Beginning 07/2015</p> <p>09/2017</p> <p>12/2017</p>	<p>Verify continuing compliance through Provider Compliance Reviews conducted for all AFC providers every three years and Person-Centered Compliance Reviews, as well as NCI-AD surveys and Person Centered Monitoring Tool reviews.</p>

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
		<p>reviews conducted by state or contracted personnel</p> <p>DA will issue decertification notices to providers unable/unwilling to complete corrective actions.</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider</p>	<p>09/2018</p> <p>At least by 09/2018</p>	
<p>Adult Family Care</p> <p>21 active service sites; 44 waiver consumers</p>	<p>The individual has a lease or other legally enforceable agreement providing similar protections</p>	<p>DA will communicate this standard to all AFC providers</p> <p>Conduct site visits to all AFC providers to assess setting for compliance with HCBS Final Rule</p> <p>Require all providers to submit a representative sample of a lease or residency agreement that conforms to local standards</p> <p>DA will issue decertification notices to providers unable/unwilling to provide an acceptable representative sample</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider</p>	<p>12/2015</p> <p>3/21016 - 06/2016</p> <p>By 06/2016</p> <p>06/2017</p> <p>At least by 09/2018</p>	<p>Verify continuing compliance through Provider Compliance Reviews conducted for all AFC providers every three years and Person-Centered Compliance Reviews, as well as NCI-AD surveys and Person Centered Monitoring Tool reviews.</p>
<p>Assisted Living (AL)</p> <p>95 active service sites; 2,190 active waiver consumers</p>	<p>The individual controls his/her own schedule including access to food at any time</p> <p>The individual has privacy in their unit including lockable doors</p> <p>The individual has choice of roommates</p> <p>Optimizes autonomy and independence in making life choices;</p>	<p>Conduct a provider self-survey to determine general compliance with the HCBS Final Rule</p> <p>Conduct documentation review of all AL providers' policies, procedures, staff training, sample lease agreements, etc. and assess for compliance with HCBS Final Rule</p> <p>Conduct site visits to all AL providers to assess setting for compliance with HCBS Final Rule</p> <p>DA will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities</p> <p>Communicate expectations to specific providers identified to be out of compliance through the self-assessment process, requiring a response indicating a corrective action plan</p> <p>The participant's waiver case manager will conduct reviews with the individual AL resident to identify any</p>	<p>10/2014</p> <p>02/2016</p> <p>3/2016 - 06/2016</p> <p>Beginning in fall 2015</p> <p>9/2016</p>	<p>To assure on-going compliance, DA will develop and implement a provider compliance review process similar to that used to review non-licensed providers, in addition to the</p> <p>Person-Centered Compliance Reviews, as well as NCI-AD surveys and Person Centered Monitoring Tool reviews.</p>

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
		<p>concerns indicating provider non-compliance with HCBS characteristics.</p> <p>Review of provider-specific corrective action plans, either approving or requiring additional actions</p> <p>Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel</p> <p>DA will issue decertification notices to providers unable/unwilling to complete corrective actions.</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider</p>	<p>Beginning in 7/2015</p> <p>11/2016</p> <p>Beginning in 09/2017</p> <p>Beginning in 12/2017</p> <p>At least by 09/2018</p>	
<p>Assisted Living</p> <p>95 active service sites; 2,190 active waiver consumers</p>	<p>The individual has a lease or other legally enforceable agreement providing similar protections</p>	<p>DA will communicate this standard to all AL providers</p> <p>Require all providers to submit a representative sample of a lease or residency agreement that conforms to local standards</p> <p>Conduct documentation review of all AL providers' policies, procedures, staff training, sample lease agreements, etc. and assess for compliance with HCBS Final Rule</p> <p>Conduct site visits to all AL providers to assess setting for compliance with HCBS Final Rule</p> <p>DA will issue decertification notices to providers unable to provide an acceptable representative sample</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider</p>	<p>12/2015</p> <p>06/2016</p> <p>02/2016</p> <p>06/2016</p> <p>Beginning in 12/2107</p> <p>At least by 9/2018</p>	<p>Verify continuing compliance through Person-Centered Compliance Reviews conducted for a statistically valid random sample of waiver participants, determined annually, as well as Person Centered Monitoring Tool reviews.</p>
<p>Assisted Living</p> <p>95 active service sites; 2,190 active waiver consumers</p>	<p>The setting is integrated in and supports full access to the greater community;</p> <p>The setting ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint</p>	<p>DA will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities</p> <p>Conduct documentation review of all AL providers' policies, procedures, staff training, sample lease agreements, etc. and assess for compliance with HCBS Final Rule</p>	<p>12/2016</p> <p>02/2016</p>	<p>Verify continuing compliance through Person-Centered Compliance Reviews, as well as NCI-AD surveys and Person Centered Monitoring Tool reviews.</p>

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
	<p>The individual can have visitors at any time</p>	<p>Conduct site visits to all AL providers to assess setting for compliance with HCBS Final Rule</p> <p>Communicate expectations to specific providers identified to be out of compliance through the self-assessment process, requiring a response indicating a corrective action plan</p> <p>The participant’s waiver case manager will conduct reviews with the individual AL resident to identify any concerns indicating provider non-compliance with HCBS characteristics.</p> <p>Review of provider-specific corrective action plans, either approving or requiring additional actions</p> <p>Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel</p> <p>DA will issue decertification notices to providers unable/unwilling to complete corrective actions.</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider.</p>	<p>06/2016</p> <p>12/2016</p> <p>Beginning in 7/2015</p> <p>09/2017</p> <p>9/2017</p> <p>Beginning in 12/2017</p> <p>At least by 09/2018</p>	
<p>Adult Day Services (ADS)</p> <p>38 active service sites; 572 waiver consumers</p>	<p>The setting is integrated in and supports full access to the greater community;</p> <p>Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint</p> <p>Optimizes autonomy and independence in making life choices;</p>	<p>DA will require a self-survey for all ADS providers to identify both facility-specific and systemic areas of non-compliance.</p> <p>Conduct documentation review of all ADS providers’ policies, procedures, staff training, sample lease agreements, etc. and assess for compliance with HCBS Final Rule</p> <p>Conduct site visits to all ADS providers to assess setting for compliance with HCBS Final Rule</p> <p>DA will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities</p> <p>The participant’s waiver case manager will conduct reviews with the individual ADS participant to identify</p>	<p>2/2015</p> <p>Beginning in 7/2015</p> <p>9/2016</p> <p>04/2017</p>	<p>Verify continuing compliance through Provider Compliance Reviews conducted for all ADS providers every three years and Person-Centered Compliance Reviews, as well as NCI-AD surveys and Person Centered Monitoring Tool reviews.</p>

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
		<p>any concerns indicating provider non-compliance with HCBS characteristics.</p> <p>DA will communicate expectations to specific providers identified to be out of compliance through the assessment processes, requiring a response indicating a corrective action plan</p> <p>Review of provider-specific corrective action plans, either approving or requiring additional actions</p> <p>Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel</p> <p>DA will issue decertification notices to providers unable/unwilling to complete corrective actions.</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider</p>	<p>9/2017</p> <p>06/2017</p> <p>09/2017</p> <p>Beginning in 12/2017</p> <p>At least by 09/2018</p>	

Service/ Setting	Areas in Need of Remediation to Comply with HCBS Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
<p>Structured Day Program (SDP)</p> <p>12 active service sites; 16 TBI waiver consumers</p> <p>Supported Employment (SE)</p> <p>3 active service sites; 3 TBI waiver consumers</p>	<p>The setting is integrated in and supports full access to the greater community;</p> <p>Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint</p> <p>Optimizes autonomy and independence in making life choices;</p>	<p>DA will collaborate with DDRS in their assessment process and follow their recommendations with regard to these shared providers.</p> <p>The participant’s waiver case manager will conduct reviews with the individual SDP and SE participant to identify any concerns indicating provider non-compliance with HCBS characteristics.</p> <p>DA will communicate expectations to specific providers identified to be out of compliance through the assessment processes, requiring a response indicating a corrective action plan</p> <p>Review of provider-specific corrective action plans, either approving or requiring additional actions</p> <p>Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel</p> <p>DA will issue decertification notices to providers unable/unwilling to complete corrective actions.</p> <p>Affected participants will be offered assistance if they choose to transition to a new provider</p>	<p>Beginning in 7/2015</p> <p>06/2017</p> <p>09/2017</p> <p>12/2017</p> <p>09/2018</p> <p>09/2018</p>	<p>Verify continuing compliance through Provider Compliance Reviews conducted for all SDP and SE providers every three years and Person-Centered Compliance Reviews, as well as NCI-AD surveys and Person Centered Monitoring Tool reviews.</p>

Crosswalk of CMS Final Rule on Home and Community-Based Services Settings to Division of Aging and Indiana State Department of Health Rules, current and proposed

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
Services provided under a person-centered service plan	Not referenced	<p>455 IAC 3-1-2 (32) "Service plan" means a written plan for services to be provided by the provider, developed by the provider, the recipient, and others, if appropriate, on behalf of the recipient, consistent with the services needed to ensure the health and welfare of the recipient. It is a detailed description of the capabilities, needs, choices, measurable goals, and if applicable the measurable goals and managed risk issues, and documents the specific duties to be performed for the recipient, including who will perform the task, when, and the frequency of each task based on the individual's assessed needs and preferences.</p> <p>455 IAC 3-1-8(d)-(e)The provider shall ensure the service plan: (1) includes recognition of the recipient's capabilities and choices and defines the division of responsibility in the implementation of services;</p>	<p>410 IAC 16.2-5-1.2(b) Residents have the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States.</p> <p>410 IAC 16.2-5-1.2(j) (1) – Residents have the right to “Participate in the development of his or her service plan and in any updates of that service plan.”</p>	Not Applicable	<p>455 IAC 2.1-3-16(2) - Case Management defined – “Case management means a comprehensive service including, but not limited to, the following, assisting participants in the establishment of a person centered service plan.”</p> <p>455 IAC 2.1-3-39 - Person centered service planning process defined: “Person centered service planning process has the meaning set forth in 42 CFR 441.301 (c) (1).</p> <p>455 IAC 2.1-3-40 - Person centered service plan defined as “Person centered service plan has the meaning set forth in 42 CFR 441.301(c) (2).”</p> <p>455 IAC 2.1-6-4 - General Direct Care Service Standards: A provider shall: (1) Develop person-centered service plan specific to participants’ assessed needs; (2) Allow decision-making and self-determination to the fullest extent possible; (3) Provide services that maintain or enhance a participant’s quality of life and promotes participant: (A) privacy; (B) dignity; (C) choice; (D) independence; and (E) Individuality. (b) SFC, AFC, and AL providers shall maintain a safe, clean, and comfortable living environment.</p>	Addressed in the general provisions of proposed rule 455 IAC 2.1	<p>455 IAC 2.1 -6-4 (a)(4) - Assisted living facilities shall: “Provide living units that include access to the following in accordance with the resident’s person-centered service plan: (A) A bedroom; (B) A private bath; (C) A living area; (D) A kitchenette that contains: (i) a refrigerator; (ii) a food preparation area; (iii) a microwave or stovetop for hot food preparation; and (E) Individual thermostat.”</p> <p>455 IAC 2.1-6-7(b)(1) Assisted Living Service Plan – “The provider shall provide the intensity and level of services as outlined in the resident’s person centered service plan.”</p>	Addressed in the general provisions of proposed rule 455 IAC 2.1	Addressed in the general provisions of proposed rule 455 IAC 2.1

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		<p>(2) addresses, at a minimum, the following elements: (A) assessed health care needs; (B) social needs and preferences; (C) personal care tasks; and (D) limited nursing and medication services, if applicable, including frequency of service and level of assistance; (3) is signed and approved by: (A) the recipient; (B) the provider; (C) the licensed nurse; (D) the case manager; and (4) Includes the date the plan was approved. (e) The service plan shall support the principles of dignity, privacy, and choice in decision making, individuality, and independence.</p> <p><u>455 IAC 3-1-2(11)</u> "Choice" means a recipient has viable options that enable him or her to exercise greater control over his or her life. Choice is supported by the provision of sufficient private and common space within the facility to provide opportunities for</p>			<p><u>455 IAC 2-1-7-2 (b)-(d)</u>– Person Centered Service Plan; Service Coordination - (b) At a minimum of every ninety (90) days, the case manager, using the ninety (90) day monitoring tool, will review service deliverables as determined by the person-centered plan, to determine if participant’s assessed needs are being addressed and assess whether the participant is satisfied that the services meet their needs and goals. As necessary, the case manager will assist the participant with updating the person-centered service plan. The case manager must conduct the first face-to-face assessment with the participant in the home. The case manager must conduct at least two of the four required assessments in the home. (c) All case managers must: Coordinate services; Share information on the participant's well-being as required by the participant's person-centered plan; Collaborate with the participant's other providers; and Collaborate with other authorized entities. (d) The participant or their legal representative and any persons chosen by the participant are the only individuals that may assist with the development of the participant’s person centered service plan.</p>				

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		<p>recipients to select where and how to spend time and receive personal assistance.</p> <p>455 IAC 3-1-2(20) "Independence" means being free from the control of others and being able to assert one's own will, personality, and preferences within the parameters of the house rules or residency agreement.</p>							
Setting is integrated in and supports access to the greater community	Not Referenced	<p>455 IAC 3-1-6 (g) The physical environment and the delivery of assisted living Medicaid waiver services shall be designed to enhance autonomy in ways which reflect personal and social values of dignity, privacy, independence, individuality, choice, and decision making of recipients. The provider shall provide services in a manner that:</p> <p>(1) makes the services available in a homelike environment for recipients with a range of needs and preferences;</p> <p>(2) facilitates aging in place by providing flexible</p>	<p>410 IAC 16.2-5-1.2 (b) "Residents have the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States."</p>	Not Applicable		<p>455 IAC 2.1-6-5 (c) (6) , (7) and (10) Adult Family Care services include: "transportation for community activities that are therapeutic in nature or assist with maintaining natural supports; participant-focused activities appropriate to the needs, preferences, age, and condition of the individual resident; ... and therapeutic social and recreational programming."</p> <p>455 IAC 2.1-6-5(d) Adult Family Care providers must ensure that a resident has the ability to: come</p>	<p>455 IAC 2.1-6-6 (b) Assisted living facilities are required to ensure that a resident has the ability to: come and go from the facility when they chose, have guests when they choose; control own schedule and choose whether to participate in activities outside the facility; and receive services in the community</p> <p>455 IAC 2.1-6-6 (c) Assisted living services include transportation for community activities that are therapeutic in nature or assist with maintaining natural supports; are participant focused and appropriate to the needs, preferences,</p>	Not Referenced	Not Referenced

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		<p>services in an environment that accommodates and supports the recipient's individuality; and (3) supports negotiated risk, which includes the recipient's right to take responsibility for the risks associated with decision making.</p> <p>455 IAC 3-1-2 (18) "Homelike" means an environment that has the qualities of a home, including privacy, comfortable surroundings, and the opportunity to modify one's living area to suit one's individual preferences, which promotes the dignity, security, and comfort of recipients through the provision of personalized care and services to encourage independence, choice, and decision making by the recipients. A homelike environment also provides recipients with an opportunity for self-expression and encourages interaction with the community, family, and friends.</p>				<p>and go in and out of the home when they choose; have guests when they choose; control their own schedule and choose to participate in activities or not; and participate in activities outside the adult family care .</p>	<p>age and condition of the individual; and therapeutic social and recreational programming.</p>		

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
<p>Includes opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources and receive services in the community to the same degree as individual not receiving Medicaid HCBS</p>	<p>Not Referenced</p>	<p>455 IAC 3-1-6 (g) The physical environment and the delivery of assisted living Medicaid waiver services shall be designed to enhance autonomy in ways which reflect personal and social values of dignity, privacy, independence, individuality, choice, and decision making of recipients. The provider shall provide services in a manner that: (1) makes the services available in a homelike environment for recipients with a range of needs and preferences; (2) facilitates aging in place by providing flexible services in an environment that accommodates and supports the recipient's individuality; and (3) supports negotiated risk, which includes the recipient's right to take responsibility for the risks associated with decision making.</p> <p>455 IAC 3-1-2 (18) "Homelike" means an environment that has the qualities of a home, including</p>	<p>410 IAC 16.2(b) "Residents have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States." 410 IAC 16.2(z) Residents have the right to: (1) refuse to perform services for the facility; (2) perform services for the facility, if he or she chooses, when: (A) the facility has documented the need or desire for work in the service plan; (B) the service plan specifies the nature of the duties performed and whether the duties are voluntary or paid; (C) compensation for paid duties is at or above the prevailing rates; and (D) The resident agrees to the work arrangement described in the service plan. (s) "Residents have the right to manage</p>	<p>Not Applicable</p>		<p>455 IAC 2.1-6-5 (c) (6) , (7) and (10) Adult Family Care services include: "transportation for community activities that are therapeutic in nature or assist with maintaining natural supports; participant-focused activities appropriate to the needs, preferences, age, and condition of the individual resident; ... and therapeutic social and recreational programming." 455 IAC 2.1-6-5(d) Adult Family Care providers must ensure that a resident has the ability to: come and go in and out of the home when they choose; have guests when they choose; control their own schedule and choose to participate in activities or not; and participate in activities outside the adult family care .</p>	<p>455 IAC 2.1-6-6 (b) Assisted living facilities are require to ensure that a resident has the ability to: come and go from the facility when they chose, have guests when they choose; control own schedule and choose whether to participate in activities; participate in activities outside the facility; and receive services in the community 455 IAC 2.1-6-6 (c) Assisted living services include transportation for community activities that are therapeutic in nature or assist with maintaining natural supports; are participant focused and appropriate to the needs, preferences, age and condition of the individual; and therapeutic social and recreational programming.</p>	<p>Not Referenced</p>	<p>Not Referenced</p>

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		<p>privacy, comfortable surroundings, and the opportunity to modify one's living area to suit one's individual preferences, which promotes the dignity, security, and comfort of recipients through the provision of personalized care and services to encourage independence, choice, and decision making by the recipients. A homelike environment also provides recipients with an opportunity for self-expression and encourages interaction with the community, family, and friends.</p> <p>455 IAC 3-1-8(1) Provide is required to “Promote the ability of residents to have control over their time, space, and lifestyle to the extent that the health, safety and well-being of other recipients is not disturbed.”</p>	<p>their personal affairs and funds. When the facility manages these services, a resident may, by written request, allow the facility to execute all or part of their financial affairs. Management does not include the safekeeping of personal items...” (dd) “The facility shall provide reasonable access to any resident, consistent with facility policy, by any entity or individual that provides health, social legal, and other services to any resident, subject to the resident’s right to deny or withdraw consent at any time.” (ff) “Residents have the right to participate in social, religious, community services, and other activities of their choice that do not interfere with the rights of other residents at the facility.”</p>						
<p>Setting is selected by the individual from amount setting options including non-</p>	<p>Not Referenced</p>	<p>455 IAC 3-1-6 (g) “The physical environment and the delivery of assisted living Medicaid waiver services shall</p>	<p>410 IAC 16.2-5-1.2(b) Residents have the right to a dignified existence, self-determination, and communication with and access to</p>		<p>455 IAC 2.1-6-4 - General Direct Care Service Standards: A provider shall: (1) Develop person-centered service plan specific to participants’ assessed needs;</p>	<p>Addressed in the general provisions of proposed rule 455 IAC 2.1</p>	<p>455 IAC 2.1 -6-4 (a)(4) - Assisted living facilities shall:</p>	<p>Addressed in the general provisions of proposed rule 455 IAC 2.1</p>	<p>Addressed in the general provisions of proposed rule 455 IAC 2.1</p>

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
disability specific settings		be designed to enhance autonomy in ways which reflect personal and social values of dignity, privacy, independence, individuality, choice, and decision making of recipients. The provider shall provide services in a manner that: (1) makes the services available in a homelike environment for recipients with a range of needs and preferences; (2) facilitates aging in place by providing flexible services in an environment that accommodates and supports the recipient's individuality; and (3) Supports negotiated risk, which includes the recipient's right to take responsibility for the risks associated with decision making.”	persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States.		(2) Allow decision-making and self-determination to the fullest extent possible.		“Provide living units that include access ... in accordance with the resident’s person-centered service plan.”		
Option for a private unit in a residential setting	Not Referenced	455 IAC 3-1-5 (e) “Residential units provided to recipients must be single units unless the recipient chooses to live in dual-occupied unit and the recipient and the other occupant	410 IAC 16.2-5-1.2 (q) “Residents have the right to appropriate housing assignments as follows: (1) When both husband and wife are residents in the facility, they have	Amend to state that the individual has choice of whether to have a private room or roommate of their choosing.		455 IAC 2.1-6-5 Adult family care allows an individual to choose to reside with a full-time caregiver in a home owned, rented or managed by the	455 IAC 2.1-6-6(b)(2) The assisted living facility must assure that the resident has a private room.	Not Applicable	Not Applicable

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		consent to the arrangement.”	the right to live as a family in a suitable room or quarters and may occupy a double bed unless contraindicated for medical reasons by the attending physician. (2) Written facility policy and procedures shall address the circumstances in which persons of the opposite sex, other than husband and wife, will be allowed to occupy a bedroom, if such an arrangement is agreeable to the residents or the residents' legal representative."	Delete reference to housing assignment		adult family care provider. The provider must assure that the resident has a private room.			
Setting options are identified and documented in the person-centered plan and are based on the individual’s needs, preferences and for residential settings, resources available for room and board.	Not Referenced	<u>455 IAC 3-1-8(d)</u> “The provider shall ensure the service plan: (1) includes recognition of the recipient’s capabilities and choices and defines the division of responsibility in the implementation of services; (2) addresses, at a minimum, the following elements: (A) assessed health care needs; (B) social needs and preferences; (C) personal care tasks; and (D) limited nursing and medication	<u>410 IAC 16.2-5-1.2(b)</u> (b) Residents have the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States. (j) Residents have the right to the following: (1) Participate in the development of his or her service plan		455 IAC 2.1-6-4 - General Direct Care Service Standards: A provider shall: (1) Develop person-centered service plan specific to participants’ assessed needs; (2) Allow decision-making and self-determination to the fullest extent possible.	Addressed in the general provisions of proposed rule 455 IAC 2.1	455 IAC 2.1 -6-4 (a)(4) - Assisted living facilities shall: “Provide living units that include access ...in accordance with the resident’s person-centered service plan.”	Addressed in the general provisions of proposed rule 455 IAC 2.1	Addressed in the general provisions of proposed rule 455 IAC 2.1

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		services, if applicable, including frequency of service and level of assistance; (3) is signed and approved by: (A) the recipient; (B) the provider; (C) the licensed nurse; (D) the case manager; and (4) Includes the date the plan was approved.”	and in any updates of that service plan.						
Freedom from restrain, coercion, interference and discrimination	455 IAC 2-8-1 “Each provider will inform individuals of their right to exercise any or all guaranteed rights without: (1) restraint; (2) interference; (3) coercion; (4) discrimination; or (5) threat of reprisal”	Not addressed	410 IAC 16.2-5-1.2 (c) “Resident have the right to exercise any or all of the enumerated rights without: (1) restraint; (2) interference; (3) coercion; (4) discrimination; or (5) threat of reprisal by the facility. These rights shall not be abrogated or changed in any instance, except that, when the resident has been adjudicated incompetent, the rights devolve to the resident’s legal representative. When a resident is found by his or her physician to be medically incapable of understanding or exercising his or her rights, the rights may be exercised by the resident’s legal representative.”		455 IAC 2.1-8-1 Providers must inform participants, or participants’ legal representative of their right to be free from: (1) restraint; (2) interference; (3) coercion; (4) discrimination; and (5) threat of reprisal; by the provider and its employees	455 IAC 2.1 -6-5 (d) (10) The adult family care provider must assure that the resident has freedom from coercion and restraint.	455 IAC 2.1-6-6 (b) (11) The assisted living facility must assure that the resident has freedom from coercion, restraint and seclusion. 455 IAC 2.1-6-7(d) (5) The assisted living services provider shall provide services that assure “freedom from coercion and from chemical or physical restraint of the resident.”	Addressed in the general provisions of proposed rule 455 IAC 2.1	Addressed in the general provisions of proposed rule 455 IAC 2.1

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
			<p>410 IAC 16.2-5-1.2(u) “Residents have the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident’s medical symptoms.”</p> <p>410 IAC 16.2-5-1.2(v)(6) – “Residents have the right to be free from ...involuntary seclusion.”</p>						
<p>Optimizes individual initiative, autonomy, and independent in making life choices</p>	<p>Not Referenced</p>	<p>455 IAC 3-1-6 (g) The physical environment and the delivery of assisted living Medicaid waiver services shall be designed to enhance autonomy in ways which reflect personal and social values of dignity, privacy, independence, individuality, choice, and decision making of recipients. The provider shall provide services in a manner that: (1) makes the services available in a homelike environment for recipients with a range of needs and preferences;</p>	<p>410 IAC 16.2-5-1.2(b) “Residents have the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States.”</p> <p>410 IAC 16.2-5-1.2(j) “Residents have the right to the following: (1) Participate in the development of his or her service plan and in any updates of that service plan.”</p>		<p>455 IAC 2.1-6-4 (2) –(3) Under the general direct care services standards, provider shall “allow decision-making and self-determination to the fullest extent possible; and “provide services that maintain or enhance a participant’s quality of life and promotes participant: (A) privacy; (B) dignity; (C) choice; (D) independence; and (E) individuality.”</p>	<p>Addressed in the general provisions of proposed rule 455 IAC 2.1</p>	<p>455 IAC 2.1-6-7(d) (4) An assisted living services provider shall provider services in a manner that “support negotiated risk, which includes the resident’s right to take responsibility for the risks associated with decision making.”</p>	<p>Addressed in the general provisions of proposed rule 455 IAC 2.1</p>	<p>Addressed in the general provisions of proposed rule 455 IAC 2.1</p>

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		<p>(2) facilitates aging in place by providing flexible services in an environment that accommodates and supports the recipient's individuality; and</p> <p>(3) supports negotiated risk, which includes the recipient's right to take responsibility for the risks associated with decision making.</p> <p>455 IAC 3-1-8(d) “(d) The provider shall ensure the service plan:</p> <p>(1) includes recognition of the recipient's capabilities and choices and defines the division of responsibility in the implementation of services;</p> <p>(2) addresses, at a minimum, the following elements:</p> <p>(A) assessed health care needs;</p> <p>(B) social needs and preferences;</p> <p>(C) personal care tasks; and</p> <p>(D) limited nursing and medication services, if applicable, including frequency of service and level of assistance;</p> <p>(3) is signed and approved by:</p>							

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		(A) the recipient; (B) the provider; (C) the licensed nurse; (D) the case manager; and (4) includes the date the plan was approved.”							
Specific physical place that can be owner/rent or occupied under a legally enforceable agreement;	Not Referenced	Not addressed	410 IAC 16.2-5-1.2(e) Residents have the right to be provided, at the time of admission to the facility, the following: (1) A copy of his or her admission agreement. (2) A written notice of the facility's basic daily or monthly rates. (3) A written statement of all facility services (including those offered on an as needed basis). (4) Information on related charges, admission, readmission, and discharge policies of the facility. (5) The facility's policy on voluntary termination of the admission agreement by the resident, including the disposition of any entrance fees or deposits paid on admission. The admission agreement shall include at least			455 IAC 2.1-6-5 The adult family care provider must assure that the resident has a “lease or other legally enforceable agreement that address eviction procedures and is consistent with or comparable to applicable State and local landlord tenant laws.”	455 IAC 2.1-6-6 The assistant living service provides must assure that the resident has a “lease or other legally enforceable agreement that address eviction procedures and is consistent with or comparable to applicable State and local landlord tenant laws.”	Not Applicable	Not Applicable

