

The Massachusetts Statewide Transition Plan for Compliance with the CMS Home and Community Based Services Community Rule

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The Massachusetts Statewide Transition Plan for Compliance with the CMS Home and Community Based Services Community Rule

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The Massachusetts Statewide Transition Plan for Compliance with the CMS Home and Community Based Services Community Rule

I. Overview

The CMS final rule related to Home- and Community-Based Services (HCBS) for Medicaid-funded long-term services and supports provided in residential and non-residential home and community-based settings (the “Community Rule”) took effect March 17, 2014. States were required to submit transition plans to CMS within one year of the effective date indicating how they would comply with the new requirements ensuring participants have access to and are integrated into the broader community. In December 2014, CMS issued guidance on how the Community Rule applies to non-residential services such as employment and day services.

Massachusetts first submitted its Statewide Transition Plan (STP) regarding residential HCBS services to CMS in a letter dated March 2, 2015, followed by an addendum that addressed non-residential services in a letter dated September 3, 2015. Prior to these submissions, the state gathered public comments on the STP and the addendum during two public comment periods, including three public forums. The state held a third public comment period and fourth public forum in summer 2016. In total, 323 individuals or agencies submitted comments in writing, through e-mail, mail, and written testimony. Summaries of the comments received and the state’s response to these comments for all previously submitted materials are posted on the state’s [STP webpage](#).

In November 2015, the state received feedback from CMS addressing both the first STP submission and the addendum, and in response informally submitted a revised draft of the STP to CMS in February 2016. CMS provided additional, informal feedback in May 2016. The current version of the STP reflects updates responsive to all feedback and guidance received from CMS. Updates since the original 2015 submissions to CMS include several technical, structural, and formatting changes, including but not limited to the following:

- The current version of the STP covers both residential and non-residential services for all three HCBS waiver-operating agencies in one comprehensive document. The comprehensive STP was compiled in response to CMS’s request that the state present a single combined document. Previously, residential and non-residential services were addressed in separate STP attachments corresponding to each HCBS waiver-operating agency: the Department of Developmental Services (DDS), the Massachusetts Rehabilitation Commission (MRC), and the Executive Office of Elder Affairs (EOEA).
- A description of the Executive Office of Health and Human Services’ (EOHHS) role in the Statewide Transition Plan was added.
- A chart that maps each Community Rule requirement to one or more state regulations, policies, or other sub-regulatory instrument was added to the STP (Table 1).
- The results of the site-specific assessment process are combined into a single chart reflecting residential and non-residential settings in each waiver (Table 2).

- Systemic and site-specific transition steps and associated timelines for both residential and non-residential settings across the three waiver-operating agencies are combined into a single chart (Table 3).
- Links to related documents are provided in a new chart (Table 4).

In addition, changes were made to the STP to provide additional detail, updated information, and/or clarifications in the following areas.

- The systemic assessment section and the transition tasks/timeline chart (Table 3) were updated to reflect progress toward and final promulgation of revised regulations and issuance of new or revised policies, guidance, and other tools that will strengthen compliance by more clearly aligning state requirements with the Community Rule. Examples include
 - Revisions to 115 CMR 5 and 7 (DDS);
 - Revisions to the licensure and certification tool for residential and non-residential settings (DDS);
 - Development of a participant handbook and policy document for the ABI and MFP waivers (DDS and MRC);
 - Development of guidance for providers regarding the requirements for locks and tenancy protections (DDS and MRC);
 - Revisions to the MRC Community Living Provider Policy Manual (MRC); and
 - Revisions to the HCBS Program Guidelines (EOEA).
- The site-specific assessment section was reorganized for clarity as follows.
 - Additional details were included to describe more clearly each agency’s site-specific assessment process;
 - Findings were updated as part of an ongoing process and in response to the Frequently Asked Questions (FAQs) Guidance on Heightened Scrutiny (HS) issued by CMS on March 22, 2019; and
 - Details were included to describe more clearly the remedial actions or actions related to compliance undertaken by each waiver-operating agency.
- The site-specific assessment section was updated to reflect additional information from DDS’ licensure and certification process to identify Community-Based Day Services (CBDS) settings and group employment settings that required some level of modification to fully comply with the Community Rule. Details are provided regarding the steps that DDS has undertaken and will continue to undertake with each identified provider/setting to ensure that all settings fully comply.
- Additional details were added regarding the “heightened scrutiny” and “participant relocation” processes, as well as the state’s plan for continued monitoring of all HCBS settings for ongoing compliance with the Community Rule. This information appears in three new sections in the STP.
- The description of the waiver service, Day Habilitation Supplement, was updated to reflect how it is being modernized and converted to a state plan service, referred to as Individualized Staffing Supports, to align with Day Habilitation state plan services.