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
			those items provided for in IC 12-10-15-9 .						
Privacy in sleeping or living unit	Not Referenced	455 IAC 3-1-5 (e) “Residential units provided to recipients must be single units unless the recipient chooses to live in dual-occupied unit and the recipient and other occupant consent to the arrangement.”	410 IAC 16.2-5-1.2(v) (y) Residents have the right to be treated as individuals with consideration and respect for their privacy. Privacy shall be afforded for at least the following: (1) Bathing. (2) Personal care. (3) Physical examinations and treatments. (4) Visitations.	Amend to add that the individual have a right to privacy in their sleeping or living unit.		455 IAC 2.1-6-5 (d)(2) The adult family care provider must assure that the resident has a private room.	455 IAC 2.1-6-6 (b)(2) The assisted living facility must assure that the resident has a private room.	Not Applicable	Not Applicable
Unit have locking doors; with only appropriate staff having keys	Not Referenced	455 IAC 3-1-5 (f) “Residential units provided to recipients shall be able to be locked at the discretion of the recipient, unless a physician or mental health professional certifies in writing that the recipient is cognitively impaired so as to be a danger to self or others if given the opportunity to lock the door. This section does not apply if this requirement conflicts with applicable fire codes.”	Not addressed.	Amend to add that resident must have ability to lock room with only appropriate staff having keys.		455 IAC 2.1-6-5 (d) (1) The adult family care provider must assure that residents have the ability to lock their room.	455 IAC 2.1-6-6 (b) (1) The assisted living facility must assure that residents have the ability to lock their room.	Not Applicable	Not Applicable
Individuals sharing units have choice of roommates	Not Referenced	455 IAC 3-1-5 (e) “Residential units provided to recipients must be	410 IAC 16.2-5-1.2(m) “The facility must promptly notify the resident and, if	Amend to delete references to		Not Referenced	455 IAC 2.1-6-6(b)(3) The assisted living facility must assure that the	Not Applicable	Not Applicable

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		single units unless the recipient chooses to live in dual-occupied unit and the recipient and other occupant consent to the arrangement.”	known, the resident’s legal representative when there is a change in roommate assignment.” 410 IAC 16.2-5-1.2(q) Residents have the right to appropriate housing assignments as follows: (1) when both husband and wife are residents in the facility, they have the right to live as a family in a suitable room or quarters and may occupy a double bed unless contradicted for medical reasons by the attending physician. (2) Written facility policy and procedures shall address the circumstances in which persons of the opposite sex, other than husband and wife, will be allow to occupy a bedroom, if such an arrangement is agreeable to the residents or the residents’ legal representatives.	roommate assignments and provide that individuals have choice of roommates. Delete specific references to how individuals may occupy beds or bedroom.			individual has the ability to choose whether to have a roommate and a choice of roommates, if desired.		
Freedom to furnish and decorate sleeping or living units within lease or written agreement	Not Referenced	455 IAC 3-1-8 (b)(4) “A provider shall: (4) provide a safe, clean, and comfortable homelike environment allowing recipients	410 IAC 16.2-5-1.2(gg) “Residents have the right to individual expression through retention of personal clothing and belongs as space permits unless to do so			455 IAC 2.1-6-5 (d) (6) The adult family care provider must assure that residents have the ability to decorate or furnish their	455 IAC 2.1-6-6 (b) (7) The assisted living facility must assure that residents have the ability to decorate or furnish their rooms as they choose.	Not Applicable	Not Applicable

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		to use their personal belongings to the extent possible.”	would infringe upon the rights of others or would create a health or safety hazard.”			rooms as they choose.			
Freedom and support to control own schedule and activities	Not Referenced	455 IAC 3-1-8 (b)(1)-(3) “A provider shall: (1) promote the ability of recipients to have control over their time, space, and lifestyle to the extent that the health, safety, and well-being of other recipients is not disturbed; (2) promote the recipient's right to exercise decision making and self-determination to the fullest extent possible; (3) provide services for recipients in a manner and in an environment that encourages maintenance or enhancement of each recipient's quality of life and promotes the recipient's: (A) privacy; (B) dignity; (C) choice; (D) independence; (E) individuality; and (F) decision making ability; and (4) provide a safe, clean, and comfortable homelike	410 IAC 16.2-5-1.2 (ff) “Residents have right to participate in social, religious, community services, and other activities of their choice that do not interfere with the rights of other residents at the facility.”			455 IAC 2.1-6-5 (d) (7) The adult family care provider must assure that residents have the ability to control their own schedule and to choose whether to participate in activities.	455 IAC 2.1-6-6 (b) (8) The assisted living facility must assure that residents have the ability to control their own schedule and to choose whether to participate in activities.	Not Referenced	Not referenced

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
		environment allowing recipients to use their personal belongings to the extent possible.”							
Access to food at any time	Not Referenced	Not addressed	Not addressed	Amend to state residents have right to access food at all times.		455 IAC 2.1-6-5 (d) (5) The adult family care provider must assure that residents have the ability has access to food at all times.	455 IAC 2.1-6-6 (b) (6) The assisted living facility must assure that residents have the ability to have access to food at all times.	Not Applicable	Not Applicable
Ability to have visitors of choosing at any time	Not Referenced	Not addressed	410 IAC 16.2-5-1.2(f) “Residents have the right to be informed of any facility policy regarding overnight guests. The policy shall be clearly stated in the admission agreement.” 410 IAC 16.2-5-1.2(bb) Residents have the right and the facility must provide immediate access to any resident by: (1) individuals representing state or federal agencies; (2) any authorized representative of the state; (3) the resident's individual physician; (4) the state and area long term care ombudsman; (5) the agency responsible for the protection and advocacy system for	Amend to remove the 12-hour limitation on visiting hours.		455 IAC 2.1-6-5 (d) (4) The adult family care provider must assure that residents have the ability to have guest when they choose.	455 IAC 2.1-6-6 (b) (5) The assisted living facility must assure that residents have the ability to have guests when they choose.	Not Applicable	Not Applicable

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
			<p>developmentally disabled individuals;</p> <p>(6) the agency responsible for the protection and advocacy system for mentally ill individuals;</p> <p>(7) immediate family or other relatives of the resident, subject to the resident's right to deny or withdraw consent at any time;</p> <p>(8) the resident's legal representative or spiritual advisor subject to the resident's right to deny or withdraw consent at any time; and</p> <p>(9) others who are visiting with the consent of the resident subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.</p> <p>410 IAC 16.2-5-1.2(cc) “Residents have the right to choose with whom they associate. The facility shall provide reasonable visiting hours, which should include at least twelve (12) hours a day, and the hours shall be made available to each resident. Policies shall also provide for emergency visitation</p>						

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
			at other hours. The facility shall not restrict visits from the resident's legal representative or spiritual advisor, except at the request of the resident.”						
Setting is physically accessible to the individual	Not Referenced	Not addressed	Not addressed	Amend to state resident living unit must be physically accessible to the individual.		455 IAC 2.1-6-5 (d) (2) The adult family care provider must assure that residents have a room that is physically accessible to them.	455 IAC 2.1-6-6 (b) (2) The assisted living facility must assure that residents have the ability to have a room that is physically accessible to them.	Not Referenced	Not References
Modifications of additional conditions under §441.301(c)(4)(vi)(A) through (D) must be supported by specific assessed need and justified in the person-centered service plan	Not referenced	Not addressed	410 IAC 16.2-5-1.2(i) (1) – Residents have the right to “Participate in the development of his or her service plan and in any updates of that service plan.”		455 IAC 2-1-7-2 (b)-(d) – Person Centered Service Plan; Service Coordination - (b) At a minimum of every ninety (90) days, the case manager, using the ninety (90) day monitoring tool, will review service deliverables as determined by the person-centered plan, to determine if participant’s assessed needs are being addressed and assess whether the participant is satisfied that the services meet their needs and goals. As necessary, the case manager will assist the participant with updating the person-centered service plan. The case manager must conduct the first face-to-face assessment with the participant in the home. The case manager must conduct at least two of the four required assessments in the home. (c) All case managers must: Coordinate services;	Addressed in the general provisions of proposed rule 455 IAC 2.1	Addressed in the general provisions of proposed rule 455 IAC 2.1	Not Applicable	Not Applicable

Home and Community-Based Services Requirement	Current Rule DA Provider Rule 455 IAC 2	Current DA AL Rule 455 IAC 3	Current ISDH Health Facilities Rule 410 IAC 16.2-5-1.2	Proposed ISDH Rule Amendments	General Provisions Proposed Rule 455 IAC 2.1	Adult Family Care Proposed Rule 455 IAC 2.1-6-5	Assisted Living Proposed Ruled – 455 IAC 2.1-6-6 and 455 IAC 2.1-6-7	Structured Day Program	Adult Day Program
					Share information on the participant's well-being as required by the participant's person-centered plan; Collaborate with the participant's other providers; and Collaborate with other authorized entities. (d) The participant or their legal representative and any persons chosen by the participant are the only individuals that may assist with the development of the participant's person centered service plan.				

SECTION 3: KEY STAKEHOLDERS AND OUTREACH

It is the DA's intention to assist each provider in reaching full compliance and assist each participant with realizing the full benefits of the HCBS rule. To achieve these outcomes, it is imperative that the providers and participants, as well as their advocates and representatives, are included in each step of the process. Steps taken to date include:

- Several meetings occurred with trade associations representing AL and ADS providers.
- During the month of October, Division staff met with case managers in regional training sessions to introduce them to the HCBS requirements and to open dialog as to how they will be involved and asked them to encourage their consumers and advocates to participate in transition planning and processes.
- Five regional forums were scheduled in November 2014. These were conducted on-site at provider-owned AL facilities to meet with residents and their family members regarding the rule, the transition process, and opportunities to participate in that process.
- All DA HCBS waiver providers were invited to a provider training day November 10, 2014. This day included an "all-provider" session on the HCBS rule, as well as an extended session to gather provider input into the process.
- The DA has engaged with individual providers throughout the assessment process, explaining the need for self-surveys and emphasizing the need for public participation, both in scheduled forums and ongoing. The DA will continue this individual approach as opportunities arise.
- In February 2016, the DA met again with AL and ADS providers and the Alzheimer's Association specifically on the topic of secure memory care units.
- More stakeholder engagement is planned through the spring and summer of 2016.
- Training webinars will be developed by DA staff directed to audiences of case managers as well as providers of AL, ADS, AFC, and structured day programming.
- As a result of the comments received on this update, DA has reached out to include Indiana Protection and Advocacy Services (IPAS) more directly in this process.

The DA has identified some specific areas for key stakeholder participation in the transition plan. We will consider the process to be dynamic and will be looking for opportunities to include stakeholders, particularly DA HCBS waiver participants, in the development and implementation as it evolves.

We have identified "Key Stakeholders" to be the DA HCBS waiver participants, their family members and advocates; HCBS waiver providers, along with their various trade associations; case managers and their managing entities, the 16 Area Agencies on Aging, the Long-Term Care Ombudsman and local representatives; and established advocacy groups representing senior citizens and individuals with disabilities.

DIVISION OF DISABILITY AND REHABILITATIVE SERVICES (DDRS)
HCBS Programs
Community Integration and Habilitation (CIH) Waiver – 1915(c)
Family Supports Waiver (FSW) – 1915(c)

SECTION 1: SYSTEMIC ASSESSMENT

From May through September 2014 the Division of Disability and Rehabilitative Services (DDRS), completed a systemic review and analysis of settings where HCBS services are provided. The analysis included a review of National Core Indicators (NCI) Data, Indiana Statute, Indiana Administrative Code and Home and Community-Based Services policy. Through this review process, DDRS has identified areas which may need to have additional scrutiny and possible remediation. DDRS’ intent throughout this process was to utilize currently available data to determine where systemic improvements or changes would need to be made to meet CMS’ Home and Community-Based Services Standards.

This systemic analysis was general in nature and did not imply that any specific provider or location is non-compliant solely by classification or service type. Final determination will depend upon information gathered through additional assessment activities, outlined in this comprehensive transition plan. This will include, but may not be limited to: onsite reviews, provider self-assessments, internal and external programmatic data, and provider/participant surveys. These activities will place a direct focus on the member’s experience within the DDRS system.

Below are brief narratives of each activity DDRS undertook to complete an analysis of HCBS settings. Following the narratives there is a table which more clearly outlines each area, the sources of information, the key stakeholders and the outcome of the analysis.

Systemic review of standards, rules, regulations, and/other requirements

The HCBS requirements and DDRS’ current standards, rules, regulations, and requirements were reviewed and analyzed in order to determine if DDRS’ current internal requirements meet/support the federal HCBS requirements. Once assessments and validity checks occurring in the next phase are completed, the DDRS transition plan will be updated to include the full results.

Systemic Assessment -Preliminary Landscape of Settings

The systemic assessment examines the HCBS requirements and DDRS’ level of compliance with the HCBS requirements. The systemic assessment was constructed utilizing Indiana’s NCI data, 90 Day Check List data, and a review of DDRS’ current standards, rules, regulations, and other requirements.

SYSTEMIC ASSESSMENT						
Item	Description	Start Date	End Date	Sources/ Documents	Key Stakeholders	Outcome
Systemic Setting Crosswalk: Review of standards, rules, regulations, and other requirements	DDRS has chosen to review its current standards, rules, regulations, and requirements in order to ascertain DDRS’ level of compliance with the HCBS requirements	09/2014	12/2014	Crosswalk of HCBS requirements and DDRS’ standards, rules, regulations, and other requirements	DDRS/Bureau of Developmental Disabilities (BDDS) internal staff, OMPP, and the FSSA Office of General Council	A review of the HCBS requirements and DDRS’ current standards, rules, regulations, and requirements were evaluated and revealed areas of vulnerability and areas that require updates as outlined in the systemic setting analysis.
Setting Assessment based on requirements	The Setting Assessment examines the HCBS requirements and DDRS’ level of compliance with the HCBS requirements	09/2014	07/2016	Crosswalk of HCBS requirements and Indiana’s NCI Data, IES Data and	DDRS/BDDS internal staff, OMPP, and the FSSA Office of	The Preliminary settings assessment revealed areas that require validation in order to ascertain DDRS’ level of compliance.

SYSTEMIC ASSESSMENT						
Item	Description	Start Date	End Date	Sources/ Documents	Key Stakeholders	Outcome
	The Setting Assessment was constructed utilizing Indiana’s NCI data and a review of DDRS’ current standards, rules, regulations, and other requirements. This setting analysis is general in nature and does not imply that any specific provider or location in non-compliant solely by classification in this analysis. Final determination will depend upon information gathered through all assessment activities outlined in the comprehensive transition plan, including but not limited to onsite reviews, provider annual self-assessments, internal programmatic data, and provider/participant surveys.			90 Day Check List Data	General Council In order to receive comprehensive stakeholder feedback, the preliminary assessment will be reviewed by stakeholders during the public comment period.	

Systemic Settings Crosswalk

The table below outlines DDRS’ systemic setting crosswalk. The systemic setting crosswalk was completed in order to ascertain DDRS’ level of compliance with the HCBS rules. A review of Indiana Administrative Code ([IAC 460](#)), policies, procedures, provider agreements, and ongoing monitoring forms was completed by DDRS/BDDS internal staff, OMPP, and the FSSA Office of General Counsel (OGC) with the goal of identifying specific policies requiring updates, documents and processes requiring modifications in order to more appropriately represent compliance.

This review determined changes are needed to 460 IAC to incorporate and reinforce the requirements of the HCBS Final Rule for both residential and nonresidential settings. These changes will need to specify the settings in which HCBS may not be provided and include the requirements 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 ensure an individual is provided with opportunities to seek employment and work in integrated settings. Changes will also outline the elements required for individuals choosing to receive services in provider-owned or controlled settings.

Through the Systemic review it has also been determined that some service definitions in the waivers may need to be revised to strengthen requirements of the final rule. Both the CIH and FSW service definitions will be reviewed for compliance and any service definition found to be in conflict with the final rule will be updated through waiver changes (amendments or proposed waivers) and posted for public comment.

Any proposed modifications will follow the [Administrative Rules drafting procedure](#) and will be published for a public comment period to ensure meaningful feedback from all stakeholders. It is anticipated Indiana Code will be updated prior to May 2018 as outlined in the remediation strategy to ensure full compliance with the HCBS Final Rule. Additionally, the policies and procedures listed in the crosswalk that were reviewed and showed silence or conflict with the HCBS Final Rule will be updated as outlined in the proposed remediation strategies by December 2017 to reinforce the requirements of the HCBS Final Rule.



SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
<p>Is integrated in and supports access to the greater community</p>	<p>460 IAC 6-20-2 “community-based employment services shall be provided in an integrated setting.” <i>Needs to be modified in order to meet HCBS standards</i></p> <p>460 IAC 6-3-58 “Transportation supports” means supports, such as tickets and passes to ride on public transportation systems, that enable an individual to have transportation for access to the community</p> <p>460 IAC 6-3-32 ISP <i>Needs to be modified in order to meet HCBS standards</i></p>	<p>Individual Rights and Responsibilities (NEW) (4600221014) <i>In process of being updated to enhance support of CMS regulations</i></p> <p>Transition Policy (4600316031)</p>	<p>90-day Checklist Does the individuals’ routine outlined in ISP include participation in community activities and events?</p> <p>Pre-Post Monitoring Checklist Transportation available to meet all community access needs</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non-Residential An analysis of existing state standards show silence with respect to the federal regulation</p>
<p>Provide opportunities to seek employment and work in competitive integrated settings</p>	<p>460 IAC 6-20-2 (community-based employment services shall be provided in an integrated setting). <i>Needs to be modified in order to meet HCBS standards</i></p>	<p>Intentionally left blank.</p>	<p>90-day Checklist Is the employment section of the ISP still current and is it being routinely discussed? -Confirm the individual is free from work without pay that benefits others?</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non-Residential An analysis of existing state standards show silence with respect to the federal regulation</p>
<p>Control Personal Resources</p>	<p>460 IAC 6-17-3 Individuals Personal File 460 IAC 6-24-3 Management of Individuals Financial Resources <i>Needs to be modified in order to meet HCBS standards</i></p> <p>460 IAC 6-9-4 Personal Possessions and Clothing</p>	<p>Individual Rights and Responsibilities (NEW) (4600221014) <i>In process of being updated to enhance support of CMS regulations</i></p>	<p>90-day Checklist Unrestricted access to their personal possessions? -Free to receive and open own mail? -Free to receive and make phone calls without restrictions? Fiscal Issues (money, accounts, etc.)</p> <p>ISP Are the Individuals’ Property/Financial resources being properly managed?</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non-Residential An analysis of existing state standards show silence with respect to the federal regulation</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
<p>Ensures the individual receives services in the community with the same degree of access as individuals not receiving Medicaid HCBS</p>	<p>460 IAC 7-3-12 AND 6-3-38.5 (PCP) (4) empowers an individual and the individual's family to create a life plan and corresponding ISP for the individual that: (A) is based on the individual's preferences, dreams, and needs; (B) encourages and supports the individual's long term hopes and dreams; (C) is supported by a short term plan that is based on reasonable costs, given the individual's support needs; (D) includes individual responsibility; and (E) includes a range of supports, including funded, community, and natural supports. 460 IAC 6-20-2 community-based employment services shall be provided in an integrated setting <i>Needs to be modified in order to meet HCBS standards</i></p>	<p>BQIS Complaints: Supported Living Services & Supports (BQIS 4600221005) Individual Rights and Responsibilities (NEW) (4600221014) <i>In process of being updated to enhance support of CMS regulations</i></p>	<p>90-day Checklist Does the individual's routine outlined in the ISP include participation in community activities and events?</p>	<p>Residential An analysis of existing state standards show conflict with, or are silent with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show conflict with, or are silent with respect to the federal regulation</p>
<p>Allow full access to the greater community/ Engaged in community life</p>	<p>460 IAC 6-9-4System for protecting Individuals (h) A provider shall establish a system for providing an individual with the opportunity to participate in social, religious, and community activities. ACCESS TO THE COMMUNITY 460 IAC 6-20-2 "community-based employment services shall be provided in an integrated setting." <i>Needs to be modified in order to meet HCBS standards</i> 460 IAC 6-3-58 "Transportation supports" means supports, such as tickets and passes to ride on public transportation systems, that enable an individual to have transportation for access to the community 460 IAC 6-3-32 ISP <i>Needs to be modified in order to meet HCBS standards</i></p>	<p>Individual Rights and Responsibilities (NEW) (4600221014) <i>In process of being updated to enhance support of CMS regulations</i></p>	<p>ISP Is adequate Transportation being provided? 90-day Checklist Does the individual's routine outlined in the ISP include participation in community activities and events? Pre-Post Monitoring Checklist Transportation</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show silence with respect to the federal regulation</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
<p>Setting is chosen among setting options including non-disability specific settings and options for a private unit in residential settings</p>	<p>460 IAC 6-4 Rule 4. Types of Supported Living Services and Supports 460 IAC 6-29-3 Sec. 3. The provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall ensure that appropriate devices or home modifications, or both 460 IAC 6-9-6 Transfer of individual's records upon change of provider</p>	<p>Intentionally left blank.</p>	<p>(Part 4.5 and 4.6 of Manual- FSW/CIH) Participants may choose to live in their own home, family home, or community setting appropriate to their needs. AND When priority access has been deemed appropriate and a priority waiver slot in the specific reserved capacity category met by the applicant remains open, participants may choose to live in their own home, family home, or community setting appropriate to their needs.</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show silence with respect to the federal regulation</p>
<p>Ensures right to privacy, dignity, and respect and freedom from coercion and restraint</p>	<p>460 IAC 13-3-12 (IST Membership) 460 IAC 6-8-2 - Constitutional and statutory rights IC 12-27-4 – Seclusion and Restraint laws 460 IAC 6-8-3 Promoting the exercise of rights 460 IAC 7-5-6 - Statement of agreement section 460 IAC 6-10-8 - Resolution of disputes 460 IAC 6-9-4 – Systems for protecting individuals 460 IAC 6-9-3 Prohibiting violations of individual rights</p>	<p>Aversive Techniques (BDDS 4601207003) BMR-ANE (BDDS 4601207002) Environmental Requirements (BDDS 4601216039) Use of Restrictive Interventions, Including Restraint (BDDS 460 0228 025) Human Rights Committee (BDDS 460 0221 012) Protection of Individual Rights (4600228022) Incident Reporting and Management (BQIS 460 0301 008) – TRAINING IS REQUIRED FOR ALL DSPs (4600228027) – Annual Training on the protection of individual rights and respecting dignity of individual (4600228021- Professional Qualifications and Requirements) Individual Rights and Responsibilities (NEW) (4600221014)</p>	<p>Provider Agreement Checklist 12. Prohibiting Violations of Individual Rights Provider Agreement Checklist 14 Individual Freedoms Provider Agreement Checklist 15 Personnel Policy- Safeguards that ensure compliance with HIPAA and all other Federal and State Privacy Laws. 90-day Checklist Free from ANE? Informed and able to understand/ exercise their rights as individual receiving services? Is the individual being treated with respect by the support staff? Pre-Post Monitoring Checklist Transportation</p>	<p>Residential An analysis of existing state standards show compliance with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show compliance with respect to the federal regulation</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
		<p><i>In process of being updated to enhance support of CMS regulations</i></p> <p>IST (4600228016) Identifies other persons identified by the individual AND requires the individual to be present at all meetings</p> <p>Pre-Post Transition Monitoring (BDDS 4600530032) Health and Welfare is protected</p> <p>Provider Code of Ethics Conduct all practice with honest, integrity and fairness</p> <p>DDRS Policy: Personnel Policies and Manuals</p>		
<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 (taken from Federal Register)</p>	<p>460 IAC 7-3-12 (PCP) <i>Needs to be modified in order to meet HCBS standards</i></p> <p>460 IAC 7-4-1 (Development of ISP)</p> <p>460 IAC 6-3-32 "Individualized support plan" or "ISP" defined</p> <p>460 IAC 6-3-38.5 "Person centered planning" defined (A) based on the individual's preferences, dreams, and needs;</p> <p>460 IAC 6-3-38.6 "Person centered planning facilitation services" defined</p> <p>460 IAC 6-5-36 Person centered planning facilitation services provider qualifications</p> <p>460 IAC 6-14-4 Training</p>	<p>DSP Training (4600228027) Initial DSP training requires an approved core competency such as Person Centered Planning, Respect/Rights, Choice, Competence, and Community presence and participation</p> <p>Professional Qualifications and Requirements (4600228021) Provider shall ensure that services provided to individual meet the needs of the individual</p>	<p>(Part 4.5 and 4.6 of Manual- FSW/CIH) Participants develop an Individualized Support Plan (ISP) using a person centered planning process guided by an Individual Support Team (IST).</p> <p>90-day Checklist Does CCB/POC, ISP address the needs of the individual, implemented appropriately?</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non-Residential An analysis of existing state standards show silence with respect to the federal regulation</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
<p>Optimizes, but does not restrain, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>IC 12-27 (Seclusion and Restraint) 460 IAC 6-3-29.5 Independence assistance service 460 IAC 6-24-1 Coordination of training services and training plan (be designed to enhance skill acquisition and increase independence). 460 IAC 6-8-2 Constitutional and statutory rights 460 IAC 6-8-3 promoting the exercise of rights 460 IAC 6-36-2 Code of ethics 460 IAC 6-3-54 "Support team" defined are designated by the individual;</p>	<p>Provider Code of Ethics A provider shall provide professional services with objectivity and with respect for the unique needs and values of the individual being provided services. Individual Rights and Responsibilities (NEW) (4600221014) <i>In process of being updated to enhance support of CMS regulations</i></p>	<p>Intentionally left blank</p>	<p>Residential An analysis of existing state standards show compliance with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show compliance with respect to the federal regulation</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
Facilitates choice of services and who provides them	<p>460 IAC 7-4-3 Composition of the support team 460 IAC 7-3-12 AND 6-3-38.5 (PCP)</p> <p>(4) empowers an individual and the individual's family to create a life plan and corresponding ISP for the individual that:</p> <p>(A) is based on the individual's preferences, dreams, and needs;</p> <p>(B) encourages and supports the individual's long term hopes and dreams;</p> <p>(C) is supported by a short term plan that is based on reasonable costs, given the individual's support needs;</p> <p>(D) includes individual responsibility; and</p> <p>(E) includes a range of supports, including funded, community, and natural supports.</p> <p>460 IAC 7-5-5 (Outcome section)</p> <p>(4) Proposed strategies and activities for meeting and attaining the outcome, including the following:</p> <p>(5) The party or parties, paid or unpaid, responsible for assisting the individual in meeting the outcome. A responsible party cannot be changed unless the support team is reconvened and the ISP is amended to reflect a change in responsible party.</p>	<p>Individual Rights and Responsibilities (NEW) (4600221014)</p> <p><i>In process of being updated to enhance support CMS regulations</i></p> <p>IST (4600228016)</p> <p>Coordinate the provision and monitoring of needed supports for the individual</p>	<p>(Part 4.5 and 4.6 of Manual- FSW/CIH)</p> <p>The participant with the IST selects services, identifies service providers of their choice and develops a Plan of Care/Cost Comparison Budget (CCB). Freedom of Choice Form Provider Pick List 90-day Checklist Provided information on their right to choose and change providers and case managers?</p>	<p>Residential An analysis of existing state standards show compliance with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show compliance with respect to the federal regulation</p>
A lease or other legally enforceable agreement to protect from eviction (Provider owned or controlled residential setting)	<p>460 IAC 6-24-3 Management of Individual's financial resources</p> <p>460 IAC 6-9-4 Systems for protecting individuals</p>	Intentionally left blank	<p>90-day Checklist Has the provider obtained a rental agreement in the individuals' name?</p> <p>ISP Are the Individuals' Property/Financial resources being properly managed?</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non- Residential Non applicable</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
<p>Privacy in their unit including entrances lockable by the individual</p>	<p>460 IAC 6-9-4 Systems for protecting individuals</p> <p>(e) A provider shall establish a system to ensure that an individual has the opportunity for personal privacy.</p> <p>(1) the opportunity to communicate, associate, and meet privately with persons of the individual's choosing;</p> <p>(2) the means to send and receive unopened mail; and</p> <p>(3) access to a telephone with privacy for incoming and outgoing local and long distance calls at the individual's expense</p>	<p>Individual Rights and Responsibilities (NEW) (4600221014)</p> <p><i>In process of being updated to enhance support of CMS regulations</i></p> <p>Protection of Individual Rights (4600228022)</p>	<p>Intentionally left blank</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non- Residential Non applicable</p>
<p>Freedom to furnish and decorate their unit</p>	<p>460 IAC 9-3-7 - Physical environment</p> <p>460 IAC 6-9-4 Systems for protecting individuals</p>	<p>Individual Rights and Responsibilities (NEW) (4600221014)</p> <p><i>In process of being updated to enhance support of CMS regulations</i></p>	<p>Additional participant and family feedback is requested to measure this area.</p>	<p>Residential An analysis of existing state standards show compliance with respect to the federal regulation</p> <p>Non-Residential Non applicable</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
Control of schedule and activities	<p>460 IAC 6-3-38.5 "Person centered planning" defined 460 IAC 6-14-2 Requirement for qualified personnel Sec. 2. A provider shall ensure that services provided to an individual: (1) meet the needs of the individual; 460 IAC 6-19-1 Information concerning an individual Sec. 1. A provider of case management services shall have the following information about an individual receiving case management services from the provider: (1) The wants and needs of an individual, including the health, safety and behavioral needs of an individual.</p> <p>460 IAC 6-36-2 Code of ethics (1) A provider shall provide professional services with objectivity and with respect for the unique needs and values of the individual being provided services.</p>	Intentionally left blank.	<p>90-day Checklist Does the individual's routine outlined in the ISP include participation in community activities and events?</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show silence with respect to the federal regulation</p>
Access to food at any time	<p>460 IAC 6-3-36 (Neglect -"Neglect" means failure to provide supervision, training, appropriate care, food, medical care, or medical supervision to an individual." 460 IAC 6-9-3 Prohibiting violations of individual rights (4) A practice that denies an individual any of the following without a physician's order (C) Food</p>	<p>Individual Rights and Responsibilities (NEW) (4600221014) <i>In process of being updated to enhance support of CMS regulations</i> Protection of Individual Rights (4600228022)</p>	<p>90-day Checklist Individualized dining plan, does it include food restrictions?</p>	<p>Residential An analysis of existing state standards show silence with respect to the federal regulation</p> <p>Non- Residential An analysis of existing state standards show silence with respect to the federal regulation</p>

SYSTEMIC SETTINGS CROSSWALK				
CMS Criteria	IAC / IC Reviewed	Policy and Procedures Reviewed	Waiver Manual /Forms Reviewed	Outcome of Review
Visitors at any time	460 IAC 6-9-4 (1) the opportunity to communicate, associate, and meet privately with persons of the individual's choosing; 460 IAC 6-9-3 Prohibiting violations of individual rights Sec. 3. (a) A provider shall not: (1) abuse, neglect, exploit, or mistreat an individual; or (2) violate an individual's rights.	Intentionally left blank	90-day Checklist Free to receive visitors with no restrictions?	Residential An analysis of existing state standards show silence with respect to the federal regulation Non- Residential An analysis of existing state standards show silence with respect to the federal regulation
Setting is physically accessible to the individual	460 IAC 9-3-7 - Physical environment 460 IAC 6-29-2 Safety of individual's environment 460 IAC 6-29-3 Monitoring an individual's environment	Environmental Requirements (BDDS 460 1216039) Transition Activities (4600316031)	Pre-Post Monitoring Checklist	Residential An analysis of existing state standards show compliance with respect to the federal regulation Non- Residential An analysis of existing state standards show compliance with respect to the federal regulation
Individuals sharing units have a choice of roommates in that setting	Intentionally left blank	Intentionally left blank	Intentionally left blank	Residential An analysis of existing state standards show silence with respect to the federal regulation Non-Residential Non applicable

SECTION 2: SITE SPECIFIC SETTING ASSESSMENT

The National Core Indicators (NCI) data and existing 90-day Checklist data were reviewed to determine initial compliance. DDRS utilized the NCI data as a starting point/initial indicator to identify the status of the program. When DDRS measured this information against other data collected from the 90-day Checklist, the need for further review was determined due to inconsistencies in the data outcomes. DDRS also confirmed that NCI data was not inclusive of all HCBS requirements. A more in depth analysis was conducted via the Individual Experience Survey (IES) that targets the specific requirements. Upon review of all data, DDRS was able to gauge compliance with the specific HCBS Settings requirements. In addition to the NCI, 90-day Checklist, and the IES data, Indiana's Waiver Data System, INsite, was also used to determine service settings based upon the information noted in the system for individuals.



National Core Indicators (NCI) Data Review

In order to ascertain the level of compliance with the HCBS requirements, DDRS had chosen to utilize the NCI data to begin the process by which to evaluate compliance. The [core indicators](#) are standard measures used across states to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including employment, rights, service planning, community inclusion, choice, and health and safety. The data obtained from the NCI was derived from a random sample of waiver participants across Indiana. A statistically valid sample was obtained and in person interviews were conducted with individuals and family members (as available) to gather information by asking the same questions of all participants. NCI findings, including those specific to Indiana, are available at <http://www.nationalcoreindicators.org/states/>. The breakdown of the [NCI](#) was incorporated into the waiver specific Transition Plans.

The initial review of the NCI data found that it did not include measurement of all necessary areas of HCBS compliance. In addition, due to the use of a sample size, DDRS has determined it will not use the NCI data to measure initial HCBS compliance. DDRS will continue to review the data as a way to confirm or validate other information and data collected outside of the NCI analysis.

90-day Checklist Data Review

The 90-day Checklist is used as a monitoring tool for case managers to ensure supports are provided consistent with BDDS policies and procedures. The 90-day Checklist will be modified by 12/2017 as part of the remediation strategy “revisions to forms” outlined in Section 4 to ensure ongoing compliance with the HCBS Final Rule with the addition of specific questions addressing the delivery of services in each setting. If the response to any question on the 90-day Checklist related to HCBS requirements is evaluated to be out of compliance, the case managers will notify the responsible party that a corrective action plan is required to be completed and submitted. The case manager then verifies that the corrective action has been completed which results in the responsible party being back in compliance with the requirement(s). If compliance cannot be achieved within the specified timelines, Bureau of Quality Improvement Services (BQIS) would be notified and the current process outlined in [IC 12-11-1.1-11](#) Issuance of citation for violations; requirements; remedies; considerations of determining remedy would be used (see below response). The 90-day Checklist is an ongoing monitoring tool that will be used to ensure ongoing compliance after the March 2019 deadline.

Individual Experience Survey

The DDRS developed a high quality, comprehensive survey that targets the specific HCBS requirements and provides additional data to determine DDRS’ compliance status. DDRS contracted with The Indiana Institute on Disability and Community (IIDC) to design and develop the survey to be completed by participants when able or the person who knows them best. This survey was administered by the participant’s waiver case manager to ensure all participants were reached. Prior to the implementation of a statewide survey, DDRS, in conjunction with the IIDC, administered the survey using a pilot group which allowed DDRS to be confident in the validity and reliability of the survey questions. The IIDC, in consultation with DDRS, then finalized the survey questions for dissemination to all waiver participants.

DDRS released the IES Report on June 28th, 2016 to all stakeholders throughout the system outlining the results of the survey, the methodology behind the survey, as well as the intent of the survey to bring services into HCBS compliance by March 2019. Through the [Individual Experience Survey](#), DDRS identified and analyzed the experiences and choices individuals with intellectual and developmental disabilities have in their daily lives.

The IES was a starting point to a better understanding of individual experiences in the system which leads to a more in-depth analysis and validation of the data through record reviews, provider surveys and site visits. A review of the IES base line data provided guidance to DDRS to establish a process for engaging in site specific validations that will ensure all HCBS service sites are within compliance.

DDRS determined the need for providers of identified residential and all non-residential settings to complete a self-assessment of their current policies and procedures to report compliance of HCBS Final Rule to the State. DDRS also concluded responses garnered from the IES will be used to validate the responses from the provider self-assessment to gain a global prospective of compliance. This provider self- assessment will be the next step in the validation process.

Site Specific Assessment

Based on the results of the [Individual Experience Survey](#) and other data, DDRS has identified specific sites that will require review prior to the determination of compliance.

Validation of the compliance of the specific sites is determined by CMS guidance as to what is and is not a community setting. CMS has issued clear guidance that any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS is presumed to have the qualities of an institution. DDRS utilized this guidance in developing and establishing the criteria for engaging in site specific assessments.

Settings that are presumed to be HCB and meet the rule without any changes required include individually owned homes, individualized supported employment and individualized community day activities. DDRS has determined individualized supported employment and individualized community day activities (referred to as Extended Services and Community-Based Habilitation- Individual in our waivers) meet the HCBS requirements due to only providing Community-Based Habilitation Individual in the greater community and Extended Services providing supports to individuals who are in integrated competitive employment. There are approximately 24,645 service delivery sites that meet the rule without any changes. The table below specifically identifies the setting results based on assessment activities. This assessment is an estimate of total settings in each category and does not imply that any specific provider or location is non-compliant solely by classification. Final determination will depend upon information gathered through all assessment activities outlined in the comprehensive Statewide Transition Plan, including but not limited to onsite reviews, provider self-assessments, internal programmatic data, and provider/participant surveys.

SETTING ASSESSMENT				
CMS Criteria	NCI Data Analysis	90-day Checklist Data Analysis	IES Data	Comprehensive Settings Results
Is integrated in and supports access to the greater community	Identified as 85% and below the low level of compliance threshold.	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	<p><i>Settings that are presumed to be HCB and meet the rule without any changes required:</i></p> <ul style="list-style-type: none"> • Individually owned homes <ul style="list-style-type: none"> ○ Approximately 1,760 sites** • Family homes <ul style="list-style-type: none"> ○ Approximately 14,385 sites** • Individualized community employment <ul style="list-style-type: none"> ○ Approximately 1,500 sites** • Individualized community day activities <ul style="list-style-type: none"> ○ Approximately 7,000 sites** <p><i>**Source: INsite – Indiana’s Waiver Data System</i></p> <p><i>Settings identified that could meet the HCBS rule with modifications:</i></p> <ul style="list-style-type: none"> • Provider owned or controlled residential settings <ul style="list-style-type: none"> ○ Approximately 1,044 sites* • Homes with more than 4 individuals residing together <ul style="list-style-type: none"> ○ Approximately 10 sites**
Provide opportunities to seek employment and work in competitive integrated settings	Identified as 85% and below the low level of compliance threshold.	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Control Personal Resources	Identified as 85% and below the low level of compliance threshold.	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Ensures the individual receives services in the community with the same degree of access as individuals not receiving Medicaid HCBS	No NCI data	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	

SETTING ASSESSMENT				
CMS Criteria	NCI Data Analysis	90-day Checklist Data Analysis	IES Data	Comprehensive Settings Results
Allow full access to the greater community/Engaged in community life	Identified as 85% and below the low level of compliance threshold.	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	<p><i>*Source – Indiana’s Individual Experience Survey – 2015</i> <i>**Source: INsite – Indiana’s Waiver Data System</i></p> <p><i>Settings that may be presumed as not HCBS complaint to be reviewed to determine if Heightened Scrutiny is warranted:</i></p> <ul style="list-style-type: none"> • Settings located in a public or privately owned building that provides inpatient institutional treatment <ul style="list-style-type: none"> ○ Approximately 0 sites** • Settings located on the ground of or immediately adjacent to a public institution <ul style="list-style-type: none"> ○ Further outreach and analysis is needed to determine the number of sites, if any, in Indiana that may meet this criterion. • Settings that have the effect of isolating individuals <ul style="list-style-type: none"> ○ Residential settings where respondents to the IES indicated few social interactions outside of their home <ul style="list-style-type: none"> • Approximately 500 sites* ○ Day Service Settings <ul style="list-style-type: none"> • Approximately 182 sites** ○ Congregate Settings of 4 or more homes located close together <ul style="list-style-type: none"> • Approximately 50 sites** <p><i>*Source: Indiana’s Individual Experience Survey – 2015</i> <i>**Source: INsite – Indiana’s Waiver Data System</i></p> <p><i>Settings that are not HCBS complaint:</i></p> <ul style="list-style-type: none"> • Nursing Facilities <ul style="list-style-type: none"> ○ 0 sites • Institution for Mental Diseases (IMD) <ul style="list-style-type: none"> ○ 0 sites
Setting is chosen among setting options including non-disability specific settings and options for a private unit in residential settings	Identified as 85% and below the low level of compliance threshold.	This information is not obtained through the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Ensures right to privacy, dignity, and respect and freedom from coercion and restraint		The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
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 (taken from Federal Register)	No NCI data available	This information is not obtained through the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Optimizes, but does not restrain, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical	Identified as 85% and below the low level of compliance threshold	This information is not obtained through the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	

SETTING ASSESSMENT				
CMS Criteria	NCI Data Analysis	90-day Checklist Data Analysis	IES Data	Comprehensive Settings Results
environment, and with whom to interact.				<ul style="list-style-type: none"> Intermediate Care Facility for Individuals with I/DD (ICF/IID) <ul style="list-style-type: none"> 0 sites Hospitals <ul style="list-style-type: none"> 0 sites
Facilitates choice of services and who provides them	Identified as 85% and below the low level of compliance threshold	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
A lease or other legally enforceable agreement to protect from eviction (Provider owned or controlled residential setting)	No NCI Data Available	Due to the majority of responses to this question on the 90 day check list being “n/a” validity of the data is unable to be determined	Analysis of the IES data revealed less than 100% compliance	
Privacy in their unit including entrances lockable by the individual	Identified as 85% and below the low level of compliance threshold	This information is not obtained through the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Freedom to furnish and decorate their unit	No NCI Data Available	This information is not obtained through the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Control of schedule and activities	Identified as 85% and below the low level of compliance threshold	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Access to food at any time	No NCI Data Available	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Visitors at any time	Identified as 85% and below the low level of compliance threshold	The data analysis indicated that 85% of the time or better this area is checked yes on the 90-day Checklist	Analysis of the IES data revealed less than 100% compliance	
Setting is physically	No NCI Data available	This information is not obtained	Analysis of the IES data revealed less	

SETTING ASSESSMENT				
CMS Criteria	NCI Data Analysis	90-day Checklist Data Analysis	IES Data	Comprehensive Settings Results
accessible to the individual		through the 90-day Checklist	than 100% compliance	
Individuals sharing units have a choice of roommates in that setting	Identified as 85% and below the low level of compliance threshold	Intentionally left blank	Analysis of the IES data revealed less than 100% compliance	

SECTION 3: VALIDATION OF PRELIMINARY SETTINGS INVENTORY

Residential and Non-Residential Settings

DDRS has not yet determined the number of individuals in settings who may be affected by relocation. This will be determined as a result of the provider surveys and site visit verifications.

Once site visits have been completed and sites have been either been verified as meeting the HCBS requirements, not meeting the requirements, or requiring heightened scrutiny, the number of individuals potentially affected by relocation will be determined. Currently there are zero sites that have been identified that are not HCBS compliant as outlined in the setting assessment.

The data derived from the IES will be used to validate compliance of provider’s responses to the self-survey of settings. Validation will be comprised of reviewing provider policies and procedures as well as person specific information such as:

1. The individual’s PCP/ISP (*is there a reason they are not engaging in the community and is that addressed in the Person Centered Planning process?)
2. Are there medical issues preventing community involvement? Are these addressed in the Person Centered Planning process?
3. Are there behavioral issues preventing community involvement? Are these addressed in PCP/ISP?
4. Are there lease agreements in place to protect the individuals from eviction?
5. Do the individuals have keys to home and are able to come and go as they please, or are any restrictions addressed in the Person Centered Planning process?

As part of the validation process, the self-survey will require providers of HCBS services to submit policies, procedures and other documentation proving it meets the HCBS requirements. If a provider finds itself out of compliance in any area of the HCBS Final Rule, DDRS will work with the provider to create a provider specific transition plan to address each identified issue and DDRS will monitor the time frames for completion. A template will be provided to ensure consistency. This will be a desk review/validation process. The IES data will be used to validate the responses of the provider surveys. If there is a discrepancy, a site visit will be required.

Once the desk review/validation process is completed, any residential or non-residential setting that is assessed as potentially not having the qualities of a home and community-based setting will require a site visit to validate the findings.

During the site-specific visits, DDRS or its contracted agents will review the results of the assessments to validate the findings. Prior to the site-specific visits, DDRS will conduct a comprehensive training for all designated reviewers in order to ensure consistency of all reviews.

Results of the site-specific assessments will be used to identify specific settings that either do not meet the HCBS requirements or require heightened scrutiny.

SECTION 4: PROPOSED REMEDIATION STRATEGIES

As part of CMS regulations, DDRS must develop a plan to correct, through various means, any areas of non-compliance with HCBS rules. In order to do this, DDRS has developed a remediation plan with specific strategies and timelines. It is

important to note that the desire of the transition plan and remediation strategies is not to close or terminate providers but instead, to work with members, providers and other stakeholders to come into compliance with the HCBS Final Rule and the vision of ensuring members are fully integrated into the community, afforded choice, and have their health and safety needs met.

DDRS will use the results of the provider self-assessment and the Individual Experience Survey (IES) to identify settings that may not be in compliance. Once these settings have been identified and the findings verified through an onsite visit, corrective action will begin as soon as any areas of non-compliance are identified with specific timelines outlined by DDRS. This will ensure the setting comes into compliance and any identified issues are addressed to ensure individuals rights. Specific corrective action(s) will be based on the noncompliance findings. Corrective action may take the form of a provider specific transition plan if it is found that programs are out of compliance or it may take the form of individual specific corrective action. For instance, if a person does not have a key to their home, the corrective action would be for the provider to supply one and to ensure that the provider's practice is amended to ensure keys are provided. Or if there is a restriction in place for health or safety reasons that are not documented in the Person Centered Service Plan, the corrective action would be for the Person Centered Service Plan to be updated to include the required information consistent with DDRS policy. If a setting has not achieved compliance even after remedial strategies have been employed by 2018 as outlined in the waiver specific transition plans, a transition plan for relocation will be developed and will include:

- Identification of the participant(s) requiring transition;
- Reasonable notice to participant(s) and the Individual Support Team regarding the noncompliance, action steps, and procedural safeguards;
- Information, and supports for the participant to make an informed choice of an alternate setting that complies with, or will comply with the HCBS settings requirements;
- Assurances that the participants' services/supports are in place prior to the individual's transition; Identify timeline for participant transitions; and
- Training provided to local districts, case managers, and providers to ensure a smooth transition for the participant(s) requiring transition

DDRS will apply a combination of existing guidelines to address the necessary remedial strategies. Mirroring Indiana Code, [IC 12-11-1.1-11 Issuance of citation for violations; requirements; remedies; considerations in determining remedy](#), once DDRS identifies an issue that requires corrective action, DDRS will document the findings within the citation and identify the necessary corrective action for the provider. Mirroring an existing process outlined within Indiana Administrative Code, [460 IAC 6-7-2 Monitoring, corrective action](#), DDRS will then identify the time period in which corrective action shall be submitted to the Division or its designee and the time period in which the corrective action is to be completely implemented by the provider. Further, [IC 12-11-1.1-11](#) provides applicable guidance regarding appeal rights and remedies for violations. Timelines will be determined based on the final results of the summarized data.

DDRS understands that remedial issues must also be addressed within the allotted time for completion of the waiver transition plan. The specified time for settings to dispute the compliance findings will mirror those of current Indiana Code, [IC 12-11-1.1 for BDDS; Community-Based Services](#), which allows a time period of fifteen days from the date of any citation for a dispute to be filed. **Item (b) of [IC 12-11-1.1-11 Issuance of citation for violations; requirements; remedies; considerations in determining remedy states](#)**, "A person aggrieved by a citation issued under this section may request a review under [IC 4-21.5-3-7](#). If a request for a hearing is not filed within the fifteen (15) day period, the determination contained in the citation is final."

In general, DDRS will utilize pre-existing guidance found in Indiana Code and Indiana Administrative Code to address remedial strategies related to this transition.

Relocation of Beneficiaries

Reasonable notice will be given to the participant and the Individual Support Team regarding any setting found to be non-compliant. Action steps will be provided as well as procedural safeguards explained. Members will be provided a choice of remaining in the HCBS funded program or choosing to remain in their current location.

Per [460 IAC 6-29-9 Change in location of residence](#), when no emergency exists but an individual will need to move, providers are to notify the individual's BDDS service coordinator at least twenty days before any contemplated change of the

individual's residence. As outlined in the [BDDS Transition Activities Policy](#), BDDS shall ensure individuals are provided with a choice of providers and facilitate the transition process to ensure all supports are in place prior to any movement.

BDDS will use its process for transitioning people from the non-compliant setting to a setting that meets HCBS requirements. Individuals will be informed in writing of the agency's decision outlining the procedure established for transitioning to an approved HCBS setting.

BDDS will ensure reasonable notice and procedural safeguards are provided to anyone needing to transition. Notice will be provided to individuals allowing time to choose a HCBS compliant setting or locate an alternative funding source in order to remain in the HCBS non-compliant setting.

A transition plan will be developed to allow for sufficient time to safely transition individuals to compliant settings of their choice. BDDS or its contracted entity will ensure individuals are informed of the opportunity to select settings and roommates of their choice and will facilitate all transitions as outlined in the [BDDS Transition Activities Policy](#). Transition activities include transition planning, Person Centered Planning, updating of the Individualized Support Plan, referrals to providers, selection of providers, safety inspections, home visits, as well as the pre and post monitoring process. Both the existing provider and the newly selected provider will participate in the transition activities. The change in the individual's residence may not take place until written approval is received from the individual's service coordinator. The participant and the Individual Support Team will actively participate in the transition process.

Additionally, per [460 IAC 6-7-6](#) Administrative Review, the provider has 15 days to request Administrative Review, preserving the right to appeal.

The 460 IAC 6 citations are found at <http://www.in.gov/legislative/iac/T04600/A00060.PDF>

Heightened Scrutiny

Any residential or non-residential setting that is suspected to not have the qualities of a home and community-based setting will require a site visit to validate the findings. These settings may be found to meet the HCBS requirements, may be found to not meet the requirements, or be determined to require heightened scrutiny. If it is determined a setting would require heightened scrutiny, DDRS will present evidence to CMS as to how the setting has the qualities of a home and community-based setting and not the qualities of an institution.

Prior to the site visit, providers and individuals will be notified in writing of the date of the upcoming site visit. The notification will include a summary of the findings of the review, an explanation of what the site visit will entail, and education on the process. Once DDRS or its contracted agents completes the site visit, a summary of the findings will be distributed to the parties involved. If after the site visit it is determined that the setting is home and community-based, DDRS will continue ongoing monitoring to ensure continuing compliance.

DDRS is looking at if the setting isolates the individual from the broader community or otherwise has the characteristics of an institution or fails to meet the characteristics of a home and community-based setting. If the setting fails to meet the characteristics of a home and community-based setting it would not be considered to be compliant with the regulation. If it is found that the setting would meet the criteria of being presumed non-compliant but DDRS believes it can present an indication that the setting meets the requirements; heightened scrutiny will be applied. Heightened scrutiny will include a period of public comment to be submitted with other evidence to CMS for approval. If DDRS determines the setting cannot meet the requirements with modifications, the relocation process/timelines outlined above will commence.

The table below outlines the strategies that DDRS has developed to both further assess compliance and to then address areas of non-compliance.

PROPOSED REMEDIATION STRATEGIES – DDRS

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Provider and Member Surveys	<p>DDRS has developed a comprehensive survey targeting specific HCBS requirements that will provide data to further determine DDRS compliance status with the HCBS rules.</p> <p>DDRS has contracted with The Indiana Institute on Disability and Community (IIDC) to design, develop, and administer a survey to individuals receiving Home and Community-Based Services.</p> <p>Prior to the implementation of a statewide survey, DDRS, in conjunction with the IIDC, will administer the survey using a pilot group in order to assess the validity and reliability of the survey.</p> <p>Once the survey has been validated IIDC will disseminate it electronically to providers throughout Indiana to complete with the individuals they serve.</p> <p>At the time of survey completion, the contractor, in consultation with DDRS, will analyze the data and provide a comprehensive report on the survey results.</p> <p>The aggregate results will be disseminated to stakeholders throughout the system.</p>	<p>Survey results will serve as a tool to identify settings that may not be in compliance with HCBS rules and allow DDRS to develop strategies for working with these providers to come in to compliance in the required timelines.</p>	<p>Pilot IES Survey: 01/2015</p> <p>Comprehensive Survey: 01/2016</p> <p>IES Survey Results: 04/2016</p> <p>Provider Self Survey: 08/2016-09/2016</p> <p>Provider Self Survey Responses Validated: 12/2016</p> <p>Ongoing monitoring of approved Provider Specific Transition Plans: 08/2016-04/2018</p>	<p>IES Survey Document</p> <p>Aggregate and site specific survey results</p> <p>Online provider self-survey</p>	<p>DDRS/BDDS internal staff, OMPP, DDRS Advisory Council, IIDC, Pilot group. Providers, Individuals Served</p>
Site Specific Assessment	<p>Based on the results of the preliminary settings inventory and statewide survey, DDRS has identified specific sites that will need further review. In addition, specific sites have been identified for data validation.</p>	<p>Validation of the compliance of the specific sites will be determined by CMS guidance as to what is and is not a community setting.</p> <p>Specifically, DDRS will identify any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.</p> <p>DDRS will utilize this guidance in developing and establishing criteria for engaging in site specific assessments.</p>	<p>7/31/2016</p>	<p>STP</p>	<p>DDRS or its contracted entity.</p>

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Evaluation of Collected Data	After completion of the site specific surveys, DDRS will evaluate all collected data	The information gathered will be utilized to develop a Comprehensive Settings Result Document	7/31/2016 for site specific assessment 12/2016 for Provider Self Survey	Aggregate and site specific survey results	DDRS/BDDS/IIDC
Comprehensive Setting Results	DDRS will develop a comprehensive setting results document, which identifies DDRS level of compliance with HCBS standards and identifies settings that will be required to go through the Heightened Scrutiny Process. This document will be disseminated to stakeholders throughout the system.	The data gathered from the comprehensive setting results document will be utilized to begin the process of correction and implementation of the necessary remedial strategies.	12/2017 for comprehensive setting results to include sites identified for Heightened Scrutiny	STP	DDRS/BDDS internal staff, OMPP, DDRS Advisory Council, IIDC, Advocacy groups, Providers, Participants, Self-Advocates and Families
Heightened Scrutiny	DDRS will identify settings that require Heightened Scrutiny and submit for public comment.	Settings identified that overcome the institutional presumption will be submitted to CMS for approval.	06/2018	STP	DDRS/BDDS internal staff, OMPP, DDRS Advisory Council, IIDC, Advocacy groups, Providers, Participants, Self-Advocates and Families
Revisions to Indiana Administrative Code	DDRS will initiate the rule making process in order to revise Indiana Administrative Code. Indiana will revise rules related to community integration, individual rights, and individual choice.	Revisions to Indiana Administrative Code	05/2018	http://www.in.gov/legislative/iac/IACDrftMan.pdf	DDRS/BDDS internal staff, OMPP
Revisions to Forms	Revise all applicable internal and external forms to meet HCBS final rule, administrative rules and policy and procedures.	Revisions to Forms	12/2017	To Be Determined	DDRS/BDDS internal staff, OMPP, Case Management Companies
Revisions to DDRS Waiver Manual	In order to ensure current and ongoing compliance with the HCBS requirements, DDRS will review the DDRS Waiver Provider Policy and Procedure Manual. Changes to this Manual may constitute changes to the FSW and CIH application. Amendments to the FSW and CIH application will be completed to maintain program consistency.	Revisions to DDRS Provider Policy and Procedure Manual	12/2017	DDRS Waiver Manual and DDRS HCBS Provider Waivers Reference Module	DDRS/BDDS internal staff, OMPP
Participant Rights and Responsibilities Policy/ Procedure Modifications	DDRS will revise policies and procedures related to participant rights, due process, and procedural safeguards.	Participant Rights and Responsibilities Policy/Procedure Modifications	12/2017	Review of current Rights and Responsibilities policy Review of Protection of Individual Rights	DDRS/BDDS internal staff, OMPP, Self-Advocates, individuals served

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Review and Revisions to Provider Enrollment and Provider Training	Review and potentially revise the provider enrollment and recertification process. Provide training to new and existing providers to educate them on the HCBS requirements.	Review and Revisions to Provider Enrollment/Provider Training	12/2017	Review of current enrollment/re-enrollment process	DDRS/BDDS internal staff, OMPP, Providers
Corrective Action Process	The provider corrective action process/plan is to ensure providers are in compliance with HCBS requirements. Once a provider has been identified as non-compliant, DDRS will work to develop a provider remediation process and framework of plans.	Provider training on the HCBS requirements Deadlines for completion & periodic status update requirements for significant remediation activities	12/2017	IC 12-11-1.1-11 460 IAC 6-7-2	DDRS/BDDS internal staff, OMPP
Develop process for Provider Sanctions and Disenrollment	In the event the provider has gone through remediation activities and continues to demonstrate noncompliance with HCBS requirements, DDRS will develop a specific process for issuing provider sanctions and dis-enrollments.	DDRS will dis-enroll or sanction providers that fail to meet remediation standards and fail to comport with the HCBS setting requirements.	06/2018	DDRS will formally disseminate the provider sanctions and disenrollment criterion during a public comment period.	DDRS/BDDS internal staff, OMPP, Providers
Convene a Transition Taskforce	DDRS will develop a Transition Taskforce to provide technical assistance and support for individuals identified as requiring significant changes, such as, relocation, adjustments to allocation, mediations to resolve internal conflicts and compliance issues.	The identified areas of noncompliance will be used to guide the Transition Taskforce to gather further qualitative feedback from providers, participants, and their families.	03/2017	To be determined	DDRS/BDDS staff, Self-Advocates, individuals served, Providers, Advocacy groups
Relocation	Identification of settings that have not achieved compliance after all remedial strategies have been employed.	DDRS will begin notification to providers and individual identified in 2018. The Transition Taskforce will provide technical assistance as well.	03/2019	460 IAC 6-29-2 BDDS Transition Activities Policy	DDRS/BDDS staff Transition Taskforce
Ongoing Monitoring	DDRS will continue to monitor ongoing compliance through utilizing the 90-day Checklist, utilizing self-reporting from stakeholders as well as incorporating ongoing monitoring through the provider re-certification processes	DDRS will apply a combination of existing guidelines to address the necessary remedial strategies	05/2018 and beyond	IC 12-11-1.1-11 460 IAC 6-7-2 90-day Checklist	DDRS/BDDS staff, Self-Advocates, individuals served, Providers, Advocacy groups

SECTION 5: KEY STAKEHOLDERS AND OUTREACH

As DDRS moves forward in further assessing the system’s compliance with HCBS rules, DDRS intends to work closely with providers, self-advocates, individuals served and families. DDRS’ intent is to engage in a collaborative process which will

involve a high level of inclusion of all stakeholders. Throughout the five-year transition process DDRS will continually seek out and incorporate stakeholder and other public input.