II. Background

The Massachusetts Executive Office of Health and Human Services (EOHHS) is the single State Medicaid Agency. Within EOHHS, MassHealth is the agency responsible for administering the state's Medicaid program.

This Statewide HCBS Transition Plan covers the ten 1915(c) HCBS waivers currently operating in Massachusetts, the day-to-day operations of which are the responsibility of three state agencies within EOHHS: the Department of Developmental Services (DDS), the Massachusetts Rehabilitation Commission (MRC), and the Executive Office of Elder Affairs (EOEA).

Massachusetts does not currently offer services through the state plan under 1915(i) or 1915(k) authority. The ten 1915(c) HCBS waivers, and the state agencies responsible for their operation, are as follows:

1915(c) Waiver	Waiver Number	Waiver Operating Agency
Intensive Supports Waiver for Adults with ID	MA.0827	Department of Developmental Services
Community Living Waiver for Adults with ID	MA.0826	Department of Developmental Services
Adults Supports Waiver for Adults with ID	MA.0828	Department of Developmental Services
Children's Autism Spectrum Disorder Waiver	MA.40207	Department of Developmental Services
Moving Forward Plan (MFP) Residential Supports Waiver	MA.1028	Department of Developmental Services
Acquired Brain Injury (ABI) Residential Habilitation Waiver	MA.40701	Department of Developmental Services
Moving Forward Plan (MFP) Community Living Waiver	MA.1027	Massachusetts Rehabilitation Commission
Acquired Brain Injury (ABI) Non-Residential Waiver	MA.40702	Massachusetts Rehabilitation Commission
Traumatic Brain Injury Waiver	MA.0359	Massachusetts Rehabilitation Commission
Frail Elder Waiver	MA.0059	Executive Office of Elder Affairs

Role of waiver-operating agencies in the STP

The three waiver-operating agencies—DDS, MRC, and EOE —undertook a review of their regulations, standards, policies, licensing requirements, and other provider requirements to ensure alignment with the new federal requirements, as applicable within each of the waivers for which they are responsible. In addition, each agency conducted site-specific assessments for residential and site-based non-residential services. As part of the development of the STP, the three waiver-operating agencies each submitted a compliance plan to the Cross-Agency Workgroup (described below) that included these elements:

- review of applicable state standards, rules, regulations, and policies;
- assessment of waiver settings, where applicable;
- summary of how each setting meets or does not meet the federal HCBS setting requirements;
- if applicable, time frame for the development of a plan and process for bringing identified HCBS settings into compliance; and
- a plan for ensuring the health and welfare of waiver participants who reside in locations that may need to take corrective action in order to fully comply within a specified period.

Role of MassHealth in the STP

MassHealth worked individually with each waiver-operating agency to clarify the requirements of and approach to development of the transition plan as it related to each waiver, specific waiver services, settings, and populations served. MassHealth worked to ensure consistency in how the agencies' plans addressed transition issues, and to support each agency in fully understanding the issues related to specific waivers, the potential challenges of certain waiver service settings, implications for the vulnerable populations served, and the impact on waiver participants, families, advocates, and other stakeholders.

For both the state's initial STP submission that focused on residential services, and the later addendum that focused on day and employment services, MassHealth oversaw production of the plan documents and their publication for public review, including collecting, assembling, and editing, and coordinated the formatting of the documents. MassHealth also scheduled, advertised, and hosted four public forums on the STP. MassHealth and agency staff jointly convened and facilitated the public forums, maintained sign-in sheets to document who attended the forums and to identify those wishing to provide input, took notes at the forums, and supported the ability of attendees to provide input both orally and in writing. These various efforts were facilitated by MassHealth staff and undertaken in a truly collaborative and supportive manner between MassHealth and the waiver-operating agencies.

In addition, MassHealth administers the Adult Foster Care service, which is a state plan service that HCBS waiver participants may access. MassHealth provides oversight of HCBS waiver participants living in MassHealth Adult Foster Care settings in relation to compliance with the Community Rule.