DDRS posted the CMS approved preliminary transition plan specific to the CIH Waiver renewal online with a notation that the comprehensive plan would be posted for public comment. In addition, announcements of the public comment period are on the BDDS Provider Portal and the BDDS Case Management system encouraging all to become familiar with the new HCBS criteria outlined in the rule and to assist in informing members and their families about the transition plan and asking that they submit their comments, questions, or concerns. DDRS continues to work with other stakeholders such as the ARC of Indiana, INARF, and providers to promote public input through various public meetings including quarterly provider meetings.

DDRS is committed to a high level transparency moving forward and will publish the planned steps to ensure that all providers, families, participants, and potential participants are given meaningful opportunity for public input.

DIVISION OF MENTAL HEALTH AND ADDICTION - YOUTH (DMHA-Y)

HCBS Programs

Psychiatric Residential Treatment Facility (PRTF) Transition Waiver – 1915(c)

Child Mental Health Wraparound (CMHW) – 1915(i)

Background

The Division of Mental Health and Addiction youth division administers two Home and Community-Based Service (HCBS) Programs, one that serves eligible youth with serious emotional disturbance (SED), and one that serves youth with SED or serious mental illness (MI) diagnosis. The two programs are the Child Mental Health Wraparound (CMHW) 1915(i) HCBS program and the 1915(c) HCBS Psychiatric Residential Treatment Facility (PRTF) transition waiver, respectively. These HCBS programs are available to eligible youth and include Wraparound Facilitation, and may include Habilitation, Respite, and Family Support & Training.

SECTION 1: ASSESSMENT OF SETTINGS

From May through September 2014 the Family and Social Services Administration Division of Mental Health and Addiction, youth services completed an internal review and analysis of all settings where HCBS services are provided. The analysis included a crosswalk of Indiana Statute, Indiana Administrative Code, reviews of Home and Community-Based Services policy, provider manuals, provider trainings, and review of licensing rules and regulations.

Through this process, DMHA has identified areas where specific setting criteria are stated, and in these areas are compliant with federal regulation; but also areas where state standards are silent or only imply requirement of compliance:

IAC

- In the general provisions section of IAC ([405 IAC 5-21.7-1 General provisions](#)) related to the HCBS program, it is stated that the purpose of the program is to “enable (the participant) to benefit from receiving intensive wraparound services within their home and community with natural family supports.”
- In the definitions ([405 IAC 5-21.7-2 Definitions](#)), IAC goes on to describe eligible participants in the program as “living in their family in the community.”
- One of the purposes of the plan of care ([405 IAC 5-21.7-6 Individualized plan of care](#)) is to assist the participant to “remain in the home or community.”
- The IAC sections of Habilitation, and Training and Support for the Unpaid Caregiver services, it is plainly stated that services must take place “in the participant’s home or other community-based setting.”

While these implications are present, IAC will be updated to include:

- Specifying that living with their family in a compliant community setting as a requirement for eligibility for the program,
- The reasons for denials (non-compliant living setting);
- Documentation of a compliant setting required as a part of the initial assessment, and
- On-going verification of settings compliance as relates to the consumer/applicants living situation, both annually, and as part of the ad hoc documentation of any change in the consumers living situation.
- An addition will be made to the section of code addressing coverage requirements and limits, and
- General service provisions.

The Application for Eligibility and Approval Process

A review was conducted of the application for eligibility and approval process including the DMHA approved behavioral assessment tool. The application for eligibility ([405 IAC 5-21.7-3](#)) includes the submission of the behavioral assessment tool by the Access Site (initial application for CMHW) and/or the Wraparound Facilitator (semi-annual reevaluation for eligibility for CMHW and PRTF Transition Waiver). As a part of this assessment, the evaluator meets with the family “face-to-face.” Demographic data is collected as part of the assessment, and includes a description of the residential setting. This is

reviewed by DMHA as part of the eligibility for services. Participants enrolled in these programs must reside in a community-based setting. The application process for both programs, require the living situation is clearly documented for the potential applicant. Any applicant that is not currently living in a community-based setting is not eligible for these services. Group Homes and residential facilities are licensed by Indiana Department of Child Services (DCS) as a child caring institution; therefore, individuals living in these environments are not eligible for home and community-based services.

The only setting in which an applicant/consumer may reside and be approved for services is:

- In the family home in the community, or
- In a single family type foster home in the community.

Applicants in any other type of residential setting are denied based on the setting. A denial based on a non-compliant setting supports and demonstrates DMHA's compliance with federal standards. The standard needs to be made more explicit. To address this in the eligibility process, DMHA will update the attestation form.

At the time of application, initially, and at the time of renewal, the family is given the choice of either institutional or home and community-based options, which includes the evaluator's explanation of these options. This and other assurances, such as choice of providers and of services, is documented through a signed document referred to as the attestation form.

DMHA will update this form to include the assurance that the participant understands the differences in settings options and resides and receives services in compliant settings.

Regarding the residential setting of the home of a licensed foster family, the DCS licenses all family foster homes. This includes standard foster care homes, special needs foster care homes and therapeutic foster care homes as defined in [Indiana Code 31-27-4](#), Regulation of Foster Homes. According to the [DCS Indiana Child Welfare Policy Manual, Chapter 12: Foster Family Home Licenses](#), the policy requires that foster homes meet the following requirements related to the foster care setting: 1) own or rent your own home that meets physical safety standards and 2) permit initial and on-going home visits from the Regional Licensing Specialist. DCS, its designee, or a licensing worker conducts a minimum of two (2) visits to each foster family for the purpose of assessing the physical environment of the home and engaging in a thoughtful dialogue with all members of the household about foster parenting or adoption.

DMHA and DCS have regular, ongoing meetings to discuss relevant policy changes affecting both agencies. Should the Indiana Code relating to DCS be modified, DMHA will work closely with DCS to ensure that the changes are consistent with the HCBS Settings Final Rule. While DMHA is primarily responsible to ensure that member foster homes are compliant initially and ongoing, DCS licensure and home visits assist in monitoring key elements of HCBS settings requirements.

Policy, Provider Manuals, Provider Training, and Licensing Rules and Regulations

A review of these materials ([PRTF Transition Waiver Provider Manual](#); [Child Mental Health Wraparound Services Provider Manual](#); [DMHA Home and Community-Based Wraparound Services Provider Orientation Presentation](#); [Wraparound Service Habilitation Training materials](#); [Training and Support for the Unpaid Caregiver Training materials](#); [Respite Trainings](#); and [Wraparound Facilitator Training materials](#)) found language generally reflective of IAC as noted above, with strong emphasis on settings where services may be provided, including specifying home and community settings, and also prohibiting service delivery in settings which are institutional and/or segregated in nature, among other things.

In the areas of service definitions, manuals, and training materials, DMHA is in full compliance with the federal requirements.

Additionally, it is specifically noted in the manuals and training materials that any out of home placement of a little as 24-hours, including among other things acute hospital stays, result in the suspension of services and the submission of documentation to DMHA suspending services until the participant returns home. If the participant does not return home and resume services within 30-days, participation in the program is terminated.

Services

The following services are available through one or both of these programs:

- **Consultative Clinical and Therapeutic Services (PRTF):** Improve participant’s independence and inclusion in his or her community. These services are provided in the participants own home or in the community at large, as specified in the CMS approved applications, IAC, provider manuals, and Training materials, and are in full compliance with federal requirements.
- **Flex Funds (PRTF):** Purchase variety of one time or occasional goods that is supported by rationale as to how that expenditure will assist the participant to remain in the home and/or community.
- **Habilitation (PRTF, CMHW):** Enhance a participant’s level of functioning through one-on-one support. These services are provided in the participants own home or in the community at large, as specified in the CMS approved applications, IAC, provider manuals, and training materials and are in full compliance with federal requirements.
- **Non-Medical Transportation (PRTF):** Transportation for participants to gain access to community services or activities. These services are provided in the participants own home or in the community at large, as specified in the CMS approved applications, IAC, provider manuals, and training materials and are in full compliance with federal requirements.
- **Respite¹ (PRTF, CMHW):** Short-term relief for person who normally provides care for the participant.
- **Training and Support for Unpaid Caregivers (PRTF, CMHW):** Provide education and support to the unpaid caregiver of a participant. These services are provided in the participants own home or in the community at large, as specified in the CMS approved applications, IAC, provider manuals, and training materials and are in full compliance with federal requirements.
- **Wraparound Facilitation/Care Coordination (PRTF, CMHW):** Comprehensive service that follows a series of steps and is provided in the community through a Child and Family Wraparound Team. These services are provided in the participants own home or in the community at large, as specified in the CMS approved applications, IAC, provider manuals, and training materials and are in full compliance with federal requirements.
- **Wraparound Technician (PRTF):** Monitor progress and assist participant or their family with gaining knowledge or access to community-based resources, services or activities. These services are provided in the participants own home or in the community at large, as specified in the CMS approved applications, IAC, provider manuals, and training materials and are in full compliance with federal requirements.

All services offered by PRTF and CMHW are individualized services provided in one of the following settings:

- 1) Public, community-based settings such as retail locations, public parks, community spaces, etc. used by the general public;
- 2) Youth’s private family home; and
- 3) Home of a licensed foster family if the child is under the jurisdiction of the DCS.

Services in these settings are individualized according to the participant’s needs as outlined in the plan of care. The number of settings may only be calculated by multiplication of the number of participants in the programs by the number of services settings outlined in their plans of care. Currently, there are approximately 12 participants receiving services through the PRTF Waiver and approximately 700 through the CMHW.

Services are offered through a local System of Care (SOC) that includes the ten Wraparound Principles: Family Voice and Choice, Team-based, Natural Supports, Collaboration, Community-based, Culturally Competent, Individualized, Strengths-based, Persistent and Outcome-based.

The Wraparound Process includes four phases: engagement, plan development, plan implementation and transition. The wraparound facilitator participates in extensive training to ensure that family voice and choice is consistent throughout all four phases of the wraparound process.

¹ Respite in a Psychiatric Residential Treatment Facility is an approved service, as allowable under 42 CFR § 441.310(a)(2)(i). CMS indicates in the HCBS Final Rule that “Institutional Respite” is an allowable setting.

- The engagement phase includes discussion of the family’s needs, hopes, dreams, concerns and strengths. This phase includes telling the family story and developing a vision for their future. The Wraparound Facilitator assists the family with identifying potential participants of their child and family team that will guide and support them through the entire process.
- The plan development phase includes developing a mission statement that will help the child and family team with agreeing on what they will be working on together, reviewing the family’s needs and beginning discussions about how to utilize strengths to overcome the needs.
- The implementation phase involves reviewing accomplishments, assessing what is or is not working, adjusting items that are not working in the current plan and assigning new tasks to the child and family team participants.
- The transition phase is occurring throughout the life of the plan and the family’s involvement with wraparound. The child and family team will consistently review and support the family to ensure that a transition off of services is appropriate. The family will end the wraparound process with more knowledge and access to community-based resources as well as emergency services should they be needed in the future.

SECTION 2: VALIDATION OF STATE ASSUMPTION

To further validate compliance with the rule regarding HCBS settings, DMHA conducted a survey of all interested participants that includes: living environment, number of individuals with or without disabilities living in residence, whether or not there is paid staff, number of hours with which the person spends time, activities in the community and choice in daily routine. The survey will be required for completion for each active participant by the Wraparound Facilitator (conflict free case coordinator) at a child and family team meeting. The development of the survey will make it appropriate for youth required consideration. Many, if not most of the items considered to indicate choices appropriate for an adult to make were not indicative of institutional care for children. For example, while adults may determine when and what to eat, control of one’s own schedule, and have visitors at any time, such measures are inappropriate, even irresponsible areas of control to grant to children. Children not living in the family home should only be living in single family type foster homes if enrolled in the program. In the case of child in a foster home setting, the choices of where to live and with who are as likely to be out of the parents control as the child’s. Many questions were therefore adapted to suit age appropriate decision-making for youth. Additionally, questions were included to be answered by the conflict-free Wraparound Facilitator, such as descriptor of the living and school environments. The development of the youth member survey was finalized and the completed surveys were submitted to DMHA on March 11, 2016. These surveys were used to validate the results of DMHA’s systemic assessments and linked to specific sites. DMHA has completed a detailed review of each member survey.

DMHA reviewed and analyzed surveys of 379 participants with the following results:

Category of Compliance	Number of settings in category	Total number of settings surveyed	Percentage of Total
Fully align with the Federal requirements.	379	379	100%
Does not comply and will require modifications.	0	379	0%
Cannot meet the requirements and will require removal from the program and/or relocation of individuals.	0	379	0%
Heightened Scrutiny	0	379	0%
Totals	379	379	100%

All settings surveyed, 379 of them, were found to fully align with the Federal Requirements. Most participants (358 of 379, or 94%) were found to live in single family homes in the community with less than 6% (21 of 379) of youth in foster care family homes in the community. DMHA followed up with approximately 36 youth and families with additional questions to ensure settings were compliant. DMHA follow-up consisted of emails and phone calls with the conflict-free Wraparound Facilitators (case managers) to gain clarification of questions. All were found to be in compliance. Additionally, DMHA has analyzed and compared the findings of youth living in family homes with youth living in foster homes to determine if there are fundamental differences between the settings. DMHA found that overall, Foster homes were no more restrictive on average than non-foster home settings; and very often were less restrictive. Neither setting type, natural family nor foster family, was noted to present with indicators of institutional qualities; and therefore do not require remediation or heightened scrutiny.

If, as a result of this survey, a setting had been found to be potentially out of compliance, DMHA staff would have conducted an on-site review of the setting to determine if the setting required remediation to bring it into compliance. If the setting involved a licensed DCS foster care setting that could potentially be institutional in nature, it would be out of compliance with DCS standards as well. DMHA would work in conjunction with DCS to review the setting. Review of the settings would have included observation, interviews, a review of the DCS home study that was conducted on the foster parent where indicated, and other document review. The review of any potentially non-compliance settings would have been completed by June 30, 2016.

The results of the review would have been analyzed and communicated to the interested parties by July 29, 2016. The settings which are found to be out of compliance would have resulted in DMHA placing the provider on a corrective action and/or requiring the participant to move to a compliance setting within 90-day of receipt of notification of non-compliance. DMHA worked in cooperation with DCS to determine 90-days as a reasonable timeframe for remediation and relocation if necessary of participants.

In the event that the youth had resided with family, but the family was living in a setting that did not fully comply with federal and State requirements, DMHA would have extended the transition period on a month-by-month basis with demonstrated progress as is reasonable to accommodate any lease or other legal obligations not to exceed one year from the date of formal notice. Progress toward this transition would have been monitored no less often than monthly as part of the required monthly Child and Family Team meetings, and would include assistance from the local System of Care and DMHA where appropriate. With this in mind, all settings found to be out of compliance would have been remedied or the participants discharged no later than July 31, 2017.

Ongoing Compliance

As part of the initial application for eligibility and again at the time of annual eligibility renewal, questions related to settings compliance will be addressed and included in the DMHA Youth and Family Rights Attestation form, which includes all of the rights offered to all participants. DMHA plans to add a field on the Youth and Family Rights Attestation form to validate the compliance of the participants' setting. In order to ensure ongoing review of setting compliance, the Wraparound Facilitators are in the participants' home at least once per month; if the participant is discovered to be in an institutional setting, the Wraparound Facilitator will immediately notify DMHA. DMHA will draft a policy requiring that Wraparound Facilitators review any relocation of the participant to a new setting to ensure that the setting is compliant with the federal requirements, and communicate that to DMHA when updating the participant's demographic information.

DMHA currently conducts field audits that include a review of the participant's current living arrangement to ensure compliance. The field audits can occur in the participant's home, at the provider's office or at DMHA. The audits include at least one of the following: a review of the case file, participation in a child and family team meeting or supervision between the HCBS provider and DMHA consultant. These reviews included a review of settings where services are provided as well as settings where participants reside. If compliance issues are found, DMHA consultant issues an informal adjustment or corrective action depending on the situation. In addition, there is currently an established process for the Wraparound Facilitator to notify DMHA if the participant will be out the identified setting for more than 24 hours. This includes but is not limited to camp, overnight with relatives or placement in an acute setting. This allows for DMHA to monitor changes in the living arrangement.

DMHA will continue its current compliance reviews and monitoring activities beyond March 2019 to ensure continued compliance with the HCBS settings requirements.

All providers must attend orientation training and service specific training; and an important piece of this training now includes HCBS Settings Final Rule requirements. Demonstrated competency measures are included in DMHA trainings, and questions on this requirement have been included. Potential providers are required to pass the competency measure in order to be approvable as a provider.

Ongoing support is available to providers who may have questions regarding allowable settings. All providers are given state contacts for technical assistance in any areas of need. Upon enrollment in the program, youth and families are also given information regarding contacting DMHA for assistance with any concerns they may have.

On-site audit reviews by DMHA will also continue and confirmation of the setting’s compliance will continue to be included.

DMHA will modify IAC to state that eligible participants must live and be served in compliant HCBS settings in order to strengthen the ongoing compliance with HCBS rules as noted in the system analysis.

SECTION 3: REMEDIATION STRATEGIES AND ONGOING COMPLIANCE

Action Item	Description	Strategies	Timeline for Completion	Source Documentation	Key Stakeholders
Participant Surveys Conducted	DMHA and PCG have developed a survey specifically tailored for youth targeting specific HCBS requirements that will provide data to further determine Indiana’s compliance status with the HCBS rules.	Survey results will serve as a tool to identify settings that may not be in compliance with HCBS rules and allow DMHA to develop strategies for working with these providers to come in to compliance in the required timelines.	Surveys completed by March 11, 2016. These surveys have been completed.	Survey document	Participants and families; Conflict free Wraparound Facilitators, DMHA Youth team.
Participant Survey Analysis	DMHA will complete a detailed review of each member survey and the final results will be available by March 31, 2016.	Settings indicating non-compliance or potential non-compliance will be scheduled for an on-site review by DMHA staff, and by DCS where that setting is indicated to be under the licensure jurisdiction of Indiana’s Department of Child Services.	State analysis completed by May 31, 2016. This analysis has been completed.	Member surveys and aggregate analysis.	DMHA and DCS staff.
Site Specific Review and Analysis	State conducts site specific surveys and reviews. A review of the home study to help determine compliance with HCBS settings final rule will be conducted.	DMHA staff would conduct an on-site review of the setting to determine if the setting required remediation to bring it into compliance. DMHA would work in conjunction with DCS to review the setting.	June 30, 2016 This process has been completed. All settings were found to fully comply with Federal requirements.	Review of the settings would include observation, interviews, a review of the DCS home study that was conducted on the foster parent where indicated, and other document review.	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, DMHA and DCS staff.
Comprehensive Setting Results and Formal Notices Requiring Corrective Actions (where indicated)	The results of the review would be analyzed and communicated to the interested parties.	The settings which are found to be out of compliance will result in DMHA placing the provider on a corrective	Communications distributed by July 29, 2016.	Aggregate and site specific survey results	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict

		action and/or requiring the participant to move to a compliant setting within 90-day of receipt of notification of non-compliance.	No remediation was required.		free Wraparound Facilitators, DMHA and DCS staff.
Site Specific Remediation and/or Beneficiary Relocation	Implementation of Corrective Action Plan submitted by providers where the provider is found to be non-compliant. Where the youth resides with the family, but the family is living in a setting that does not fully comply with federal and state requirements, DMHA will require the participant modify their setting or relocate to a compliant setting, or be transitioned to appropriate services.	To be determined by the Corrective Action Plan with no less often than monthly monitoring by DMHA.	Corrective Action Plans submitted by provider must come into compliance no later than 90-days from the date of the plan's acceptance by DMHA. Where the non-compliance involves the family living in a setting that does not fully comply, DMHA may extend the transition period on a month-by-month basis with demonstrated progress as is reasonable to accommodate any lease or other legal obligations not to exceed one year from the date of formal notice. Progress toward this transition would be monitored no less often than monthly as part of the required monthly Child and Family Team meetings, and may include assistance from the local System of Care and DMHA where appropriate. With this in mind, all settings found to potentially be out of compliance would be remedied or the participants discharged no later than July 31, 2017.	Corrective Action Plans; Monthly Child and Family Team meeting notes.	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, DMHA and DCS staff.

			No remediation was required.		
Update Indiana Administrative Code 405 IAC 5-21.7	Specify living with family in a compliant community setting as a requirement for eligibility for the program.	Work with state agencies and lawmakers with public input to draft updated language.	June 30, 2018	Updated, promulgated IAC.	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, State Medicaid DMHA and DCS staff.
Update Indiana Administrative Code 405 IAC 5-21.7, cont.	Update reasons for denial of eligibility to include non-compliant residential setting.	Work with state agencies and lawmakers with public input to draft updated language.	June 30, 2018	Updated, promulgated IAC.	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, State Medicaid DMHA and DCS staff.
Update Indiana Administrative Code 405 IAC 5-21.7, cont.	Documentation of a complaint setting required as a part of the initial assessment.	Work with state agencies and lawmakers with public input to draft updated language.	June 30, 2018	Updated, promulgated IAC.	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, State Medicaid DMHA and DCS staff.
Update Indiana Administrative Code 405 IAC 5-21.7, cont.	On-going verification of settings compliance as relates to the consumer/applicants living situation, both annually, and as part of the ad hoc documentation of any change in the consumers living situation.	Work with state agencies and lawmakers with public input to draft updated language.	June 30, 2018	Updated, promulgated IAC.	Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, State Medicaid DMHA and DCS staff.
The Application for Eligibility and Approval Process	As part of the initial individualized planning process and again at the time of annual renewal of the plan, questions related to settings compliance will be addressed and included in the DMHA Youth and Family Rights Attestation form, which includes all of the rights offered to all participants. DMHA plans to add a field on the Youth and Family Rights Attestation form to validate the compliance of the participants' setting.	Modify Attestation form.	August 16, 2016	Updated Attestation form	DMHA

<p>Ongoing Compliance</p>	<p>Field audits that include a review of the participant’s current living arrangement to ensure compliance.</p>	<p>DMHA will continue its current compliance reviews and monitoring activities to ensure continued compliance with the HCBS settings requirements. The audits include at least one of the following: a review of the case file, participation in a child and family team meeting or supervision between the Wraparound Facilitator and DMHA consultant. These reviews included a review of settings where services are provided as well as settings where participants reside.</p> <p>DMHA will draft a policy requiring that Wraparound Facilitators review any relocation of the participant to a new setting to ensure that the setting is compliant with HCBS settings requirements, and communicate that to DMHA when updating the participant’s demographic information.</p>	<p>On-going indefinitely. DMHA will continue its current compliance reviews and monitoring activities beyond March 2019 to ensure continued compliance with the HCBS settings requirements.</p> <p>Policies will be completed and in place by June 30, 2017.</p>	<p>Site review reports.</p> <p>Policies will be included in the PRTF Wavier and CMHW Provider Modules (manuals) and posted on the DMHA website.</p>	<p>Participants and families; Foster parents; Child Placement Agencies; Providers; Conflict free Wraparound Facilitators, DMHA and DCS staff.</p>
<p>Provider Training and Support</p>	<p>New providers/provider applicants will be given an understanding of compliant settings, both residential settings and service delivery settings, and will be able to demonstrate competency with these concept before approval as providers.</p>	<p>All providers must attend orientation training and service specific training; and an important piece of this training will include HCBS Settings Final Rule requirements. Demonstrated competency measures are included in DMHA trainings, and questions on this requirement will be included. Potential providers are required to pass the competency measure in order to be approvable as a provider.</p>	<p>Implemented by September 30, 2016. On-going indefinitely. DMHA will incorporate settings requirements into required training materials beyond March 2019 to ensure continued compliance with the HCBS settings requirements.</p>	<p>DMHA training materials and competency measures.</p>	<p>DMHA, DMHA HCBS Providers.</p>
<p>Provider Training and Support</p>	<p>Existing providers will be given an understanding of the final rule and compliant</p>	<p>DMHA will conduct a required webinar for existing providers where they will be able to review the requirements</p>	<p>Implemented by September 30, 2016.</p>	<p>Webinar recording.</p>	<p>DMHA, DMHA HCBS Providers.</p>

	residential and service delivery settings.	and ask questions of DMHA, both during the webinar, and as needed afterward to ensure understanding.			
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SECTION 4: KEY STAKEHOLDERS AND OUTREACH

DMHA has posted a copy of the Statewide Transition Plan to its website and sent emails to notify stakeholders when it was available for review and public comment. Stakeholders include family advocacy agencies, community mental health centers, persons with lived experience, youth and family participants, state agencies, community services agencies and individual providers. DMHA also receives input from families by way of the Indiana Systems of Care Youth and Family Subcommittee, a body which approves and provides input to all new DMHA Youth policies related to programming, including policies generated as a result of the STP.

DIVISION OF MENTAL HEALTH AND ADDICTION – ADULT (DMHA-A)
HCBS Programs
Behavioral and Primary Healthcare Coordination (BPHC) – 1915(i)
Adult Mental Health Habilitation (AMHH) – 1915(i)

Update July 2016: The DMHA HCBS Adult Programs portion of the STP has been modified from the version published for public comment and submitted to CMS in April 2016 as follows:

- 1) Publication date of February 25, 2016 for both the Adult Mental Health Habilitation Provider Module and Behavioral and Primary Healthcare Coordination Services Provider Module was added to the DMHA-A Systemic Assessment Crosswalk table
- 2) Updated number of settings assessed and number of settings that fall into each compliance category, based on data collected through June 30, 2016
- 3) Modified and extended timeframes for data collection and analysis
- 4) Provided links to assessment tools used for data collection
- 5) Reorganized and expanded Section 3: Remedial Strategies to include:
 - a. New Subsection 3-A: Remediation Action Plans
 - b. New Subsection 3-B: Site-Specific Remediation Methodology and Milestones
 - c. Defined timeframes for required member transitions
 - d. Added description for how settings will be designated “Unable to Fully Comply” and established timeframes and remediation steps for those settings
- 6) Added information regarding content of evidence packets submitted for heightened scrutiny, and extended timeframe for submission of evidence packets from March 31 to June 30, 2017, to permit ample time for required public comment

Update January 2016: The DMHA HCBS Adult Programs portion of the STP has been modified from the original version published for public comment and submitted to CMS in 2014 as follows.

- 1) The sections have been expanded and reorganized to align with the order of topic areas included in the CMS letter sent to Indiana on October 8, 2015. Table of contents has been updated and sections added in the updated STP
- 2) A new definition for provider owned, controlled, or operated residential settings has been incorporated
- 3) The Section 2 Heading was changed; deleted Proposed Remedial Strategies and replaced it with Systemic Assessments
- 4) In Section 2 of the initial STP document submitted in December 2014, the Proposed Remediation DMHA Adult table was deleted and replaced with a narrative description of the identified setting types, systemic assessment, the site-specific assessment plan, and remedial strategies, and on-going monitoring of compliance
- 5) Estimates have been updated, using more recent information, with regard to: program enrollment numbers, number of identified setting types, number of HCBS members expected to be impacted by the federal regulations
- 6) An updated systemic assessment was completed
- 7) Revised site-specific assessment plans and timelines are included

Background

The Division of Mental Health and Addiction (DMHA) sets care standards for the provision of mental health and addiction services to Hoosiers throughout Indiana. DMHA is committed to ensuring that clients have access to quality services that promote individual, family and community resiliency and recovery. The division also certifies all community mental health centers (CMHCs) and addiction treatment services provider agencies.