Subsequent to the systemic and site-specific assessment processes, MassHealth continues to monitor progress toward milestones at the agency level in implementing the plan as it relates to specific waivers, and engage in the HCB Settings Training and Small Group Discussion series facilitated by CMS.

Role of the cross-agency workgroup in the STP

MassHealth's Community Waiver Unit created and convened the Cross-Agency Workgroup for Development of the Statewide Transition Plan, which included representatives from the waiver-operating agencies and initially from EOHHS. Starting in January 2014, the workgroup met monthly for three years, and then on an ad hoc schedule to ensure that a cohesive statewide transition plan was established to address the unique needs of individuals across a wide variety of community-based settings. Through the Cross-Agency Workgroup, MassHealth ensured that best approaches were shared and leveraged to the benefit of the waiver-operating agencies as they created plans to comply with the final rule, and that each agency contributed to and collaborated on the development and production of the STP.

MassHealth continued to convene the Cross-Agency Workgroup throughout and in follow-up to the systemic and site-specific assessment processes, in support of a coordinated approach to the following activities:

- collaborative planning for the transition for each waiver;
- consultation on implementation objectives and methods;
- sharing of best practices, techniques and approaches to ensure effective communication across the agencies involved in waiver operations; and
- oversight and updating of progress toward milestones at the agency level in implementing the plan as it relates to specific waivers.

The Cross-Agency Workgroup developed the response to CMS's letter of November 5, 2015 and informal email of May 2, 2016 addressing the Commonwealth's STP. MassHealth facilitated consensus among workgroup participants in jointly developing an approach to reformatting the STP into a consolidated document inclusive of residential and non-residential waiver service settings across the three operating agencies, and to ensuring responsiveness to other CMS questions and input.

Reverse Integration

The state does not use reverse integration as a strategy for complying with the community integration criteria.

III. Public Input

Massachusetts is committed to ensuring that our statewide transition plan is reviewed publicly, and that public input is incorporated into the final plan. The state provided opportunities for public comment as follows:

1. During four 30-day public comment periods:
 - October 15 through November 15, 2014 – on the statewide transition plan; and
 - May 18, 2015 through June 18, 2015 – on the addendum to the statewide transition plan regarding non-residential waiver services.
 - July 8, 2016 through August 10, 2016 – on the revised statewide transition plan including site-specific assessment
 - December 12, 2022 through January 11, 2023 – on the final statewide transition plan and heightened scrutiny packages
2. At five public forums:

Document	Public Forum Date / Time	Location
Statewide Transition Plan (STP)	November 6, 2014 6:00 PM	Massachusetts Bay Community College (Wellesley, MA)
Statewide Transition Plan (STP)	November 12, 2014 10:30 AM	Westfield State University (Westfield, MA)
Non-residential Services Addendum	June 1, 2015 1:00 PM	Worcester Public Library (Worcester, MA)
Revised STP	August 3, 2016 10:00 AM	Worcester Public Library (Worcester, MA)
Final STP	January 5, 2023 1:00 PM	Virtual (via Zoom)

The public forums were advertised on October 15, 2014 (for the STP); on May 18, 2015 (for the addendum); on July 8, 2016 for the revised STP; and on December 12, 2022 for the final STP in three newspapers each: the *Boston Globe*, *Worcester Telegram and Gazette*, and the *Springfield Republican*. The 2014 and 2015 advertisements in each newspaper directed individuals to the EOHHS website at: <http://www.mass.gov/eohhs/gov/departments/masshealth/> for further information; the 2016 and 2022 newspaper advertisements directed individuals to MassHealth’s Statewide Transition Plan website at: <https://www.mass.gov/service-details/statewide-transition-plan-for-compliance-with-the-home-and-community-based-services-hcbs-community-rule>. Information in the link as of October 15, 2014 included a summary of the new federal rule, the draft statewide transition plan, links to the draft DDS, MRC and EOEA agency-specific transition plans, and provided the mailing address and e-mail address for submission of public comment. Materials accessible through this link as of May 18, 2015 included the draft addendum to the STP, links to the DDS, MRC and EOEA agency-specific transition plan addenda addressing non-residential service settings, a mailing address and an e-mail address to which public comment on the transition plan addendum could be sent. Materials accessible through the link provided in 2016 included the revised STP, a brief summary of changes in the STP, a mailing address and an email address to which public input could be sent, and information regarding the August 3, 2016 public forum. Finally, materials accessible through the link provided in 2022 included the final STP, a brief summary of changes in the

STP, heightened scrutiny evidentiary packages, a mailing address and an email address to which public input could be sent, and information regarding the January 5, 2023 virtual public forum.