Indiana has two CMS approved 1915(i) HCBS programs for adults with serious mental illness: Adult Mental Health Habilitation (AMHH; SPA 3.1-I [TN 12-003]) and Behavioral and Primary Healthcare Coordination (BPHC; SPA 3.1-I [TN 13-013]). AMHH and BPHC are community-based programs, designed with the expectation and focus on ensuring members have access to necessary supports and services for them to be engaged in and be an active part of their community, alongside and with the same opportunities as their fellow community members who do not have a disability. These programs’ services, per the CMS-approved SPAs, are required to be delivered in community settings, not institutional settings. Participation in each of these programs is voluntary, and enrolled individuals choose if, when and where they receive AMHH/BPHC services.

Statewide there are 25 DMHA-certified community mental health centers (CMHCs) who are the exclusive providers of AMHH and BPHC services in Indiana.

Adult Mental Health Habilitation (AMHH) is a comprehensive service program which provides community-based opportunities for adults with serious mental illness or co-occurring mental illness and addiction disorders who may most benefit from keeping or learning skills to maintain a healthy and safe lifestyle in the community. AMHH was implemented November 1, 2014, and consists of nine services which are individually selected, approved, and delivered to meet an enrolled member's individualized service needs and preferences.

Behavioral and Primary Healthcare Coordination (BPHC) consists of one service, which focuses on coordination of healthcare services to manage the healthcare needs of the individual. BPHC includes logistical support, advocacy and education to assist individuals in navigating the healthcare system. BPHC consists of activities that help participants gain access to needed health (physical and behavioral health) services, manage their health conditions such as adhering to health regimens, scheduling and keeping medical appointments, obtaining and maintaining a primary medical provider and facilitating communication across providers. Direct assistance in gaining access to services, coordination of care within and across systems, oversight of the entire case and linkage to appropriate services are also included. BPHC was implemented June 1, 2014.

Per CMS, DMHA is required to conduct at least annual on-site quality assurance/quality improvement (QA/QI) visits with each approved provider of AMHH and BPHC services, in order to ensure that program standards are being met. DMHA plans to incorporate monitoring of HCBS compliance during these scheduled QA/QI visits, to ensure ongoing compliance of these programs with the federal HCBS final rule.

Settings Included in the Statewide Transition Plan

Residential settings: Members who receive AMHH and/or BPHC services are categorized as living in one of two kinds of residential settings: Provider Owned, Controlled, or Operated (POCO) settings, and non-POCO settings.

POCO residential settings, as defined by CMS, are those settings in which an individual resides that are specific physical places that are owned, co-owned, and/or operated by a provider of HCBS.

In the December 2014 version of this STP, four types of DMHA-certified residential facilities for adults were identified: alternative family homes for adults (AFA), transitional residential living facility (TRS), semi-independent living facilities (SILP), and supervised group living (SGL). Each of these DMHA-certified residential facilities meets the definition of a POCO residential setting. However, the designation as a POCO residential setting is not limited to only DMHA-certified residential facilities. AMHH/BPHC providers in Indiana can own, control, or operate other types of residential settings.

Non-POCO residential settings are those for which there is no financial relationship between the provider agency and the property owner. These include private homes owned/leased by the member or the member's family or friends, as well as apartments, condominiums, multi-family/multi-resident homes (duplexes and boarding homes, for example), manufactured homes, and other types of congregated residences leased by the member or the member's family or friends from a property owner who has no financial relationship with an HCBS provider agency.

Non-residential settings: While some AMHH and BPHC services may be delivered in the member's home/place of residence, some can be (or are required to be) provided at various locations throughout the community. These community locations may include non-institutional, non-residential public settings (restaurants, libraries, service centers, stores, etc.) which are available to everyone in the community, and are therefore compliant with the federal HCBS Final Rule. Some of the activities permitted under AMHH and BPHC may be delivered in a provider-operated non-residential community setting, typically an outpatient community-based clinic operated by the provider agency.

The AMHH Adult Day Service may not be delivered in a member's home or residential setting, or an institutional setting. The intent of the AMHH Adult Day Service is to maximize community access and integration for the member, by providing opportunities to participate in community activities to develop, enhance, and maintain previously learned social and daily living skills. Adult Day Service is typically delivered in a provider-operated non-residential setting which may or may not be co-located with an outpatient community-based clinic operated by the provider agency.

SECTION 1: SYSTEMIC ASSESSMENT

From March through September 2014 the Family and Social Services Administration Division of Mental Health and Addiction (DMHA), with the Office of General Counsel (OGC) and the Office of Medicaid Policy and Planning (OMPP), completed a preliminary review and analysis of all settings where HCBS services are provided to BPHC members. The analysis included a review of Indiana Administrative Code, program policy, provider manuals, and the CMS approved 1915(i) State Plan Amendments. Through this process, DMHA determined that all services offered by the **Adult Mental Health Habilitation (AMHH) Services program and the Behavioral and Primary Healthcare Coordination (BPHC) program** fully complied with the regulatory requirements because they are individualized services provided in a community-based setting or in the member’s private home.

Since the original systemic assessment occurred in 2014, prior to full implementation of the AMHH and BPHC programs, DMHA undertook a second systemic review of State standards for residential and non-residential settings, and cross-walked those standards with the federal requirements for HCBS. The second systemic review took place in January 2016, and the results are presented in the DMHA-A Systemic Assessment Crosswalk table. DMHA has determined that all State standards for both residential and non-residential settings remain in full compliance with the federal HCBS Final Rule.

DMHA-A Systemic Assessment Crosswalk

Final Rule Setting Type	Final Rule 42 CFR 441.710(a)(1)	Applicable Indiana Code and Program Policy	Compliance with Final Rule? Y/N/Silent	Remediation Timeline	Ongoing Compliance Assurances
All settings (residential and non-residential)	(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(a)(6) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All settings (residential and non-residential)	(ii) 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.	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(a)(6) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8, Section 3(d) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All settings (residential and non-residential)	(iii) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.

Final Rule Setting Type	Final Rule 42 CFR 441.710(a)(1)	Applicable Indiana Code and Program Policy	Compliance with Final Rule? Y/N/Silent	Remediation Timeline	Ongoing Compliance Assurances
		Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016) BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All settings (residential and non-residential)	(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All settings (residential and non-residential)	(v) Facilitates individual choice regarding services and supports, and who provides them.	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 3(d) Adult Mental Health Habilitation Provider Module : Section 7 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 3(d)(2) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.

(vi) In a provider-owned or controlled residential setting, in addition to the above qualities at paragraphs (a)(1)(i) through (v) of this section, the following additional conditions must be met:

All provider owned, controlled, or operated residential settings	(A) 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	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
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Final Rule Setting Type	Final Rule 42 CFR 441.710(a)(1)	Applicable Indiana Code and Program Policy	Compliance with Final Rule? Y/N/Silent	Remediation Timeline	Ongoing Compliance Assurances
	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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law;	BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All provider owned, controlled, or operated residential settings	(B) Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors; (2) Individuals sharing units have a choice of roommates in that setting; and (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All provider owned, controlled, or operated residential settings	(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time;	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
All provider owned, controlled, or operated residential settings	(D) Individuals are able to have visitors of their choosing at any time;	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A)		Systemically complies. Remediation	Review policies every 6

Final Rule Setting Type	Final Rule 42 CFR 441.710(a)(1)	Applicable Indiana Code and Program Policy	Compliance with Final Rule? Y/N/Silent	Remediation Timeline	Ongoing Compliance Assurances
		Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	strategy not needed.	months for compliance.
All provider owned, controlled, or operated residential settings	(E) The setting is physically accessible to the individual	AMHH: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.6 Section 4(6)(A) Adult Mental Health Habilitation Provider Module : Section 2 and Section 6 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.
		BPHC: IC 12-8-6.5-5 ; IC 12-15 405 IAC 5-21.8 Section 4(4)(A) Behavioral and Primary Healthcare Coordination Services Provider Module : Section 4 and Section 12 (published February 25, 2016)	Y	Systemically complies. Remediation strategy not needed.	Review policies every 6 months for compliance.

SECTION 2: SITE SPECIFIC SETTING ASSESSMENT

Since the initial 2014 Statewide Transition Plan was published and submitted, DMHA’s experience has grown with regard to the implementation, operation, monitoring, and oversight of the AMHH and BPHC programs. DMHA’s understanding of the federal HCBS Final Rule and its impact on the adult 1915(i) SPA programs has evolved, as well. These changes, along with a CMS request for additional information, created the need for a revised DMHA-A plan to conduct site-specific assessments for settings affected by the HCBS final rule. DMHA is implementing separate site-specific assessment plans for POCO residential settings, non-POCO residential settings, and other non-residential settings.

Section 2-A: Estimated Number of Settings That Fall into Each HCBS Compliance Category

DMHA initially identified 164 POCO residential settings throughout the state of Indiana, based on a provider self-assessment conducted between September 2015 and January 2016. DMHA preliminarily estimated that most of these settings would require some degree of remediation to come into full compliance with HCBS Final Rule. After the provider self-assessment process, the total number of identified POCO residential settings reached 177, as several providers identified additional POCO residential settings and some members reported POCO residential settings that providers had not previously identified. After completion of data collection, validation using both provider and member data, and the data analysis in June 2016, DMHA determined there were seven (7) duplications and errors in identifying POCO residential settings. The final number of identified POCO residential settings is 170.

The number of POCO residential settings that fall into each of the four HCBS compliance categories (fully complies, needs modifications to comply, cannot comply, presumed institutional but targeted for heightened scrutiny) is presented below.

- Fully Compliant with HCBS Settings requirements: 1
- Needs Modifications to become fully compliant with HCBS settings requirements: 130
- Potential Presumed Institutional settings: 39
- Cannot become fully compliant with HCBS Settings requirements: Based on preliminary review, DMHA anticipates less than 10% will fall into this category (this will be determined through the STP process)

Beginning April 1, 2016, DMHA implemented a comprehensive screening, assessment, and remediation plan for non-POCO settings. Between April 1 and June 30, 2016, a total of 1238 applicants for AMHH and BPHC (for initial or renewed eligibility) indicated that they lived in non-POCO settings. Of the 1238 members, only one reported that they currently live in a non-POCO setting which does not already fully comply with HCBS settings requirements. The breakdown is as follows:

- 1193 live in private homes, presumed to be fully compliant with HCBS settings requirements
- 41 reported living in a non-POCO residential setting other than a private home (the identified not fully compliant setting belonged to this group)
- 4 reported that their living situation meets criteria for homelessness

Prior to data collection on non-POCO residential settings, DMHA initially estimated that there were 2528 non-POCO settings where AMHH and BPHC members were residing. Based on the data received during a three-month period, and given that BPHC has a six-month eligibility period (AMHH has a twelve-month eligibility period, but has significantly lower enrollment when compared to BPHC), DMHA estimates that 2476 members enrolled in AMHH and BPHC reside in non-POCO residential settings. The vast majority of these non-POCO settings are private homes, which may be presumed to be fully compliant with HCBS settings requirements. DMHA expects that very few of the non-POCO residential settings which are not private homes will require modifications in order to become fully compliant with the federal HCBS Final Rule. DMHA initially identified 143 POCO non-residential settings throughout the state of Indiana where HCBS services may be delivered, based on locations listed on provider websites. As of June 27, 2016, 182 POCO non-residential settings have been identified by provider self-assessment. This number is expected to increase as additional data is received. DMHA anticipates all POCO non-residential settings are currently or will come into full compliance with the federal HCBS Final Rule.

Section 2-B: Methodology and Milestones for Site-Specific Assessments: POCO Residential Settings

All identified POCO residential settings were assessed for preliminary compliance with the federal HCBS Final Rule by provider self-assessment, and the provider self-reports validated by a follow-up cross-walked resident survey. All POCO residential settings were screened for institutional qualities by DMHA desk audit.

A comprehensive provider self-assessment tool was developed by DMHA, using the CMS “Exploratory Questions to Assist States in Assessment of Residential Settings” document from the Settings Requirements Compliance Toolkit on the medicaid.gov HCBS website. The self-assessment tool was made available to agency staff at each of the 25 CMHCs via an open-source online data collection service. CMHC’s were instructed to complete one self-assessment for each of their POCO residential settings, regardless of whether there are any members enrolled in AMHH or BPHC currently residing there. Provider self-assessments were completed between September 2015 and June 2016. Each of the 25 community mental health centers (CMHCs), who are the exclusive providers of AMHH and BMHC services, responded to the self-assessment survey (100% response rate). 164 settings were initially identified statewide (that number has grown to 170), and features of those settings as they pertain to HCBS requirements were reported.

A resident survey was developed by DMHA which closely mirrors the items on the provider self-assessment tool, but worded in a way intended to capture the resident’s experience living in the POCO residential setting. Resident surveys were distributed and returned between February and June 2016. An on-line survey tool was accessible by agency staff at each of the 25 CMHCs in Indiana. Each CMHC was required to facilitate the opportunity for every resident living in each of the CMHC’s POCO residential settings to complete and return the survey to DMHA during the availability period. Each CMHC was also required to ensure that residents have the means and opportunity to complete the resident survey in private, either electronically or by printed hard copy. Surveys were completed and submitted electronically, or printed and distributed to residents along with envelopes marked “HCBS Resident Survey - 1915(i) State Evaluation Team.” A survey drop box was made available as a collection point at each POCO residential setting, and also at each CMHC clinic location. Providers

batched and sent the anonymous survey envelopes to DMHA. Resident survey responses, whether submitted electronically or by hard copy, were reviewed and tabulated only by DMHA staff.

Validation of the provider self-assessment occurred by cross-walking the resident survey responses with the provider self-assessments. The responses from both provider self-assessment data and resident surveys were sorted into ten (10) compliance categories, which relate directly to each of the required qualities of home and community-based settings and the additional conditions for POCO residential settings. These activities were completed June 22, 2016. Compliance categories for which the provider response and the resident response(s) were in agreement (whether or not the federal HCBS Final Rule requirement is met) were accepted as valid. Compliance categories for which the provider response and the resident response were not in agreement that the federal HCBS Final Rule requirement is met were preliminarily designated as not compliant. Verification of areas of disagreement between the provider self-assessment and resident survey responses will be completed through desk audit, follow-up contact with the provider, and/or DMHA site visits (to include resident interviews) beginning July 1, 2016, and will be completed by June 30, 2017.

Screening for institutional qualities was completed for each identified POCO residential setting prior to or during the validation cross-walk for the provider self-assessments and resident surveys. DMHA staff entered the physical address for each identified POCO residential setting into MapQuest, Google Maps, or another Internet open-source mapping and satellite imaging service. The locations were cross-referenced with the street addresses of known publicly or privately operated facilities that provide inpatient institutional treatment, and proximity to other residences, businesses, public transportation services, and other community features was assessed.

Preliminary Compliance Category Assignment for POCO Residential Settings

Each identified POCO residential setting was preliminarily assigned to one of three HCBS compliance categories (Fully Compliant, Needs Modifications, and Potential Presumed Institutional), and the results communicated to provider agencies between May 27, 2016 and June 22, 2016.

1 of 170 assessed POCO residential settings was preliminarily designated as “Fully Compliant”, based on the following criteria:

1. There were no qualities of the setting that render it presumptively institutional, as defined in 42 CFR 441.710(a)(2)(v)
2. The provider self-assessment and the resident survey(s) were in agreement that each of the five qualities of home and community-based settings specified in 42 CFR 441.705(a)(1)(i-v) are present (5 out of 5)
3. The provider self-assessment and the resident survey(s) were in agreement that each of the five additional conditions for POCO residential settings specified in 42 CFR 441.705(a)(1)(vi) are present (5 out of 5)

130 of 170 assessed POCO residential settings were preliminarily designated as “Needs Modifications” based on the following criteria:

1. There were no qualities of the setting that render it presumptively institutional, as defined in 42 CFR 441.710(a)(2)(v), AND
2. The provider self-assessment and the resident survey(s) were not in agreement that each of the five qualities of home and community-based settings specified in 42 CFR 441.705(a)(1)(i-v) are present (less than 5 out of 5), OR
3. The provider self-assessment and the resident survey(s) were not in agreement that each of the five additional conditions for POCO residential settings specified in 42 CFR 441.705(a)(1)(vi) are present (less than 5 out of 5)
4. The provider self-assessment and the resident survey(s) were in agreement that the residential setting was not in compliance with at least one of the five HCBS qualities specified in 42 CFR 441.705(a)(1)(i-v) and/or the additional five conditions for POCO residential settings specified in 42 CFR 441.705(a)(1)(vi).

39 of 170 assessed POCO residential settings were preliminarily designated as “Potential Presumed Institutional,” based on initial screening results which indicated that one or more of the three characteristics of a setting presumed to have qualities of an institution (as defined in 42 CFR 441.710(a)(2)(v)) was or may be present. The breakdown of the 39 “Potential Presumed Institutional” settings by prongs is:

- Prong 1: the setting is located in a building that also provides public or private institutional care – 3
- Prong 2: the setting is located on the grounds of or adjacent to a public institution, as defined in 42 CFR 435.1010 – 10
- Prong 3: the setting has the effect of otherwise isolating individuals receiving Medicaid HCBS from the greater community of individuals not receiving Medicaid HCBS – 26

Each “Potential Presumed Institutional” settings will be scheduled for a joint DMHA/provider agency on-site assessment to definitively establish whether the setting is presumed institutional, and to determine whether DMHA will submit evidence for heightened scrutiny or allow the institutional presumption to stand. The on-site assessments and final determination for all “Potential Presumed Institutional” POCO residential settings will be made and communicated to the provider agency no later than February 1, 2017.

Section 2-C: Methodology and Milestones for Site-Specific Assessments: Non-POCO Residential Settings

Non-POCO residential settings began to be assessed in April 2016 using a DMHA-developed HCBS Residential Setting Screening Tool (RSST), and by implementing modifications to the online application process for the adult 1915(i) programs. By using this approach, initial assessment of all non-POCO residential settings will have been completed no later than March 31, 2017. For non-POCO residential settings which are identified through this process as not being fully compliant with the federal HCBS Final Rule, DMHA will initiate the remediation process.

Beginning April 1, 2016, the DMHA-developed HCBS Residential Setting Screening Tool (RSST) is required to be completed collaboratively by the member and their provider during every initial and renewal application for AMHH and/or BPHC eligibility. The screening tool helps identify the type of setting in which an applying member lives, and whether that setting has been determined to meet or not meet federal HCBS requirements (including settings which may have qualities of an institution). The characteristics of a non-compliant setting preventing it from being fully compliant with federal HCBS setting requirements are identified, and the information used by DMHA and the provider agency to initiate the appropriate remedial activities to bring the setting into full HCBS compliance.

An attestation on the application must be checked, indicating: a) the RSST has been completed with the member, and b) the member was provided an HCBS information pamphlet, before the application may be submitted (all AMHH and BPHC applications are submitted electronically). The consumer-signed and dated screening tool must be maintained in the member’s medical record. To ensure the accuracy and completeness of the HCBS settings compliance attestations, review of the signed and dated RSST in randomly selected member clinical charts will be performed by the 1915(i) State Evaluation Team during on-site reviews (not less than annually) of provider agencies for QA/QI monitoring.

Along with the required HCBS Residential Setting Screening Tool, a modification to the AMHH and BPHC applications was introduced, to help identify specific areas which are not in compliance with the federal HCBS Final Rule. The provider agency and member completing the application are required to select from the following list of community-based residential setting descriptions:

- Homeless
- Private/Independent Home
- A non-POCO residential setting that is fully compliant with the HCBS final rule
- A non-POCO residential setting that is not fully compliant with the HCBS final rule
- A POCO residential setting that is fully compliant with the HCBS final rule
- A POCO residential setting that is not fully compliant with the HCBS final rule
- Potential Presumed Institutional

A narrative section below the residential choices requires a description of the residential setting selected. The instructions for this section have been amended for settings which are reported as not fully compliant with the HCBS Final Rule, to require documentation of which of the HCBS features specified in the Final Rule are not present at the selected setting, as indicated from the screening tool. This will furnish additional information for DMHA to identify non-compliant settings, and initiate the appropriate remediation process. If areas of non-compliance are indicated, DMHA will send a notice of non-compliance to the provider and member, to initiate the “Non-POCO Residential Settings Identified as Non-HCBS Compliant” remediation strategy described in Section 3.

Section 2-D: Methodology and Milestones for Site-Specific Assessments: Provider-Operated Non-Residential Settings

Non-residential settings in which some HCBS services are or are expected to be provided (for example, CMHC outpatient clinics, community rooms, etc.) were assessed by provider self-report between May 17, 2016 and June 27, 2016 (the timeframe for POCO non-residential assessment was changed from April 1-30, 2016, to May 17-June 27, 2016, based on

public comment from providers expressing concern about the compressed assessment schedule). As of June 27, 2016, 22 of 25 providers had submitted self-assessment data, identifying 182 POCO non-residential settings statewide. For all POCO non-residential, non-institutional settings which are not fully compliant with the federal HCBS Final Rule, according to the provider self-report, DMHA will initiate the remediation process.

A combined identification and provider self-assessment tool was developed by DMHA, using the CMS “Exploratory Questions to Assist States in Assessment of Non-Residential Home and Community-Based Services (HCBS) Settings” document from the Settings Requirements Compliance Toolkit on the [medicaid.gov HCBS](http://medicaid.gov/HCBS) website. The self-assessment tool was made available to each of the 25 CMHCs via an open-source online data collection service (link: <https://www.surveymonkey.com/r/JGMM5Q3>) between May 17, 2016 and June 27, 2016. CMHCs were instructed to complete one self-assessment for each of the non-residential, non-institutional settings in which they deliver, or expect to deliver, AMHH and BPHC services. Based on the results of the provider self-assessment, each of the identified settings will be preliminarily designated “Fully Compliant”, “Needs Modifications”, or “Potential Presumed Institutional”. Designations will be made by DMHA and communicated to providers no later than July 15, 2016. For settings designated “Needs Modifications” or “Potential Presumed Institutional”, DMHA will initiate the remediation process. Settings designated “Fully Compliant” will begin to be validated on-site by the DMHA 1915(i) State Evaluation Team during scheduled SFY2017 QA/QI site visits.

For all setting types, final HCBS compliance designations will be made once all remediation activities (if required) are completed, and/or a determination has been made by CMS for “Presumed Institutional” settings which have been submitted for heightened scrutiny.

SECTION 3: REMEDIAL STRATEGIES

The original version of this STP contained tables describing proposed remediation activities and timelines for each of the previously identified DMHA-certified residential facilities and the AMHH Adult Day Service. As with the assessment plans, a need for developing a revised remediation strategy and timelines became evident since the initial version of this STP was submitted in December 2014.

All existing POCO residential settings that were preliminarily assessed to belong to an HCBS compliance category associated with a need for remediation (Needs Modifications and Potential Presumed Institutional) were identified and the designation communicated to provider agencies by June 22, 2016. All existing POCO non-residential, non-institutional settings that are initially assessed to belong to an HCBS compliance category associated with a need for remediation (Needs Modifications and Potential Presumed Institutional) will be identified and the designation communicated to provider agencies no later than July 15, 2016. Non-POCO residential settings which may not be fully compliant with federal HCBS requirements will be identified on an ongoing basis beginning April 1, 2016 and will be complete for all existing settings no later than March 31, 2017.

Proposed remedial actions for all identified settings will be both member-specific and site-specific, based on the type of setting and the preliminary compliance designations made by DMHA following collection of all data from providers and members. For all settings identified as requiring remediation, an action plan specifying required remediation activities and establishing a timetable for completion of required remediation actions will be developed by the responsible provider agency/CMHC, in partnership between DMHA and members enrolled in HCBS programs, their families/friends, guardians, and other persons chosen by the member. In response to a comment received during the public comment period, DMHA is assessing the most appropriate avenues to engage stakeholders and anticipates working with some or all of the following groups/organizations in the ongoing process of refining and implementing the STP: DMHA Consumer Council; Mental Health and Addiction Planning and Advisory Council (MHAPAC); NAMI Indiana; Indiana’s Key Consumer organization; Mental Health America, Indiana chapter (including the Mental Health Ombudsman program staff), Indiana Disability Rights, and the Indiana Council of Community Mental Health Centers.

Section 3-A: Remediation Action Plans

Two types of action plans will be used by DMHA and provider agencies to identify, monitor, and document completion of required remediation for HCBS settings: an HCBS Setting Action Plan and a Member Transition Plan.

HCBS Setting Action Plan: Settings which are not fully HCBS compliant, but for which the operating authority has agreed to complete modifications in order to bring the setting into full compliance, must submit an HCBS Setting Action Plan. DMHA will provide an HCBS Setting Action Plan template to the CMHC providing AMHH/BPHC services at that setting, to be used by the provider agency to address areas of non-compliance at that setting. DMHA requires that all remediation must be completed within 180 days of the agency receiving their Preliminary Compliance Designation (PCD) report. A one-time extension for the HCBS Setting Action Plan may be requested if there is clear documentation of extenuating circumstances which prohibit the plan from being completed within the designated timeframe. The CMHC must collaborate with the affected residents and their families/guardians/caregivers to complete the HCBS Setting Action Plan (coordinating with non-CMHC operating authorities, as needed), with information that details the activities the CMHC/operating authority will complete to remediate the areas of non-compliance and bring the setting into full HCBS compliance, specifies the person or party/parties responsible for implementing the modifications, and establishes a timeline for completion of all required modifications. Completed HCBS Setting Action Plans have been submitted by 19 of 25 providers as of July 1, 2016. The remainder are due to DMHA for review no later than 30 calendar days from the date the CMHC was issued the preliminary plan.

Member Transition Plan: Some members may choose to make changes in their living setting or their person-centered treatment plan, if their current living setting is unable/unwilling to become fully compliant with the federal HCBS Final Rule. In these cases, a Member Transition Plan will be developed by the responsible provider agency, collaboratively with the member and their family/guardian/caretakers. Member Transition Plans will assist members and providers in identifying, exploring, and deciding what changes must be made as a result of HCBS compliance implementation, particularly with regard to continuation of HCBS and/or potential relocation from the member's current residence. The member's decision to discontinue receiving HCBS and continue to live at the HCBS non-compliant residential setting, or to relocate to an HCBS-compliant residential setting, must be documented on the Member Transition Plan. In response to a comment received during the public comment period, individuals for whom a Member Transition Plan is required will be provided contact information for advocacy groups, including the DMHA Customer Service Line, Indiana Disability Rights, and the Mental Health America (Indiana chapter) Mental Health Ombudsman program. The Member Transition Plan must be submitted to DMHA for review no later than 30 calendar days following notification to the member that their current residential setting will not become HCBS compliant.

Transition Option – Relocation: For members who opt to move to a fully compliant setting in order to continue to receive HCBS, the provider is required to assist the member in identifying other possible living setting options that are HCBS compliant and available to the member. The provider agency, member, and their family/guardian/caretakers will collaborate to determine the soonest possible/practical move date for the member. Transition from the current living setting must occur no later than 180 calendar days from the onset of the Member Transition Plan, and in all cases no later than March 31, 2018. A one-time extension for the HCBS Member Transition Plan may be requested if there is clear documentation of extenuating circumstances which prohibit the plan from being completed within the designated timeframe.

Transition Option – Discontinue Participation in HCBS: For members who choose to continue to live in an HCBS non-compliant setting and opt to discontinue participation in HCBS, the provider is required to assist the member in identifying and exploring other treatment options that may meet their needs. Transition from HCBS participation must occur no later than 180 days from the onset of the Member Transition Plan, and in all cases no later than March 31, 2018. A one-time extension for the HCBS Member Transition Plan may be requested if there is clear documentation of extenuating circumstances which prohibit the plan from being completed within the designated timeframe. A member will remain eligible for HCBS only while their Member Transition Plan is in effect. If the member continues to live in an HCBS non-compliant setting beyond the end date of their Member Transition Plan, the SET will end the member's program eligibility status in AMHH and/or BPHC HCBS programs. The member may apply for AMHH and/or BPHC eligibility determination at any time, however if not living in an HCBS compliant setting, eligibility and service authorization will be denied.

Section 3-B: Site-Specific Remediation Methodology and Milestones

Settings Designated “Unable to Fully Comply” With HCBS Settings Requirements

DMHA has not preliminarily designated any setting affected by the federal HCBS Final Rule as “Unable to Fully Comply”. DMHA's expectation is that most settings, given the opportunity to make required modifications or to submit evidence for

heightened scrutiny in order to become fully compliant with HCBS settings requirements, will do so. The designation of a setting as “Unable to Fully Comply” will only be made under one of the following four scenarios:

- A setting designated as “Needs Modifications” opts not to complete remediation
- A setting designated as “Needs Modifications” fails to complete required remediation by the timeframe specified in the HCBS Setting Action Plan
- A setting is designated “Presumed Institutional” and DMHA opts not to submit evidence for heightened scrutiny
- A setting designated “Presumed Institutional” for which CMS, after reviewing the evidence submitted for heightened scrutiny, determines that the setting is not home or community-based

For those settings designated “Unable to Fully Comply,” DMHA will notify the responsible CMHC within 7 calendar days of the date of designation. The responsible CMHC must notify all affected residents at the setting of the designation, and collaborate with those members and their family/guardians/caretakers, to develop and submit a Member Transition Plan within 30 calendar days of the date the CMHC was notified of the “Unable to Fully Comply” designation.

POCO Residential Settings Designated as “Needs Modifications”

DMHA issued Preliminary Compliance Designation (PCD) reports to the responsible CMHC of each POCO residential setting, informing the CMHC of the setting’s designation as “Needs Modifications” to become fully compliant with federal HCBS requirements. All notifications were made by June 22, 2016. The notification identified areas of non-compliance with federal HCBS requirements (as indicated by the validated site-specific assessment) and specified required actions of the CMHC to be completed within 30 calendar days from date of notification. The actions required to be completed within 30 calendar days of notification include: notification of affected members, decision to remediate or accept non-compliant designation, and submit either an HCBS Setting Action Plan or a Member Transition Plan.

The CMHC must notify affected residents (those currently enrolled in and receiving AMHH/BPHC services) that the setting has been determined not to be fully compliant with the HCBS final rule within 7 calendar days from the date of DMHA notification. Following the notification, the CMHC will decide whether to implement modifications to bring the setting into full compliance, or to accept the designation of the setting as HCBS non-compliant, and notify the affected member(s) of the decision. Providers who choose to perform modifications to bring the setting into full compliance will complete and submit an HCBS Setting Action Plan. DMHA will review the submitted plan and provide technical assistance as needed.

If a provider agency elects not to complete remediation at a setting, the agency must notify in writing both DMHA and affected members at the setting within 7 calendar days of the decision. Upon receipt of notification by the provider agency that remediation will not be undertaken, DMHA will designate the setting “Unable to Fully Comply.” The provider agency, together with the member and their family/guardian/caretaker, must complete and submit to DMHA a Member Transition Plan for each affected member at the setting within 30 calendar days of the date the provider agency notified DMHA of their intention not to pursue remediation.

If a provider agency does not complete remediation by the end of the designated timeframe (including any granted extensions), the HCBS Setting Action Plan will end and DMHA will designate the setting “Unable to Fully Comply.” DMHA will notify the provider agency of the designation within 7 calendar days of the expiration of the HCBS Setting Action Plan. The provider agency, together with the member and their family/guardian/caretaker, must complete and submit to DMHA a Member Transition Plan for each affected member at the setting within 30 calendar days of the date the provider agency was notified by DMHA that the setting was designated “Unable to Fully Comply.”

POCO Residential Settings Designated as “Potential Presumed Institutional”

DMHA issued Preliminary Compliance Designation (PCD) reports to the responsible CMHC of each POCO residential setting, informing the CMHC of the setting’s designation as “Potential Presumed Institutional”. All notifications were made by June 22, 2016. POCO residential settings preliminarily designated “Potential Presumed Institutional” will be scheduled for a joint DMHA/provider agency on-site assessment. The purpose of this on-site assessment is two-fold: (1) to establish whether the setting does in fact have qualities of an institution, and (2) if so, to determine whether DMHA will submit evidence for heightened scrutiny or allow the institutional presumption to stand. The on-site assessment will be completed no later than December 31, 2016, either in conjunction with regularly scheduled DMHA 1915(i) State Evaluation Team QA/QI visits or via a site visit specifically to address the “Potential Presumed Institutional” designation. The final determination for

all “Potential Presumed Institutional” POCO residential settings will be made by DMHA and communicated to the provider agency no later than 15 calendar days from the date of the site visit.

If the identified setting does not have institutional qualities, based on the findings from the on-site assessment, the setting will be determined not institutional and reassigned to either the “Fully Compliant” or “Needs Modifications” categories (and, if required, referred for remediation). If the identified setting does have institutional qualities, based on the findings from the on-site assessment, the setting will be designated “Presumed Institutional” and one of the following remediation plans will be implemented.

Targeted for heightened scrutiny: DMHA will assess how heightened scrutiny will be addressed once on-site assessments of “Potential Presumed Institutional” settings has begun (scheduled to begin July 20, 2016). DMHA anticipates that, for those settings for which evidence for heightened scrutiny will be submitted, evidence packets will be completed and submitted by June 30, 2017. Evidence packets for heightened scrutiny will seek to establish that the setting does not have qualities of an institution, and does have qualities of a home or community-based setting.

Information included in the evidence packets for Prong 1 and Prong 2 settings can include, but is not limited to:

- Information clarifying that there is a meaningful distinction between the facility and the community-based setting, such that the latter is integrated in and supports full access of individuals receiving HCBS to the greater community
- Information establishing that the services provided to the individual at the setting, and activities in which each individual participates at the setting, are engaged with the broader community

Information included in the evidence packets for Prong 3 settings can include, but is not limited to:

- Evidence that the setting is integrated in the community to the extent that persons without disabilities in the same community would consider it a part of their community and not associate the setting with the provision of services to persons with disabilities
- Evidence that beneficiaries participate regularly in typical community life activities outside of the setting to the extent the individual desires, and those activities are engaged with the broader community

Examples of documentation to be included in evidence packets can include:

- Observations from on-site reviews
- Licensure requirements or other state regulations
- Residential housing or zoning requirements
- Proximity to/scope of interactions with community settings
- Provider qualifications for HCBS staff
- Service definitions that explicitly support setting requirements
- Evidence that setting complies with requirements of POCO settings
- Documentation in the person-centered treatment plan that individual’s preferences and interests are being met
- Evidence that the individual chose the setting from among setting options, including non-disability specific setting
- Details of proximity to public transport or other transportation strategies to facilitate integration
- Pictures of the site and other demonstrable evidence
- Other information designed to capture beneficiary experience at the setting
- Comments submitted by the public during the public comment period

Presumption allowed to stand: Settings designated “Presumed Institutional” for which DMHA and the CMHC do not intend to provide evidence for heightened scrutiny to rebut the presumption will be surveyed by the CMHC, to determine whether there are any members receiving AMHH or BPHC services who reside there at the time of the determination. If there are AMHH/BPHC-enrolled members living in one of these designated settings, the CMHC must notify affected residents that the setting has been determined not to be fully compliant with HCBS Final Rule

within 7 calendar days from the date of notification. The CMHC, together with the affected member(s) and their family/guardian/caretaker, will initiate a Member Transition Plan and submit it to DMHA within 30 calendar days.

Non-POCO Residential Settings Identified as Non-HCBS Compliant

Non-POCO residential settings which are not fully compliant with federal HCBS guidelines will be identified on a case-by-case basis, using the screening and assessment process embedded in the AMHH and BPHC application process beginning April 1, 2016. (As of July 18, 2016, only one setting statewide has been identified by the reporting provider agency as non-POCO residential not fully compliant with HCBS settings requirements. That setting is in the process of further assessment to determine need for remediation.) DMHA will inform the provider of a member residing in a non-POCO residential setting of that setting's designation as not fully compliant with federal HCBS requirements within 15 calendar days of the DMHA determination. The notification will identify areas of non-compliance with federal HCBS requirements as reported on the AMHH or BPHC application and specify required actions of the CMHC to be completed within 45 calendar days from date of notification. The required actions will include:

- Notification of affected members,
- Notification of the owner, landlord, property management company, or other party responsible for the setting (the Setting Operating Authority, or SOA) of the determination that the setting is not fully compliant with federal HCBS guidelines,
- Conduct an on-site assessment and meeting with the SOA and member,
- Ascertain and report to DMHA the SOA's decision to remediate or accept the non-compliant designation, and submit either the SOA's HCBS Setting Action Plan or a Member Transition Plan.

Within 7 calendar days of the DMHA notification, the CMHC is required to notify the member and the SOA of the determination that the setting is not fully compliant with federal HCBS guidelines. Within 45 calendar days of the DMHA notification of a non-compliant non-POCO residential setting, the CMHC will facilitate an on-site meeting with the member(s) and the SOA. The purpose of this meeting is to:

- Conduct an on-site assessment of the setting and assess the status of all identified non-compliant areas and update the setting assessment if needed.
- Determine whether there are clinical needs that support no remediation necessary (must document it in the member's care plan), and update the setting assessment if needed.
- Educate (verbally and in writing) the SOA and member about HCBS requirements, importance of remediation, and consequences if not remediated. If the setting is remediated to full compliance, the member may continue to receive HCBS while living in the setting. If the setting is not remediated and brought into full compliance with HCBS standards, the member must decide whether they will relocate to a HCBS compliant living setting and continue receiving HCBS, or remain in the HCBS non-compliant setting and no longer receive HCBS.
- Ascertain and report to DMHA the SOA's decision to remediate or accept the non-compliant designation.
- If the SOA agrees to take remedial action to bring the setting into full HCBS compliance, the CMHC will collaborate with the member and SOA to develop the SOA's HCBS Setting Action Plan.

The completed SOA's HCBS Setting Action Plan must specify the identified areas of non-compliance, the activities the SOA will complete to remediate the areas of non-compliance, who is responsible for completing each remedial action, and a timeline for completion to bring the setting into full HCBS compliance. Required remediation actions are expected to be completed within 180 calendar days of the date the CMHC submits the Setting Action Plan to DMHA. A one-time extension for the SOA's HCBS Setting Action Plan may be requested if there is clear documentation of extenuating circumstances which prohibit the plan from being completed within the designated timeframe. The SOA's HCBS Setting Action Plan will be submitted to DMHA within 45 calendar days of DMHA notification of noncompliance. DMHA will review the submitted plan and provide technical assistance as needed. The CMHC is responsible for reporting monthly to DMHA on the SOA efforts and progress toward meeting the milestones and timelines established in the plan.

If an SOA elects not to complete remediation at a setting, the responsible provider agency must notify in writing both DMHA and affected members at the setting within 7 calendar days of the decision. Upon receipt of notification from the provider agency that remediation will not be undertaken, DMHA will designate the setting "Unable to Fully Comply". The provider agency, together with the member and their family/guardian/caretaker, must complete and submit to DMHA a Member Transition Plan for each affected member at the setting within 30 calendar days of the date the provider agency notified DMHA of the SOA's intention not to pursue remediation.

If an SOA does not complete remediation by the end of the designated timeframe (including any granted extensions), the SOA's HCBS Setting Action Plan will end and DMHA will designate the setting "Unable to Fully Comply". DMHA will notify the responsible provider agency of the designation within 7 calendar days of the expiration of the SOA HCBS Setting Action plan. The provider agency, together with the member and their family/guardian/caretaker, must complete and submit to DMHA a Member Transition Plan for each affected member at the setting within 30 calendar days of the date the provider agency was notified by DMHA that the setting was designated "Unable to Fully Comply".

Oversight of Remediation Activities and Milestones

DMHA will assess and monitor remediation activities and milestones through monthly provider reports, desk reviews, and site visits by the DMHA 1915(i) State Evaluation Team during scheduled QA/QI visits beginning in SFY2017. Per the 1915(i) SPA, DMHA is required to conduct at least annual on-site quality assurance/quality improvement (QA/QI) visits with each approved provider of AMHH and BPHC services, in order to ensure that standards for those programs are being met. DMHA is incorporating assessment of HCBS compliance into these scheduled QA/QI visits, to ensure and monitor ongoing compliance of these programs with the federal HCBS Final Rule. DMHA and a provider agency may schedule technical assistance specifically to address HCBS compliance at applicable settings.

SECTION 4: MONITORING OF SETTINGS

Ongoing monitoring of and compliance with HCBS requirements beyond the March 2019 implementation deadline will be facilitated by continuing the on-going requirement for an HCBS Residential Setting Screening Tool (RSST) to be completed in conjunction with all AMHH/BPHC applications and by integrating HCBS compliance activities with required 1915(i) quality assurance/quality improvement (QA/QI) on-site assessments. Each community mental health center (CMHC), as the exclusive provider of 1915(i) adult services, is required to participate in an on-site review of their AMHH and BPHC programs at least annually or more frequently as determined by the DMHA 1915(i) State Evaluation Team (SET). Integrating HCBS compliance monitoring will involve:

1. Physical assessment of POCO residential settings. Beginning in July 2016, during each scheduled CMHC QA/QI site visit, at least one randomly selected POCO residential setting will be visited by the SET. The on-site assessment will include verification of physical HCBS setting requirements and interview(s) with residents, to ensure their living and treatment experience incorporates the rights, freedoms, protections, and choices specified by HCBS requirements.
2. Physical assessment of POCO non-residential settings. Beginning in July 2016, during each scheduled CMHC QA/QI site visit, at least one POCO non-residential setting will be visited by the SET. The on-site assessment will include verification of physical HCBS setting requirements and interview(s) with members present at the setting, to ensure their service experience incorporates the rights, freedoms, protections, and choices specified by HCBS requirements. Priority will be placed on assessing provider-operated non-residential settings where the AMHH Adult Day Service is delivered.
3. Clinical documentation review. Beginning in July 2016, during each scheduled CMHC QA/QI site visit, verification of residential setting will be assessed, and the signed HCBS Residential Setting Screening Tool will be viewed.

SECTION 5: KEY STAKEHOLDERS AND OUTREACH

DMHA is working in partnership with members and advocates, providers and other stakeholders to create a sustainable, person-driven long-term support system in which people with mental illness have choice, control and access to a full array of quality services that assure optimal outcomes, such as independence, health and quality of life.

The programs and partnerships contained in this section are aimed at achieving a system that is:

- **Person-driven:** affords people with disabilities and/or chronic illness the opportunity to decide where and with whom they live, to have control over the services they receive and who provides the services, to work and earn money, and to include friends and supports to help them participate in community life.
- **Inclusive:** The system encourages and supports people to live where they want to live with access to a full array of quality services and supports in the community.

- **Effective and Accountable:** The system offers high quality services that improve quality of life. Accountability and responsibility is shared between public and private partners and includes personal accountability and planning for long-term care needs, including greater use and awareness of private sources of funding.
- **Sustainable and Efficient:** The system achieves economy and efficiency by coordinating and managing a package of services paid that are appropriate for the beneficiary and paid for by the appropriate party.
- **Coordinated and Transparent:** The system coordinates services from various funding streams to provide a coordinated, seamless package of supports, and makes effective use of health information technology to provide transparent information to members, providers and payers.
- **Culturally Competent:** The system provides accessible information and services that take into account people's cultural and linguistic needs.

In preparation for the transition plan, DMHA hosted three regional provider trainings in which state staff shared information pertaining to the comprehensive state plan. Since November of 2013, DMHA has shared the proposed HCBS requirements and their impact on providers of AMHH and BPHC services through webinars, technical assistance, and conference calls. Ongoing, DMHA will provide information about the HCBS State Transition Plan to and see feedback from providers, members, and stakeholder groups such as: DMHA's Mental Health and Addiction Planning and Advisory Council, NAMI, Key Consumers, Indiana Council of CMHC's, and Mental Health America, Indiana. DMHA will seek input from key stakeholders and work with them to assure members are aware of the transition plan and methods in which they can provide feedback and comments. DMHA will also continue these collaborations and partnerships with members and advocates, providers and other stakeholders beyond March, 2019 to ensure on-going communication and compliance with the HCBS settings rules.

PUBLIC INPUT
DIVISION OF AGING (DA)
HCBS Programs
Aged and Disabled (A&D) Waiver – 1915(c)
Traumatic Brain Injury (TBI) Waiver – 1915(c)

SUMMARY:

The Division of Aging (DA) solicited comments on the Statewide Transition Plan as it applies to the two 1915(c) programs; the Aged and Disabled (A&D) Waiver and the Traumatic Brain Injury (TBI) Waiver. The comments resulted in changes to pages 6-12, 15-20, and 21.

PUBLIC COMMENTS:

Comment: The commenter believes that the criteria for food stamps should be changed. The commenter states that they have a hard time scraping enough money together for groceries but see people using their food stamps for soda pop and candy.

Response: This comment is not relevant to the transition plan however, the DA appreciates your comment and, we will share with the appropriate FSSA staff.

Comment: A commenter inquired about how the amended transition plan would affect licensure of Residential Care Facilities. Specifically, there is a concern that there seems to be uncertainty around licensure requirements relating to the waivers that have traditionally been characterized as more institutional. The commenter asks if DA is in the predevelopment, can DA guidance as to whether the concept (affordable assisted living), which caters to the lowest of income residents will meet the criteria? The commenter would like to review and discuss their intentions to see if the new rule changes will be a barrier to their new developments. Additionally, the commenter notes that Indiana is providing public notice through the Indiana register of newsletter disseminated by advocacy groups and trade organizations, list serves, and other electronic newsletters. The commenter requests access or to be directed to where they can locate this information so they can become more actively involved.

Response: Access to affordable assisted living services is a key component to increasing HCBS options for consumers who may otherwise be at risk of institutionalization. A workgroup will begin meeting in October to finalize standards in compliance with the settings rule. Those standards will be completed by early 2017. The Division will contact you directly about how you can become involved.

Comment: A commenter raised concerns that they believe Division of Aging presumes multiple waiver services are compliant with HCBS regulations. For example, the TBI Waiver offers supported employment opportunities to participants. The commenter expressed concern that these employment services, in some circumstances, may be delivered to participants in sheltered, non-competitive settings. The commenter encourages the Division to assess programs individually for compliance with the HCBS regulations. The commenter also questions the usefulness of the Person Centered Monitoring Tool (PCMT) and National Core Indicators (NCI) survey questions. The commenter cites issues with the yes-or-no responses and the thresholds inherent in certain questions (e.g., “In the last 90 days has the individual experienced harm and/or abuse that resulted in a report of any kind?”). The commenter believes a better-tailored survey could be developed, soliciting substantive information from waiver participants.

The commenter also raised questions about the assisted living portion of the STP as is currently written; however, the commenter understands that the Division is working toward a solution to permit individuals to continue receiving assisted living services without running afoul of the HCBS regulations. The commenter supports a solution in which the authority over and certification of assisted living providers is maintained by a single state agency. The commenter believes such a solution would streamline the resolution of assisted living issues, increase accountability, and decrease both bureaucratic gridlock and lay confusion.

Response: Thank you for your reminder about supported employment services. You are correct that DA has not addressed that and will add it to the plan. DA only has two consumers currently receiving supported employment services under the TBI waiver. This is a service and a set of providers that is shared with DDRS.

As they have considerably more consumers impacted DA will be following their lead in this area. In regard to the PCMT and NCI-AD tools, DA appreciates your concern about the format of the questions. DA will reach out to you directly for further review of these items and will consider changes to at least the PCMT which DA can control. On the NCI-AD, DA can suggest changes to the national advisory group and advocate for those as appropriate. Finally, thank for your recommendation regarding the certification process for assisted living providers. DA agrees that there are certainly benefits to eliminating duplication of effort as well as confusion from differing licensing and certification requirements and processes.

Comment: Regarding proposed mediation strategies, a commenter requested newly promulgated rules that grant waiver participants more expansive opportunity than offered by the draft rules. The commenter believes, as currently proposed, draft rules contain phrases like “to the fullest extent possible.” The commenter is concerned that providers may take advantage of this phrasing to deny waiver participants’ access to the community, deeming it impossible – whether because of funding, lack of transportation, or some other barrier. The commenter would like to see the Division diminish opportunities for providers to deny participant-directed requests.

Additionally, the commenter believes the draft rules would require case managers to “conduct at least two of the four required assessments in the home.” The commenter believes that this restriction limits participation in the community. For example, if a waiver participant is a full-time employee, the case manager may insist that the participant take time off of work to sit at home waiting for his or her arrival and conducting of the assessment. If assessments absolutely must be conducted in the home, the commenter would like to see the promulgated rule stipulate that the case manager must be available at times convenient for the waiver participant, including after-hours or on weekends.

Response: DA appreciates these notes related to the proposed rule language. As that draft rule is further revised, DA looks forward to working with the commenter and other stakeholders collaboratively on the final language.

Comment: The commenter expresses support for the Divisions’ intentions to create a more comprehensive plan regarding stakeholder involvement. The commenter expresses full support for any efforts by the Division to increase communication with and solicit feedback from waiver participants, individual caregivers, and advocacy agencies. The commenter believes that responsiveness to such feedback will significantly improve the provision of waiver services and give participants a greater sense of autonomy.

Response: DA appreciates commenters’ support and hopes to assemble the first meeting of DA’s advisory HCBS stakeholder group in October 2016 and is looking forward to the commenter’s participation in that group.

Comment: Regarding dementia training for caregivers, the commenter notes that DA has identified four services that are in provider owned settings: 1) Adult Day Services A&D and TBI waivers 2) Adult Family Care under the A&D and TBI Waivers 3) Assisted Living under the A&D and TBI Waivers 4) Structured Day Program (TBI). The commenter believes that individuals with dementia should be afforded the opportunity that support full access to the greater community. The commenter believes that it is important that paid caregivers in the above-mentioned provider owned settings receive proper training to care for patients with dementia so that full access to the greater community can be achieved based on the stage the patient is in the disease process. The commenter recommends that DA pursue adequate educational requirements for paid caregivers in these settings to meet this goal. The commenter recommends that training include the following:

- Understanding dementia: This would include brain anatomy and physiology, common co-morbidities, and types of dementia
- Proper communication with the patient and the family
- Personal Care and Behaviors: This would include bathing strategies, typical behavior triggers and redirection strategies, sleeping issues, eating and ideas for activities and boredom.
- Safety and Environment: This would include caregiver and client safety, maximizing independence, and identifying environmental red flags.

Response: Thank you for your thoughts on dementia care training. While this topic is not directly part of the transition plan for compliance with the settings rule, it could certainly be a part of person centered planning efforts and alternative ways to address wandering and other issues encountered among those with dementia

diagnoses. The DA agrees that having a dementia-capable workforce is important to ensuring a high quality of care as well as compliance with the settings rule.

Comment: The commenter states that, in order to be compliant with the statewide transition plan, service plans must take into account personal preferences for activities, individualized schedules and routines and provide avenues for activities outside the service site to promote interaction with the general community. The commenter further notes that, as the disease process for dementia progresses, the service plan may need to be adjusted. For example, the client may reach the stage in the disease process where the outing in the general community may have to be in less crowded areas as the noise level and large number of people in the setting would upset the client. Therefore, the service plan must be modified accordingly to ensure that the individual can have access to the greater community while also addressing appropriate modifications for safety issues with wandering due to dementia.

Response: Thank you for your thoughts on dementia care training. While this topic is not directly part of the transition plan for compliance with the settings rule, it could certainly be a part of person centered planning efforts and alternative ways to address wandering and other issues encountered among those with dementia diagnoses. The DA agrees that having a dementia-capable workforce is important to ensuring a high quality of care as well as compliance with the settings rule.

Comment: With regard to adult family care (AFC) homes, the commenter notes that clients receive residential services in a family-like setting. AFC homes are approved to serve no more than four residents in a residential community with a live in caregiver. The commenter believes that the AFC home live-in caregiver should have the same training as staff providing Adult Day Services to develop activities and promote interaction with the general community. Further, the commenter believes that the AFC home must also implement the following standards to be compliant with the HCBS Transition Plan:

- The individual can have visitors at any time
- The individual controls his/her own schedule, including access to food at any time

Response: Thank you for your comments on AFC. The DA agrees that AFC providers must meet all of the requirements of a home and community-based setting.

Comment: With regard to AFC homes and the standard of visitors at any time, the commenter notes that a client with dementia experiences different stages in the disease process that will affect how he/she can have visitors at any time. The AFC caregiver will need to have the proper training to ensure that this standard is met in a manner that takes into consideration client's stage of dementia. For example, a client may reach a point in the disease process where visitors may have to be limited to a small group at a time and a quiet location since the large groups and an environment with a lot of background noise would be overwhelming. On the other hand, an individual in the early stages of dementia would be able to handle having a larger group of visitors in a public location in the general community.

Response: Thank you for your comments on AFC. The DA agrees that AFC providers must be dementia-capable and meet all of the requirements of a home and community-based setting.

Comment: With regard to AFC homes and the standard of individual control over his/her own schedule, including access to food at any time, the commenter notes that the live-in caregiver must have adequate dementia training to ensure that the client has access to food at any time but still meets the needs for proper nutrition. At each stage of the disease process, an individual with dementia may need more supervision to ensure that they eat regularly and the foods they eat afford him/her the proper nutrition. A trained caregiver knows how to strike the balance in meeting this standard while still ensuring that the clients eating and nutritional needs are met during each stage of the disease process.

Response: Thank you for your comments on AFC. The DA agrees that AFC providers would benefit from dementia-capable training and they must meet all of the requirements of a home and community-based setting.

Comment: Regarding assisted living, the commenter notes that, in this setting, clients receive residential services offering an increased level of support in a home or apartment-like setting. As mentioned in the Transition Plan, assisted living facilities are somewhat isolating as they provide a full range of services within a facility. Eighty-four assisted living locations were surveyed as part of the site assessments. Of those 84 locations, a total of 27 (15 co-located to nursing facilities and 12 not collocated) have secure memory care. Twenty-four sites were not co-located and did not have a secure memory care unit.

The comments that we have previously made for ADS and AFC providers apply to this section. The State Transition Plan has the standard that Assisted Living providers must ensure that the setting provides individual rights of privacy, dignity and respect and freedom from coercion and restraint.

Response: Thank you for your comments on Assisted Living (AL). The DA agrees that AL settings must meet all of the requirements of a home and community-based setting.

Comment: Regarding the standard for freedom from restraint, the commenter notes that a trained caregiver in dementia has knowledge and skills to identify typical behavior triggers and redirection strategies at each stage of the client's dementia. The trained caregiver also has the skills to promote client safety and environmental red flags. Therefore, the caregiver can ensure that the client is not improperly restrained in a residential setting and promote participation in activities within the facility and outside community while ensuring the client's safety.

Response: Thank you for your comments on AFC. The DA agrees that AL settings must have a dementia-capable staff and meet all of the requirements of a home and community-based setting.

Comment: The commenter notes that Structured Day Programs provide activities and rehabilitative services provided in a group setting. DA has indicated that they have not yet assessed SDP to determine their level of compliance with the final rule. At this time, the commenter does not have any public comments regarding dementia training for staff in these settings.

Response: Thank you for your comments.

Comment: Regarding provider capacity and reimbursement, the commenter raised concerns that the current reimbursement and administrative procedures set by Indiana Medicaid impact provider capacity and create a lack of willing providers. Home health agencies have operated under a Medicaid rate cost reduction since SFY 2011. The commenter states that the Office of Medicaid Policy and Planning (OMPP) made the decision not to implement SFY2017 rates based on its recent review of the home health rate methodology and to ensure continuity of care and access to home health services for Medicaid members. The rates have been maintained as established for SFY 2016.

Response: This comment is not relevant to the transition plan however, DA appreciates your comment and, DA will share with the appropriate FSSA staff.

Comment: The commenter believes the plan should clearly state that assisted living communities licensed as residential care facilities will be allowed to participate in the waiver program. If DA is contemplating changing the current requirement that waiver providers be licensed by the Indiana State Department of Health (ISDH), the commenter requests that the transition plan explicitly address how providers are to be licensed and how it intends to resolve conflict between DA oversight and ISDH oversight.

Response: Thank you for your comment on the licensing requirements for AL providers. The DA will be adding additional details to the plan on the licensing and/or certification of AL providers in the waiver program.

Comment: The commenter states that, per the DA website, there is currently a moratorium on approving any new providers whose services are presumed institutional and require heightened scrutiny. Applications will not be accepted until CMS approves the transition plan and established a heightened scrutiny process. Per the website, new applications will be subject to heightened scrutiny and approval by CMS. The commenter requests that the transition plan address this moratorium, its impact on consumers, a proposed timeline for action on new applications and whether all new applications are subject to heightened scrutiny and approval by CMS.

Response: Thank you for your comment on the provider certification process. The DA will be adding more details on the certification timeline to the plan.

Comment: The commenter states that, based on the transition plan, there are no assisted living providers in the state of Indiana who are fully compliant. Per the plan, at most there are 24 locations who are partially compliant. PCG assessors visited waiver communities this spring and subsequently did a presentation about their report. The report itself has not been

made available. The commenter requests that the PCG report be made available now rather than being available for public comment after the date on which comments for the transition plan closes.

Response: Thank you for your comment. While it is true that currently there is no AL provider who is fully compliant with the settings rule, the DA believes that many, if not most will be able to complete remediation during the transition period in order to become compliant. In regards to the site survey report, the results will eventually be posted online once the report and results are finalized.

Comment: The commenter states that detail about the heightened scrutiny process is lacking. The commenter expressed concern that the system may lack objective criteria for determining which communities meet criteria to participate in the program. The criteria cannot be "we will know it when we see it." The commenter requests the exact process and evaluation criteria be included and open for comment.

Response: Thank you for your comment on heightened scrutiny. More details will be added to the plan about the process.

Comment: The commenter states that the provision of assisted living services within the current A&D Waiver has long been tied to the provider being licensed as a Residential Care Facility (RCF) under regulations promulgated by the Indiana State Department of Health (ISDH). The DA's statement on RCF licensure, that the regulations "clearly force providers towards institutional characteristics" is not necessarily disagreed upon by RCF providers. However, the commenter states that the process described in the ASTP concerning coordination between the DA, ISDH, and provider groups on changes to the RCF licensure requirements is not as aligned as the ASTP appears to suggest.

Response: Thank you for your comment. The DA has had extensive conversation with ISDH and has participated in the ISDH provider workgroup conversations regarding changes to the RCF licensure requirements. DA has noted that modifications to that licensure impact all ALs, private pay and Medicaid waiver, in the state, while Medicaid waiver accounts for less than 15% of the licensed AL capacity in the state. There does not seem to be interest at ISDH or in the provider community for the overhaul to the RCF licensure that the settings rule would require for Medicaid HCBS participation. The DA agrees that it does not seem appropriate to significantly modify this licensure impacting what is predominantly a private pay market.

Comment: The commenter stated that, while the DA and ISDH have attended and participated in a provider-led effort to recommend amendments to the RCF regulations, it does not appear that either State agency wants to use the RCF licensure, as potentially amended, as the vehicle for oversight of assisted living providers in an HCBS program. The commenter further states that RCF providers have invested greatly over the years to comply with the RCF licensure requirements, and those that are looking to invest in Indiana to become assisted living waiver providers are also investing to meet that standard. The commenter believes that moving away from that standard, and creating a second one for HCBS purposes only, is inefficient and will put at risk substantial private capital that has been and continues to be invested. Instead, the commenter believes it would be beneficial for the State agencies to align on reform to the RCF licensure standard and how that standard is enforced/overseen, rather than have two separate standards for assisted living services. This leads to an open question as to what are "assisted living services", which the DA states are not necessarily services that require RCF licensure, or at least RCF licensure as it exists today. The commenter believes this question is critical to understanding how current A&D Waiver providers are to transition from the structure that today requires RCF licensure to a new system that is either an amended RCF licensure requirement or an entirely different oversight structure. The commenter requests this question include an assessment of patient acuity and the services that are necessary and proper to keep patients safe and healthy. Secured memory care units also fit into this dialogue of acuity, and the commenter expresses concern with the lack of specificity in the ASTP on this point.

Response: DA appreciates your comments on the provider community's investment in RCF licensure. Forcing alignment on the licensure of RCFs that serve a largely private pay market for the sake of compliance on Medicaid HCBS requirements has some inefficiency. These factors must all be weighed with Medicaid HCBS settings requirements being the primary goal of this transition plan. The DA agrees with your question as to how DA defines assisted living services. DA looks forward to engaging with the provider community on this issue.

Comment: The commenter notes that, because the current A&D Waiver requires nursing facility level of care for eligibility, by definition these individuals have a higher level of need. The commenter believes this level of care requirement contradicts the current RCF licensure requirement, which limits RCFs from providing comprehensive nursing care (i.e. nursing facility level of care) in most instances (410 IAC 16.2-5-0.5(e) and (f)). The commenter stated that, despite the contradiction, RCFs are serving the current A&D Waiver clients in assisted living and in many cases the acuity of the clients necessitates coordination of higher levels of care. The commenter further noted that in some cases, individuals are denied an A&D Waiver slot under today's assessment criteria for not meeting level of care and are later admitted to a hospital then a nursing facility because of a downstream health complication.

Response: Thank you for your comment. You have highlighted here one of the primary conflicts between the RCF licensure and its use in the Medicaid waiver HCBS program.

Comment: The commenter notes that there appears to be an error in the opening sentence of the third paragraph on page 6. The first sentence says the ISDH regulations are significant in the service of assisted living, then the second sentence says the ISDH does not have licensure or regulations specific to the service of assisted living. The commenter believes the first sentence was meant to use "residential care" rather than assisted living.

Response: Thank you for noting this. It is not an error really but is not well stated. The point is that ISDH does not really recognize the service DA calls assisted living under the waiver. So, providers are licensed under residential care facility requirements. So, it is significant to the service of assisted living even though ISDH never refers to the term assisted living. DA will re-write this language.

Comment: The commenter notes that the STP lists 7 areas in which current AL providers have a high rate of compliance with the new HCBS standards, but then indicates several key areas of "widespread lack of compliance" without specifying what those key areas are. These key areas should be specified.

Response: Thank you for your comment. DA will add some additional detail to the plan regarding the areas of current non-compliance.

Comment: A commenter made the following suggestions/recommended changes to the STP:

- The number of sites/participants for AL listed in the chart does not appear to equal the total number of AL participants noted on page 8. Clarification should be made.
- Clarification on the definition of co-location for ALs being co-located with nursing facilities. Is co-location being on the same property or adjacent to a nursing facility, being within the same physical structure (either under the same roof-line or being connected via hallway) as a nursing facility, or both?
- Assisted Living sites with secured memory care are listed as settings that are presumed not to be home and community based. This categorization is overly broad as no details of the site assessments have been made available in the ASTP. For example, are all of the sites so categorized operating locked memory care units? Do any currently employ delayed egress mechanisms? The ASTP makes no mention of what standard the DA or CMS is discussing concerning compliance with secured memory care units. The commenter believes this categorization threatens a key goal of state and federal government, which is to encourage provision of services in the community, as without secured memory care in assisted living many residents will be required to obtain those services in nursing facilities.
- Both charts on page 10 group facilities based upon facility characteristics that were collected during an assessment process. None of the details of those assessments are included in the ASTP or otherwise available. These reports and details should be made available so that comments can be made on those reports, which are the basis for the charts.
- The chart that lists the 4 groups includes a row indicating there will be a segment of providers placed in Group 1 because they will "still be found to be institutional in nature" even though modifications can remove characteristics that have the effect of isolating. Please provide examples of what providers would fit in this category, what authority the DA has and what objective criteria will be used to determine a provider to "still be found to be institutional in nature" even though modifications can be made to remove the isolating characteristics. The ASTP states that providers who are deemed out of compliance will be notified in December 2016 (page 18) and that decertification will be issued in December 2017 for providers unable/unwilling to comply (page 18). How are providers that are willing to comply and heavily invest to do so, yet are "still be found to be institutional in nature", able to avoid unnecessary expense if they are still going to be excluded from the program based on this apparently loose standard?

Response: Thank you for your comments. The DA will verify the number of AL participants but the chart on page 11 is more current than the older number still listed in the remediation chart. The DA is using the term "co-location" in the context of the CMS list of presumed institutional settings. These are generally settings that are under the same roof or operated under the same license and administrator as a comprehensive care facility. CMS also provides guidance on the characteristics of settings that have the effect of isolating participants. This is also a consideration in co-located sites that may be a separate building but share common functions and may limit participant access to the larger community. Secure memory care becomes an issue as it has the effect of isolating individuals. Presumed institutional settings can overcome that presumption but will need to eliminate any institutional characteristics as well as be in full compliance with HCBS characteristics. When the DA is satisfied that those criteria are met then the submission would be made to CMS for a final decision. The DA will be making the site surveys and report available as soon as they are finalized. In terms of those providers who may still be institutional in nature, each provider will be evaluated and the DA will confer with the provider to determine whether adequate modifications can be made and whether the provider is willing to make such modification. Some providers have already indicated that they will not be interested in making the required changes. Additional information will be added to the plan on the heightened scrutiny process.

Comment: The commenter states that the ASTP references heightened scrutiny, yet provides no details on the process. The commenter requests that the exact process and evaluation criteria be included in the ASTP and open for comment. The ASTP should be far more specific on enrollment of new providers that require heightened scrutiny in order to enroll. Current DA direction, per the DA website, places a moratorium on enrollment for providers requiring heightened scrutiny, yet provides no timeline for accepting new applications.

Response: Thank you for your comment regarding heightened scrutiny and provider enrollment. The DA will add additional details to the plan.

Comment: The commenter recommends that the DA consider how to streamline the PCCR or PCMT together, either through consolidation of both or elimination of one, as both measure person centeredness.

Response: The PCCR and the PCMT are very different tools, administered differently and for different purposes. Both are needed as part of DA's compliance monitoring not only for compliance with the settings rule but also for compliance with other health and safety requirements under the waiver.

DIVISION OF DISABILITY AND REHABILITATIVE SERVICES (DDRS)
HCBS Programs
Community Integration and Habilitation (CIH) Waiver – 1915(c)
Family Supports Waiver (FSW) – 1915(c)

SUMMARY:

The Division of Disability and Rehabilitative Services (DDRS) solicited comments on the Statewide Transition Plan as it applies to the two 1915(c) programs; Community Integration and Habilitation (CIH) and Family Support Waiver (FSW). The comments resulted in changes to pages 51-55, 57, and 60-61.

PUBLIC COMMENTS:

Comment: A commenter requested that the waivers include more services and higher budgets, especially for support services,

Response: Thank you for your comment.

Comment: A commenter complimented the services his/her son is receiving at their new group home. The commenter noted the provider is already doing most of the things outlined in his/her son's plan. The commenter complimented the staff, and further noted that his/her son has privacy, can have visitors at any time, and the house is clean.

Response: Thank you for your comment.

Comment: A commenter expressed concern that the IES is reflective of a higher percentage of choice, integration, etc. than there is in actuality. Participant experience really relies on informed choice. A lack of experiences and clear understanding of options could lead some to answer that they had more choice and integration than they actually did. The commenter suggested DDRS keep this in mind when comparing the IES data to the site specific setting assessment.

Response: Thank you for your comment. DDRS recognizes challenges in interpreting data. While the IES data will be used as a validation/comparison to measure the Non-Residential Survey responses, it will not be the only factor utilized in determining HCBS compliance.

Comment: A commenter noted that they believe there is a lot of language in Section 3 about using the individual's PCP/ISP to ascertain if there is a reason for someone not being engaged in the community for example. They commented that the training and documents associated with the PCP/ISP do not outline all the examples that the transition plan gives in this section as being reflective in these plans. The commenter suggested DDRS note that the PCP/ISP process and forms are being reevaluated so they can be comprehensive of the outline of the new rules and any modifications of those rules.

Response: Thank you for your comment. DDRS is currently reviewing the PCP/ISP process through the Life Course Alignment Project. As part of this project the current process and forms will be reevaluated to ensure compliance to the new rules and any modifications of those rules. The information provided will be helpful as the State incorporates the suggestions within specific policies and procedures.

Comment: A commenter recommended DDRS review and potentially revise the provider enrollment and recertification process, and to provide training to new and existing providers to educate them on the HCBS requirements. The commenter further suggested the training timeframe be moved significantly forward to 2016/2017. The commenter further requested DDRS conduct ongoing webinars for all providers to cover the basics of the HCBS requirements. The recommended frequency was one webinar every 6 months to ensure providers are staying current on the regulations. The commenter also recommended regional, in person trainings that include a question and answer section to ensure stakeholders are understanding the requirements and not trying to find the information independently.

Response: Thank you for the suggestions. The timeframe for Reviewing and Revisions to Provider Enrollment and Provider Training will be adjusted in the STP to allow for ample time to train and educate all providers in Indiana. While the suggestion of hosting webinars and providing regional trainings will not be added to the high level STP, DDRS will incorporate the suggestions into the outreach and education process provided throughout the transition period.

Comment: A commenter suggested that DDRS incorporate more focus groups of individuals and families to gain input on the states transition plan. The commenter believes that requesting feedback in a 30-day comment period does not lend itself to being accessible to individuals and families. The commenter noted the following difficulties when seeking comment from this group.

1. Individuals and families need to find that there is a comment period.
2. They then need to read through the transition plan and understand what it means.
3. They then have to figure out how to write up their feedback and submit.

The commenter believes that these barriers lend itself to not obtaining quality feedback from individuals and families. The commenter believes that focus groups allow for verbal feedback in a discussion format will generate valuable input for the revision of the transition plan.

Response: Thank you for the suggestions. DDRS will continue to look for ways to enhance stakeholder input and values any ideas that will enable us to garner feedback from individuals and families. Incorporating more focus groups is a viable way to accomplish this. While the suggestions will not be added to the high level STP, DDRS will review incorporating focus groups into the outreach and education process provided throughout the transition period.

Comment: A commenter suggested updating the 90 Day Checklist Data Review information to reflect the Monitoring Checklist tool and what components of that support the HCBS Settings rule. The commenter also noted that the PCP appears to be inclusive of many remediation efforts however the form and practice right now does not incorporate all the components outlined in the transition plan. The commenter requested addressing this in the transition plan. The commenter also requested a systematic sharing of the CMS guidance that is released on a regular basis, and shared with all stakeholders in an accessible way. The commenter further suggested training be presented on an ongoing basis for individuals and families in order to clarify the intent of the rules and the states plan to implement these rules, and that the trainings should be held in an accessible way for all individuals and families. Lastly, the commenter suggested that self-directed services should be considered with the amendment to the waivers as that service lends itself to fully meeting the requirements of the HCBS rule.

Response: Thank you for the response. While the timeframe outlined in the STP allows for the Monitoring Checklist questions to be updated by 2017, it is DDRS goal to have this accomplished much sooner. Once the HCBS related questions and guidance documents have been finalized, trainings will be conducted to ensure all case managers have a clear understanding of each HCBS related questions and process prior to implementation. A link to the guidance from CMS is posted on the State's Home and Community-Based Services Final Rule Statewide Transition Plan webpage. Individuals and families may request hard copies of this guidance from their case manager or from the state as desired. The potential addition of self-directed services would need further consideration, discussion and planning prior to inclusion in an amendment.

Comment: A commenter raised questions on DDRS's assertion that merely following the Administrative Orders and Procedures Act "ensure[s] meaningful feedback from all stakeholders." The commenter believes that providers and their trade organizations are in a far better position to comb the Indiana Register for public comment opportunities than waiver participants. Accordingly, the commenter encourages DDRS to implement a more direct means of soliciting feedback from waiver participants.

Response: DDRS appreciates the support expressed by commenters and will review the suggestions listed above. While the specific suggestions listed above will not be incorporated into the transition plan, the State will incorporate the suggestions within the specific processes to the greatest extent possible.

The commenter also expressed concerns that DDRS's methods of collecting data (e.g., the 90-day Checklist) are inadequate to capture certain data and may lead to improper outcomes. The commenter gave the example that the Checklist asks case managers to "[c]onfirm the individual is free from work without pay that benefits others." The commenter noted that the HCBS regulations do not preclude waiver participants from engaging in volunteer work, and believes DDRS should create a more tailored survey tool designed to answer relevant questions, such as whether employed waiver participants are engaged in competitive, integrated employment. The commenter believes such questions are especially critical, given WIOA's emphasis on competitive, integrated employment as a goal and the General Assembly's exploration of Employment First legislation.

Response: The State agrees the current 90 day check list does not adequately address HCBS requirements. The 90 day check list as a monitoring tool will be modified from the current content to measure HCBS Requirements on an ongoing basis. The information provided will be helpful as the State incorporates the suggestions within specific policies and procedures.

Comment: A commenter was pleased that DDRS plans to revise the Checklist by December 2017. The commenter suggested that DDRS garner more input from waiver participants than case managers in the revised Checklist. The commenter also suggested revising the Checklist to move away from yes-or-no questions. The commenter believes scale-based questions and open-ended questions will give DDRS more meaningful data.

The commenter also questioned why sheltered workshops are not reflected on page 64 of the draft STP as settings that have the effect of isolating individuals. The commenter noted that day service settings are on the list and many sheltered workshops are similar, in that people with disabilities are grouped together, spending their day in isolation from those without disabilities (service providers excluded). In addition, the commenter believes more rigorous data collection designed to measure services including transportation, are crucial to verifying that waiver participants have the sort of community access envisioned by the Centers for Medicaid & Medicare Services when promulgating the HCBS regulations. The commenter believes the Individualized Support Plan (ISP) asking whether “adequate” transportation is provided is not a sufficient question. The commenter notes that the checklist asks only if the waiver participant has an ISP that includes community activities, and listing community activities in the ISP does not guarantee that the individual actually participates in those events. The commenter recommends DDRS develop more meaningful monitoring tools.

Response: Thank you for the comments. DDRS will consider utilizing focus groups that include participants to assist in revising the checklist to incorporate HCBS requirements. The format and content of the HCBS section of the monitoring checklist will be designed based on the ability to provide for ongoing monitoring and insurance of HCBS requirements. In regards to why sheltered workshops are not reflected on page 64, Medicaid funds cannot be used to pay for employment (or vocational) services in a sheltered workshop. Medicaid funding can be used to pay for pre-vocational services in a sheltered workshop, but only if the services are time-limited, and intended to help prepare the person to work in an integrated setting. Pre-vocational services will be assessed via the Non-Residential Survey to determine compliance with HCBS rule.

Comment: A commenter expressed concerned that DDRS has not determined a timeline for a provider remediation. The commenter expressed concerns regarding the lack of specificity. The commenter also wanted to know what types of sanctions DDRS plans to impose on providers who have not achieved compliance by deadlines established by DDRS. The commenter did also note that they believed the Transition Taskforce will be helpful in protecting the rights of those “identified as requiring significant changes,” and were appreciative that advocates and individuals will have representation on this Taskforce.

Response: Thank you for the comment. DDRS will revise the language to accurately reflect the responsibilities associated with the IES. DDRS is exploring having the identified residential settings providers complete the same assessment that the non-residential providers will be completing. This is a provider specific survey rather than individual specific. DDRS will then compare the results of the two surveys to determine if a site visit will be warranted to determine final compliance or the need for heightened scrutiny. In addition, a section of the case managers monitoring tool will address HCBS Residential requirements and allow for client specific remediation. DDRS is exploring when the IES survey should be re-administered and if it could be utilized as a means of ongoing compliance. It is anticipated the IES will be administered at least one more time, possibly more.

Comment: A commenter recommended revising the language “receive services in the most integrated setting” to “receive services in the most integrated setting consistent with individual needs.”

Response: Thank you for the suggestion. The language “receive services in the most integrated setting” is the language CMS has provided in communications.

The commenter also recommended revising the language from “full access to the greater community” to “access to the greater community.” The CMS guidance did not include “full” and this term is difficult to define.

Response: Thank you for the suggestion. This is the specific language provided in recent CMS guidance as well as in the Final Rule (part 441.301):

(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

Comment: The commenter is encouraged by the inclusion of additional information concerning the Systemic Settings Crosswalk, particularly the discussion of needed revisions to Indiana Administrative Code 460, the Waivers, and service definitions and projected timelines for the changes. The commenter appreciates the process and the length of time required to change Indiana Code and Indiana Administrative Code. We recommend that DDRS should complete the code revisions prior to promulgating changes in policies, procedures, the Waivers, and service definitions. Completing revisions to the IC and IAC prior to the other changes will allow for greater continuity and consistency between these sources and avoid the development of conflicts between these sources which would cause confusion among providers, case managers, families, and individuals receiving services. Additionally, the proposed timeline for changes to IAC 460 was distributed during a recent Bureau of Quality Improvement Services (BQIS) Advisory Workgroup meeting. Based on this timeline, we understand that final edits and proposed changes to this section of Administrative Code will be complete by December, 2016. This timeline seems relatively short and significantly different than the timeline of May, 2018 referenced on pg. 60 of the STP. The commenter requests clarification of the timeline for revisions to Administrative Code.

The commenter also recommends that stakeholders such as providers, advocacy organizations, case management organizations, and individuals receiving services be included in the revision process for IAC, policies, procedures, the Waivers, and the service definitions. These stakeholders will provide good insight and perspective concerning how modifications would impact individuals served by the industry and their advocates. The inclusion of stakeholders in these processes could also decrease the number of comments received during the public comment period and subsequent modifications needed before these policies and processes could be finalized.

In addition to these comments, the commenter would like clarification concerning the following questions:

- The Systemic Settings Crosswalk chart sites 460 IAC 6-20-2 concerning employment services and 460 IAC 6-3-58 concerning transportation as code that needs to be modified in order to meet HCBS standards. How does DDRS plan to modify these Administrative Codes to meet the requirement? Could we provide recommendations concerning code revisions that would meet the standards?
- The chart lists Individual Rights and Responsibilities (4600221014) as new policies. The next sentence states that this policy is “in the process of being updated to enhance support of CMS regulations.” Could DDRS clarify if this is a new policy that is being developed or an existing policy that is being updated?
- We have observed reverse integration in approved Statewide Transition Plans, for example, Tennessee. Are there any circumstances in which reverse integration would be an acceptable approach to community integration? Does DDRS have guidance for what practices will allow agencies to be compliant with the rule?
- CMS has stated that the implementation date for the HCBS Rule is March 2019. Why is Indiana’s stated implementation deadline July 2018?
- Does DDRS anticipate an increase in the amount of community habilitation services an individual receives in order to achieve compliance? If so, how it will provide appropriate funding for community habilitation / integration?

Response: Thank you for your comments. Policies and procedures are being reviewed and updated to ensure confirmation of compliance with the final rule. DDRS anticipates any updates of policies and service definitions will align with any revisions to Indiana Administrative Code. While the timeframe for code revisions is greater than the timeframe for policy modification due to the extent of the process, DDRS is still expected to update any policies that are silent or conflict with the final rule in a timely manner.

DDRS is in the process of drafting language to ensure meeting HCBS standards. DDRS welcomes any recommendations. Recommendations can be submitted to BQIS.Help@fssa.IN.gov. DDRS is updating the existing policy “Individual and Guardian Responsibilities” with the addition of an individual’s rights. CMS has indicated reverse integration in itself will not ensure compliance with the final rule. DDRS will be issuing guidance to providers on innovative practices that will allow agencies to be compliant with the rule. In order

to allow for proper notification and transition of effected individuals, DDRS has outlined a time frame of July 2018 for all provider to be in compliance. If any provider is found not to be in compliance at that time, DDRS will begin the remediation and relocation process as outlined in the STP. Reimbursement rates, service definitions, budgets, funding parameters, codes, etc. are all being looked at to ensure we are able to support compliance.

Comment: A commenter requested clarification on how the NCI data will be used to triangulate data as a way to validate ongoing compliance with the HCBS final rule

Response: While reviewing the NCI data it was determined the questions were not all inclusive of the HCBS requirements. Also, utilizing a sample size did not allow DDRS to clearly assess all setting. The data will still be used on an ongoing basis to compare against other measuring tools.

Comment: A commenter questioned the statistical thresholds, noting that NCI data was collected on approximately 740 individuals, which is about 4% of the population receiving waiver services.

Response: DDRS agrees, utilizing a sample size did not allow DDRS to clearly assess all setting. The data will still be used on an ongoing basis to compare against other measuring tools.

Comment: A commenter questioned if the 90-day checklist will be the only means of ensuring compliance with the rule following the deadline?

Response: DDRS will incorporate a variety of means of ensuring ongoing compliance. The monitoring checklist completed by case managers will be one tool to ensure ongoing compliance. Revisions to provider enrollment, re-certifications, policies and procedures as outlined in the STP will all be part of the ongoing monitoring process.

Comment: Regarding the Individual Experience Survey, a commenter noted that the plan states, “DDRS contracted with The Indiana Institute on Disability and Community (IIDC) to design, develop, and administer the survey to be completed by participants when able or the person who knows them best. This survey was administered by the participant’s waiver case manager to ensure all participants were reached.” The commenter noted that these statements are confusing because they state that both IIDC and case managers administered the survey. The commenter recommended revising this language to clarify that IIDC was contracted to “design, develop, and analyze” the survey while case managers administered it.

The commenter also raised questions on the following statement in the plan: “DDRS determined the need for providers of identified residential and all non-residential settings to complete a self-assessment of their current policies and procedures to report compliance of HCBS Final Rule to the State. DDRS also concluded responses garnered from the IES will be used to validate the responses from the provider self-assessment to gain a global prospective of compliance.” The commenter asked whether the IES will serve as the residential settings assessment, or if DDRS will develop an additional self-survey assessment for residential settings?

Lastly, regarding the IES, the commenter asked if the Individual Experience Survey will be administered and analyzed periodically to collect longitudinal data? If not, what other methods will be utilized to measure ongoing compliance?

Response: Thank you for your comments. DDRS will revise the language to accurately reflect the responsibilities associated with the IES. DDRS is exploring having the identified residential settings providers complete the same assessment that the non-residential providers will be completing. This is a provider specific survey rather than individual specific. DDRS will then compare the results of the two surveys to determine if a site visit will be warranted to determine final compliance or the need for heightened scrutiny. In addition, a section of the case managers monitoring tool will address HCBS Residential requirements and allow for client specific remediation. DDRS is exploring when the IES survey should be re-administered and if it could be utilized as a means of ongoing compliance. It is anticipated the IES will be administered at least one more time, possibly more.

Comment: A commenter asked DDRS to clarify why community habilitation services in general are not presumed compliant. Additionally, the commenter asked if providers would be required to complete a self-assessment on community habilitation setting?

Response: Guidance from CMS has suggested that community-based habilitation provided in groups may not necessarily be presumed compliant. For this reason, only community-based habilitation individual can be presumed compliant.

Comment: A commenter noted that there were several typos to the word “reveled” in the site specific assessment chart.

Response: Thank you for the notification. This will be corrected.

Comment: A commenter noted that under the IES Data column, the plan states “Analysis of the IES data revealed less than 100% compliance.” The commenter asked whether DDRS expects that the settings will ever be 100% compliant?

Response: CMS feedback has indicated 100% of settings must be assessed for compliance and all settings must be compliant by March 2019.

Comment: Under the site-specific assessment, a commenter recommends noting that there may be provider-owned homes that do not require modifications to meet the settings rule.

Response: DDRS agrees that there may be settings that require no modifications. Modifications and updates to code and State polices will ensure compliance of these settings.

Comment: Under the site-specific assessment, a commenter noted that the plan lists approximately 10 sites as Settings identified that could meet the HCBS rule with Modifications; Homes with more than 4 individuals residing together. The commented asked if DDRS is referencing former group homes that were converted, and if so, if they need to be reduced to 4 clients.

Response: Yes, these are homes that were formally SGL’s. While there is not a current mandate they must be reduced to 4 clients, DDRS is required to validate they meet the HCBS requirements.

Comment: A commenter noted that, in residential settings where respondents to the IES indicated few social interactions outside of their home, the IES data may be problematic as providers have reported that IES survey outreach to provider personnel may be lower than reported on the individual surveys.

Response: DDRS recognizes the challenges with interpreting data. Those identified as having the effect of isolation will be validated to ensure responses are consistent with experiences.

Comment: A commenter noted that in the Department of Aging section on page 8 under Adult Day Services, providers are assumed to have a high level of compliance to the HCBS rule based on a list of criteria, which are also quite frequently present in Day Service settings regulated by DDRS. The commenter asked whether the criteria used by DA on page 8 of the STP for Adult Day Service settings will also be used by DRRS to assess compliance of facility habilitation settings since these Adult Day Service settings and Facility Habilitation Service settings have much in common in their approach to services?

Response: The same criteria will be used although the wording may differ on specific questions. The criteria will be measured through the Non-Residential Provider Self Survey.

Comment: A commenter requested to know if a part of an individual’s Facility Habilitation includes time in the community, will there be a threshold for the amount of community based services the individual needs to receive?

Response: Community integrations will not be measured in specific thresholds.

Comment: Under the site-specific assessment, a commenter asked several questions with regard to congregate settings of 4 or more homes. Those questions include, what constitutes close proximity with regard to compliance with the rule? Is the density on a neighborhood street or in an apartment required to be 51% non-disabled or 51% non-IDD? In addition, the commenter noted that HUD 811 programs and HUD 211 programs require serving people with disabilities in settings that may be categorically non-compliant with the settings rule. The commenter asked if DDRS reviewed the HUD rules to determine whether or not these service settings are compliant or can achieve compliance? Other housing programs and funding sources such as Section 42, HOME, and Federal Home Loan Bank (AHP) reward and value maximizing housing opportunities for persons with disabilities. The commenter suggested DDRS speak with the Indiana Housing and Community Development Authority (IHCDA) regarding funding for housing for persons with disabilities, and noted that State and Federal regulations already recognize settings funded through IHCDA as integrated settings.

Response: Congregate settings will not automatically be precluded from meeting the requirements. CMS has indicated they meet the criteria of settings that may be presumed as Non HCBS Compliant and will need to be reviewed to determine if Heightened Scrutiny is warranted. The State must verify these settings do not have the effects of isolation and meet all of the HCBS requirements.

Comment: A commenter notes that the Division of Aging section of the plan discusses concerns regarding the Adult Foster Care program not complying with the HCBS Rule, but the DDRS section of the plan does not discuss Structured Family Caregiving, a similar program. The commenter asked if DDRS anticipates that the Structured Family Caregiving program will comply with the HCBS rule?

Response: Structured Family Caregiving will be held to the same standard as other provider owned or controlled residential settings and must meet the same HCBS criteria.

Comment: A commenter asked if DDRS could provide clarification around the issue of what the State is looking for in regard to day services.

Response: DDRS is in the process of developing guidance documents for providers that will be disseminated for review. DDRS will be reviewing the organizations operational information to support current practices so the State can assess providers' landscape of compliance to determine technical assistance and transition needs for providers.

Comment: A commenter asked if providers will receive their individual data collected in the IES.

Response: Providers will not receive individualized IES data. The data collected did not include individuals' providers.

Comment: A commenter asked if DDRS could provide additional clarification concerning the development of the self-surveys for residential and non-residential settings.

Response: The self-surveys were developed by a HCBS workgroup group that consisted of service providers and State staff. The survey questions were developed based on CMS guiding questions as well as a review of other states' surveys.

Comment: A commenter asked what types of policies, procedures, and documentation will providers need to submit to prove compliance.

Response: Documentation can include any company policies, employee trainings, consumer rights or educational material, etc. that would address the key provisions of the final rule. The survey process has been developed not only to show initial compliance of settings, but for providers and DDRS to identify gaps that can be addressed by updating operational policies and procedures.

Comment: A commenter asked if DDRS could provide additional information concerning the desk review/validation process.

Response: DDRS or its contracted vendor will be reviewing the responses to the surveys and cross referencing them with responses to the IES. The desk validation process will also consist of reviewing the attached provider policies that support compliance to ensure accuracy of answers. The desk review will also allow DDRS to determine which areas will require modifications to come into compliance with the final rule and assist in determining which settings will require site visits.

Comment: A commenter asked if DDRS has a projected timeline for completion of the desk review/validation process.

Response: DDRS anticipates the desk review validation process will be completed by December 2016.

Comment: A commenter asked if DDRS has a projected timeline for completion of the site visits.

Response: DDRS anticipates site visits will be completed by mid-2017.

Comment: A commenter asked if the reviewers completing the site visits will be DDRS or BDDS personnel, or if DDRS anticipates contracting this service.

Response: DDRS plans to contract this service out while utilizing some BDDS personnel support. DDRS is continuing to assess the number of site visits and other factors.

Comment: Regarding the site-specific assessments, a commenter inquired as to whether providers who are subject to further review have been notified in order for them to begin the remediation process.

Response: Providers have not yet been notified of the need for further review. DDRS is in the process of finalizing the next steps prior to notification.

Comment: A commenter asked if the comprehensive settings result document will be posted for public review and comment.

Response: The comprehensive settings results document has been incorporated into the STP. The STP will continue to be updated with any settings requiring heightened scrutiny and posted for public comment.

Comment: A commenter asked if revisions to the DDRS Provider Policy and Procedure Manual will be completed in 12/2017 without creating inconsistencies with the IAC if the IAC revisions are not complete until 05/2018?

Response: DDRS is working simultaneously on revisions to policies, procedures and changes to the IAC. It takes a year to promulgate rule unless an emergency exists. For this reason, inconsistencies are not anticipated.

Comment: A commenter asked if all of the necessary IAC revisions will be finalized and promulgated in this timeframe?

Response: All necessary revision to IAC are anticipated to meet the timeline.

Comment: A commenter asked if the timeline for completion of the IAC revisions matches the timeline for completion of 460 revisions previously communicated in other DDRS communications?

Response: Rule promulgation takes a year to complete unless an emergency exists. DDRS has provided the timeline in the STP to allow for full promulgation.

Comment: Regarding the Transition Taskforce, a commenter asked if members of the transition task force have been identified and if the taskforce size has been determined. The commenter also asked how DDRS will insure against potential conflicts of interest with taskforce members, as well as how this taskforce will relate to the existing HCBS workgroup.

Response: Members have not yet been identified. DDRS would like a variety of stakeholders to participate in order to gain a global perspective. DDRS has not yet determined the size of the taskforce. The taskforce will be responsible for providing technical assistance and support. DDRS will mediate to ensure against potential conflicts of interest. Members of the existing HCBS workgroup may be participants of the Transition Taskforce.

Comment: A commenter noted that the plan states that DDRS will develop a process for provider sanctions and disenrollment for providers who have gone through remediation and continue to demonstrate non-compliance; however, there is already a process for provider sanctions and disenrollment. The commenter asked if DDRS could clarify the need to develop a new process and how this process will differ from the current process.

Response: DDRS will utilize its existing process as much as possible. Additional notifications and steps may need to be built into this process to ensure reasonable notice is given to the participant(s) and the Individual Support Team regarding the noncompliance, action steps, and procedural safeguards.

Comment: A commenter believes that addressing the issue of controlling personal resources may lead the State to review guardianship issues, especially as it relates to guardianship by provider. The commenter believes this being seen as a conflict of interest and as a "standard" should not be condoned. The commenter believes special circumstances may be allowed when guardian understands and are acting within the statutory requirements of guardianship.

Response: Thank you for the suggestion. This information is useful for the revisions/development of policies and procedures. While the STP will not be updated with this specific language, policies/procedures can be modified to incorporate additional protections.

Comment: A commenter noted that, while the issue of choice is addressed throughout the document, the idea behind choosing the program which will empower an individual in non-residential programs is broadly abused. The commenter

believes DDRS should consider running a claims comparison for individuals who have chosen the same provider for DAYS and for RHS, and the commenter believes this is often a forced choice and the individual is not making this choice with informed consent.

Response: Thank you for the suggestion. This information is useful for the revisions/development of policies and procedures. While the STP will not be updated with this specific language, policies/procedures can be modified to incorporate additional protections.

Comment: A commenter requests that, in development of a DDRS policy around settings and residential housing, it will be important to outline from the HCBS waiver the idea that waiver participants have the right/choice to have their own bedroom. The commenter notes that this is different than ICF/DD rules and is not readily adhered to in the current waiver program

Response: Thank you for the suggestion. DDRS understands the concerns raised by the commenters. DDRS has clarified that it is not requiring that every individual receiving HCBS have their own bedroom when receiving residential services. The rule is requiring that individuals be provided options of residential settings, including an option of a private room. This rule does not require every provider to have a private room option. Instead it requires the State to ensure that there are private room options available within a state's HCBS program. While the STP will not be updated with this specific language, policies/procedures can be modified to incorporate additional protections.

Comment: A commenter believes that offering CHOICE in Case Management – and expecting that case manager to then hold other “chosen” providers accountable is counter intuitive. The commenter believes addressing global case management standards, specifically at the core value of advocacy as an important concept, will lead to some different outcomes. The commenter notes that many of the problems currently challenging compliance with the CMS rule are specifically tied back to the case management system's inability and unwillingness to hold people to standards, report those short comings and truly advocate from a person centered, client #1 perspective.

Response: Thank you for the suggestion. This information is useful for the revisions/development of policies and procedures and trainings. While the STP will not be updated with this specific language, policies/procedures can be modified to incorporate additional protections.

Comment: A commenter believes that the State needs a comprehensive waiver rewrite. The commenter believes this will allow for consistency and decrease administrative burden and poor performance both internally and with providers. Additionally, the commenter suggesting determining the difference between supporting providers toward compliance and offering technical assistance, as well as how to discontinue providers that are not compliant or willing to become compliant.

Response: Thank you for the suggestions. DDRS is currently exploring a comprehensive waiver rewrite. This will include a review of reimbursement rates, service definitions, budgets, funding parameters, codes, etc. to ensure DDRS is able to support full compliance.

Comment: A commenter made several comments and recommendations for revisions to the STP. Those comments and recommendations include:

- Under ‘Choice,’ the State must continue to offer choices to people. Individuals in group homes and nursing homes needs to be contacted, interviewed and ensure there is follow through.
- Under ‘Person-Centered Planning Case Management Project,’ initiation of this new effort to address PCP (and Case Management is very timely and important. The commenter believes we must have a robust person centered planning process that includes everyone and not just solely be the domain of the case manager.
- The commenter notes that as work in the Home and Community Based System grows, workforce issues will continue to grow more critical as demographics are showing a workforce shortage for all business including the human services sector. The commenter notes this must be addressed in the STP.
- Under ‘Training,’ the commenter requests DDRS develop a system much like the Unified Training System developed for First Steps. Training needs to be coordinated through provider organizations, advocacy organizations and the state, all developed in concert with a unified plan. Training must include all parts of the system if we are to achieve the goals stated in the transition plan. The commenter believes DDRS staff, providers, case managers, self-advocates, and families all must have access to the same training and be involved at the same time so all parts of the system are on the same page.

- DDRS should revisit the INTRAIN model of working with Ivy Tech State College and other venues to increase state training and knowledge as well as develop a wage increase plan that is tied to training received and completed. The commenter referenced the CMS advisory letter issued on 8/3/16.
- DDRS should study the number of unfilled supports in action plans for both CIH and FS waivers.
- Under ‘Wages and Benefits,’ there should be a long term plan to address wages and health care benefits for workers. The commenter also recommends DDRS develop an RFP to assist in developing a comprehensive workforce development proposal within the next four months.
- The current quarterly meetings demand a very labor intensive participation, and based on the results of the Individual Experience Survey and anecdotal experiences shared, the commenter believes it is not working as designed. The commenter recommends revamping the meetings and the 90 day checklist as they are an important part of the transition plan. The commenter recommends starting the agenda with the consumer comments/ recommendations/ issues of concerns and cover the three priority areas: their choices, person centered plan updates/additions, community-integration including employment and relationship building - with measureable goals.
- The transition plan must address crisis prevention and support along the lines of the Project Start study. The commenter further requests the State develop an integrated crisis prevention and support program that includes universal training, onsite support and access to emergency supports. The State should begin implementation of the Start Proposal with funding strategy and RFP for implementation by July 2017. A \$0.65 per day add on to the Medicaid Waiver budget for each person and the daily group home rate would more than pay for the entire Start Proposal.
- Shared living must be developed to offer a new alternative and to provide cost savings to address the overall cost effectiveness of the waiver. The State should issue an RFP for a model development project to identify successful shared living programs around the country, take key policy makers to those sites, and develop a policy and implementation plan for Indiana by July 2017.
- Children with intense medical needs must be addressed as too many remain in children's nursing homes. The State should develop an RFI for a hospital-based transition program for children to be released and at risk for institutionalization.
- Peer to peer supports need to be included in the next waiver application. The State should develop an RFI for community integration in health and wellness plans with the community based organizations that provide greater wellness and overall cost savings. The State should also charge MCE's with greater participation in wellness and prevention funding activities for their members.
- The plan should target a regional demonstration project to test a new way to coordinate supports between providers in order to implement new models of person-centered integrated supports. The State should develop an RFI for a regional demonstration project to test models of effective care coordination for 2018.
- Integrating greater health care supports for people to improve outcomes and lower costs must be included. The addition of wellness coordination was a start, but only a start. The plan must address access to health and wellness supports that largely do not exist today. The State should develop an RFI for community integration in health and wellness plans with the community based organizations that provide greater wellness and overall cost savings. The State should also charge MCE's with greater participation in wellness and prevention funding activities for their members.
- The draft plan lays out a timetable for communication with stakeholders but the commenter believes DDRS needs a more robust effort to reach consumers, families, providers, and key policy makers. The commenter believes DDRS needs an aggressive communication plan that reaches all stakeholders quickly with messages that will counteract rumors and fear. Communication needs to be designed to reach several target populations as part of this process. The Transition Plan is really dictated by CMS in content and format but is nearly impossible to ready without great diligence. To engage everyone, the commenter requests an investment in a true communication plan that reaches people in the system, provider staff of all types, families and self-advocates, and people who are part of the system - health care providers, educators, state staff, and community partners. Tools and messages must be constantly updated with critical issues and information to engage everyone in the common goal.
- DDRS is serving 3x's the people it was decade ago with the same infrastructure and support that it had a decade ago. The services are more dispersed and as the Individual Experience Survey documented - the results for people vary widely. There needs to be a strategic and smart investment infrastructure to assure access, quality supports, choice and community integration are successful. Whether brought on as state employees, contracted, or both - there must be an investment. This can be included in the Medicaid reimbursement. The commenter requests the State develop an RFI for implementation of an OTAC type model to provide Hoosier based support for DDRS in developing the appropriate responses to the above items.

Response: DDRS greatly appreciates the recommendations for system enhancements. While the STP will not be updated with these suggestions, DDRS will review the suggestions for future planning.

Comment: Under the section entitled, “Person-Centered Language and Self-Directed Services,” a commenter recommended removing the word “routine” as they feel use of the word minimizes choice because people have the ability to change their daily activities and choose when they complete their tasks.

Response: Thank you for the comment. The language will be updated to remove routine.

Further, under the ‘Choice and Rights’ section, a commenter requested to include questions such as the following:

- Does the person attend their IST meetings?
- Does the person direct and lead their own IST meetings?
- Does the person choose their goals?
- Does the person provide informed consent for all services they receive?
- Does the person demonstrate autonomy and independence in making life choices (like daily activities, physical environment, and who they interact with)?

Thank you for the suggestion, while the STP will not be updated with this specific language, the information provided will be helpful as the State incorporates the suggestions within specific policies and procedures.

Comment: During the last submission to CMS, Indiana suggested strengthening requirements for DSP training and the commenter would like to see this emphasis on improved and enhanced training be a part of the STP. Additionally, the commenter notes that, while the training requirements are a way for the State to formalize the number of hours that direct support staff are in training prior to working a shift alone, many providers already have an Orientation period that is 20 hours or more of training. Many sites may require more training due to complex behavioral and medical needs. As Indiana moves to a more formalized view of DSP training, it is important for rate reimbursement to reflect the person-centered approach to training that all Waiver participants deserve. The commenter also notes that while the State compiles training information into a database, the commenter is hopeful that these requirements could help create a DSP Registry in Indiana in order to identify abusive, neglectful, or exploitive DSPs in the State. The Nurse Aide registry does not provide this information about DSPs, creating an environment which makes hiring skilled and competent DSPs even more challenging for providers. With the national DSP crisis, the State must support providers in finding skilled DSPs by offering providers tools to accurately screen candidates and by offering increased compensation and more stringent education and licensing requirements for DSPs, including recognition of substantiated abuse, neglect, and exploitation from the incident reporting guidelines amongst waiver services and providers. Lastly, the commenter further reiterated its need for the State to provide tools and resources that can help solve the DSP crisis in Indiana. The commenter implores the State to utilize these training requirements to ensure that DSPs are skilled, competent, respectful, dignified, and have never committed abuse, neglect, or exploitation while employed by other human service providers.

Response: DDRS greatly appreciates the recommendations for system enhancements. While the STP will not be updated with these suggestions, DDRS will review the suggestions for future planning.

Comment: A commenter noted that they thought the tables were well formatted and easy to read.

Response: Thank you for your comment

The commenter further noted that they thought there was an over-reliance on the 90-day checklist throughout the tables as the checklist is over 100 items and is 26 pages long. The commenter suggested adding additional information on the validity of the checklist and the methods for training its use to assist with clarification. The commenter seconded these concerns with the pre/post monitoring checklist.

Response: The State agrees the current 90 day check list does not adequately address HCBS requirements. The 90 day check list as a monitoring tool will be modified from the current content to measure HCBS Requirements on an ongoing basis. The information provided will be helpful as the State incorporates the suggestions within specific policies and procedures. DDRS will incorporate a variety of means of ensuring ongoing compliance. The monitoring checklist completed by case managers will be one tool to ensure ongoing

compliance. Revisions to provider enrollment, re-certifications, policies and procedures as outlined in the STP will all be part of the ongoing monitoring process.

The commenter also noted that the "Outcome of Review" column contains very minimal information and was hard to understand. The commenter expressed confusion in understanding what the analysis of "silence" meant in the crosswalk.

Response: Thank you for the suggestion, the STP outcome of review section will be updated to provide additional information that will clarify which polices/code were determined to be in compliance with, in conflict with, or silent on the final regulation.

Comment: The commenter expressed confusion of the following sentence on page 51: "The NCI data will not be used moving forward for purposes of measuring compliance with the settings rule, however, DDRS will use NCI data for purposes of triangulating data as a way to validate ongoing compliance with the HCBS Final Rule."

Response: The NCI data was a starting point for DDRS to begin measuring compliance. After the initial review of the NCI data, it was found to be non-inclusive of measuring compliance due to the sample size as well as not covering all areas of HCBS compliance. DDRS will continue to review the NCI data for trends, but not to measure HCBS compliance.

Comment: A commenter recommended re-wording the following sentence for clarification: "In order to ascertain the level of compliance with the HCBS requirements, DDRS had chosen to utilize the NCI data to begin the process by which to evaluate compliance."

Response: The NCI data was a starting point for DDRS to begin measuring compliance. After the initial review of the NCI data, it was found to be non-inclusive of measuring compliance due to the sample size as well as not covering all areas of HCBS compliance. DDRS will continue to review the NCI data for trends, but not to measure HCBS compliance.

DIVISION OF MENTAL HEALTH AND ADDICTION - YOUTH (DMHA-Y)
HCBS Programs
Psychiatric Residential Treatment Facility (PRTF) Transition Waiver – 1915(c)
Child Mental Health Wraparound (CMHW) – 1915(i)

SUMMARY:

The Division of Mental Health and Addiction (DMHA) solicited comments on the Statewide Transition Plan as it applies to youth 1915(c) program Psychiatric Residential Treatment Facility (PRTF) Transition Waiver and the 1915(i) Child Mental Health Wraparound (CMHW) program. The comments did not directly result in any changes to the Statewide Transition Plan.

PUBLIC COMMENTS:

Comment: Regarding Key Stakeholders and Outreach – DMHA notes that it will engage a variety of stakeholders by emailing them notice that the draft STP is available for comment. The commenter questions whether this is a meaningful way for youth and their families to offer commentary. This method of engagement appears geared more toward providers and advocacy groups than waiver participants.

Response: DMHA Youth reviewed the comment above and thanks the commenter for their input. In addition to the listed and required notification mechanisms, at DMHA’s instruction, Wraparound Facilitators (case managers) informed each family on their case load of the setting rule, including providing links to the STP and the STP newsletter during the survey process to explain its purpose. All families were and are encouraged to sign-up for the email distribution list which was used to provide updates including the posting for public comment period. Copies of the STP have been made available at Division of Family Resources offices, the point of entry to the IHCP/Medicaid system. DMHA also receives input from families by way of the Indiana Systems of Care Youth and Family Subcommittee, a body which approves and provides input to all new DMHA Youth policies related to programming, including policies generated as a result of the STP. DMHA supports and encourages substantial family involvement in programing development and design, and will continue to look for opportunities to be inclusive. Revisions made to the STP as a result of this comment were not necessary.

DIVISION OF MENTAL HEALTH AND ADDICTION – ADULT (DMHA-A)
HCBS Programs
Behavioral and Primary Healthcare Coordination (BPHC) – 1915(i)
Adult Mental Health Habilitation (AMHH) – 1915(i)

SUMMARY:

The Division of Mental Health and Addiction (DMHA) solicited comments on the Statewide Transition Plan as it applies to two adult 1915(i) programs; the Adult Mental Health Habilitation (AMHH) and Behavioral and Primary Healthcare Coordination (BPHC) programs. The comments did not directly result in any changes to the Statewide Transition Plan.

PUBLIC COMMENTS:

Comment: Please explain in more detail what is meant by “resources for room and board.”

Response: Per CMS guidance, providers of HCBS may consider a member's financial resources, as well as any other natural supports such as family or friends, when identifying a member's residential setting options. From CMS, "The regulatory requirement acknowledges that an individual may need to share a room due to the financial means available to pay for room and board ...".

Comment: What happens when a community-based service is no longer being provided in a facility (non-POCO residential facility)?

Response: HCBS settings requirements apply (1) to all settings where HCBS are delivered, and (2) to the setting where a member receiving Medicaid HCBS lives, regardless of where the service is delivered. Even if no home and community-based services are provided at a residential setting (POCO or non-POCO), if a member receiving or applying for AMHH or BPHC lives there, the setting must still be compliant with HCBS settings requirements.

Comment: Please provide examples/language that defines “controlled or operated.” Is this in the State Plan or federal regulations?

Response: Per CMS guidance issued 12/9/15, "A setting is provider-owned or controlled when the setting in which an individual resides is a specific physical place that is owned, co-owned, and/or operated by a provider of HCBS."

Comment: How do you want providers to document the general modification assessed needs that is in residential agreements?

Response: Multiple providers have sent the DMHA team questions regarding "modifications," and the appropriate place to document such modifications. DMHA has decided that the most efficient method for addressing these questions is to develop a training around the concept. We hope to have this training completed by the end of September or beginning of October 2016. The team will notify providers when this training is completed.

Comment: If an agency can mandate no smoking in any facilities, can they mandate no alcohol or illegal drugs?

Response: It would depend upon the scope and justification for the restriction against drugs, alcohol, and tobacco. Any restriction of residents' rights and freedoms must be based on the assessed needs of the residents at a setting, not for the convenience of the provider agency/setting operating authority. A specific prohibition against drugs, alcohol, and tobacco must be supported by an assessed need of residents at a setting. State and local laws regarding possession and use of these substances also apply.

Comment: Clarify “private unit with roommate.”

Response: CMS defines a private unit as a bedroom plus any included amenities (attached bathroom, kitchenette, etc.) accessible by and intended for the private use of the individual(s) living there. CMS considers “roommate” as unrelated individuals sharing the same living quarters. The regulatory requirement acknowledges that an individual may need to share a room due to the financial means available to pay for room and board or may choose to share a room for other reasons. However, when a room is shared, the individual should have a choice in arranging for a roommate.

Comment: For all residents in a community-based apartment building, the premises are restricted for drugs, alcohol, and tobacco for all residents. Would this "disqualify" a setting for BPHC/AMHH?

Response: It would depend upon the scope and justification for the restriction against drugs, alcohol, and tobacco. Any restriction of residents’ rights and freedoms must be based on the assessed needs of the residents at a setting, not for the convenience of the provider agency/setting operating authority. A specific prohibition against drugs, alcohol, and tobacco must be supported by an assessed need of residents at a setting. State and local laws regarding possession and use of these substances also apply.

Comment: Who (CMS, Contractor, FSSA) will conduct audits of settings/services other than the State Evaluation Team?

Response: CMS has the authority to conduct audits of settings/services related to Medicaid programs at any time. At present, the DMHA Adult 1915(i) State Evaluation Team (SET) is the sole reviewing agency for providers and settings related to AMHH and BPHC.

Comment: If a consumer chooses to remain in a setting non-compliant with HCBS, will they continue to be eligible for MRO services under an MRO service package?

Response: Yes. Currently, HCBS compliance is a requirement for providing AMHH and/or BPHC services only.

Comment: Regarding Remedial Strategies – DMHA notes that, based on a comment received regarding the prior draft STP, it is currently “assessing the most appropriate avenues to engage stakeholders.” The commenter is among the organizations listed as a possible collaborator. The commenter is willing to take on this role, and would also encourage DMHA to reach out to waiver participants themselves for feedback.

Response: Thank you for your comment, and for your agency's willingness to assist in reaching members impacted by the HCBS settings requirements.

Comment: Regarding Key Stakeholders and Outreach –The commenter understands that DMHA hosted regional trainings in which providers learned about the STP. We would remind DMHA that regional meetings for waiver participants is a great way to solicit feedback from those in the area, in more individualized and comfortable settings. Such meetings would also be a good opportunity for DMHA to alert participants of coming changes, including the potential need to relocate.

Response: Thank you for your comment and suggestion. As the focus of Indiana's HCBS Statewide Transition Plan shifts from site-specific assessments to remediation activities, DMHA looks forward to partnering with the commenter and other advocacy agencies to develop and deliver information sessions for members, particularly those who may experience changes to their living situation as a result of the HCBS settings requirements.

Comment: Where can I find the HCBS requirements in the rule and how do I know whether or not my setting is in compliance with the rule?

Response: Thank you for submitting your comments and concerns about the HCBS setting requirements. The DMHA Adult 1915(i) team is currently assisting agencies approved to provide HCBS services to adults (Adult Mental Health Habilitation and Behavioral and Primary Healthcare Coordination programs) to transition their settings into compliance with the Centers for Medicare and Medicaid’s final rule standards related to Home and Community Based Services. Those regulations can be found in the Federal Register at 42 CFR 441.710(a)(1). DMHA recommends that you consult with the HCBS representative at your agency for

further discussion and clarification of those requirements, and to refer to your agency's Setting Action Plan for the specific setting in question which outlines steps your agency will take to bring it into compliance. Additionally, the Adult 1915(i) team is available to provide technical assistance with yourself and your agency's HCBS representative so that we can further clarify the standards and HCBS expectations. DMHA encourages you and your agency's HCBS representative to email the Adult 1915(i) team at DMHAadultHCBS@fssa.in.gov to arrange a technical assistance call or visit for your agency.

TABLE OF ACRONYMS

Activities of Daily Living	ADL
Adult Day Services	ADS
Adult Family Care	AFC
Adult Mental Health Habilitation	AMHH
Aged and Disabled	A&D
Alternative Family Homes for Adults	AFA
Assisted Living	AL
Behavioral and Primary Healthcare Coordination	BPHC
Bureau of Developmental Disabilities Services	BDDS
Bureau of Quality Improvement Services	BQIS
Centers for Medicare and Medicaid Services	CMS
Child Mental Health Wraparound	CMHW
Community Integration and Habilitation	CIH
Community Mental Health Center	CMHC
Direct Service Provider	DSP
Division of Aging	DA
Division of Disability and Rehabilitative Services	DDRS
Division of Mental Health and Addiction	DMHA
Family and Social Services Administration	FSSA
Family Supports Waiver	FSW
Home and Community-Based Services	HCBS
Indiana Administrative Code	IAC
Indiana Department of Child Services	DCS
Indiana Institute on Disability and Community	IIDC
Indiana Protection and Advocacy Services	IPAS
Indiana State Department of Health	ISDH
Individual Experience Survey	IES
Individual Support Team	IST
Individualized Support Plan	ISP
Individuals with Intellectual Disabilities/Developmental Disabilities	IID/DD

Institution for Mental Diseases	IMD
Intermediate Care Facility for Individuals with Intellectual Disabilities/Development Disabilities	ICF/IID
Memorandum of Understanding	MOU
Mental Health and Addiction Planning and Advisory Council	MHAPAC
Mental Illness	MI
National Core Indicators	NCI
National Alliance on Mental Illness	NAMI
Nursing Facility	NF
Office of General Counsel	OGC
Office of Medicaid Policy and Planning	OMPP
Participant-Centered Compliance Review	PCCR
Person Centered Monitoring Tool	PCMT
Person Centered Plan	PCP
Preliminary Compliance Designation	PCD
Provider Compliance Reviews	PCR
Provider Owned, Controlled or Operated	POCO
Psychiatric Residential Treatment Facility	PRTF
Public Consulting Group	PCG
Quality Assurance/Quality Improvement	QA/QI
Residential Care Facility	RCF
Residential Setting Screening Tool	RSST
Semi-Independent Living Facilities	SILP
Serious Emotional Disturbance	SED
Setting Operating Authority	SOA
State Evaluation Team	SET
Statewide Transition Plan	STP
Structured Day Program	SDP
Structured Family Caregiving	SFC
Supervised Group Living	SGL
Supported Employment	SE

System of Care	SOC
Transitional Residential Living Facility	TRS
Traumatic Brain Injury	TBI