For the draft STP, the draft addendum, the full, revised STP, and the full, final STP, MassHealth also emailed links to the draft documents as well as information on the public comment periods to several hundred people, including key advocacy organizations and the Native American tribal contacts. The transition plan, the addendum, and the revised full STP were also discussed during quarterly conference calls with the tribal representatives on October 21, 2014, July 20, 2015, and August 17, 2016, respectively. Pursuant to CMS's instruction, the newspaper notice, email, and website all provided details for requesting a printed copy of the Non-Residential Services Addendum, and copies of the Non-Residential Services Addenda were made available at the June 1, 2015 public forum. For the July 8 through August 10, 2016 public comment period, copies of the revised STP were available at DDS regional offices, by mail upon request, as well as at the August 3, 2016 public forum. For the December 12, 2022 through January 11, 2023 public comment period, copies of the full, final STP were available by mail upon request. The three newspaper notices, MassHealth STP website, and stakeholder email all included an email address and a physical mailing address by which the public could contact the state to request copies of the STP.

In addition, DDS engaged stakeholders in a series of meetings and outreach activities:

- Initial introduction of the intent of the HCBS rule and the process DDS was going to use with DDS staff, providers, advocacy groups, individuals and families;
- Ten regional meetings (April – June 2014) with providers and DDS staff to provide more details;
- Formation of a stakeholder group to review and provide input into the draft transition plan. This stakeholder group included representation from several advocacy groups including but not limited to Arc/Massachusetts, Massachusetts Advocates Standing Strong, Disability Law Center, Massachusetts Families Organizing for Change, Massachusetts Developmental Disabilities Council, the Brain Injury Association of Massachusetts, and the Association of Developmental Disability Providers;
- Periodic email updates to stakeholders; and
- Information and updates on the DDS website: www.mass.gov/lists/ddshcbs-community-rule

In total, for the initial plan and addendum, 323 individuals or agencies submitted comments in writing, through email, mail and oral testimony, with nearly 100 people submitting comments through multiple formats. A summary of the comments received and the state's response to these comments was submitted with the state's original STP submission and the Addendum addressing non-residential services, each time as Attachment D (see Table 4 for link).

For the full, revised STP, a total of 37 individuals or agencies submitted comments, including approximately 4 individuals or agencies who submitted 4 comments through multiple formats. A

summary of the comments received, and the state's response, accompanies the state's submission of the revised STP to CMS.

The state's full, final STP, into which information originally contained in the addendum addressing non-residential service settings has been integrated, and including revisions based on the receipt of CMS feedback and public comments, was posted on the EOHHS website concurrent with submission of the full, revised STP to CMS on December 2, 2022.

For the full, final STP and Heightened Scrutiny materials, the state received one letter with ten signatories representing advocacy groups and 17 additional comments from individuals or agencies, including approximately 5 individuals or agencies who submitted comments through multiple formats. A summary of the comments received, and the state's response, accompanies the state's submission of the final STP to CMS.

IV. Systemic Assessment

A. Waivers operated by the Department of Developmental Services (DDS)

The Department of Developmental Services (DDS) conducted systemic and site-specific reviews to evaluate compliance with the final rule for the following DDS-operated HCBS Waiver Programs:

- Intensive Supports Waiver for Adults with ID (MA.0827)
- Community Living Waiver for Adults with ID (MA.0826)
- Adults Supports Waiver for Adults with ID (MA.0828)
- The Children's Autism Spectrum Disorder Waiver (MA.40207)
- ABI Residential Habilitation Waiver (MA.40701)
- MFP Residential Supports Waiver (MA.1028)

These waivers support individuals in the community in their own homes or apartments, in homes and apartments with family members and other informal supports, and in 24-hour residential settings. DDS's transition plan addresses 24-hour residential settings and non-residential supports, including day and employment supports.

A thorough review of DDS's regulations, policies and procedures, waiver service definitions, provider qualifications, and quality management and oversight systems was conducted to determine whether the systemic infrastructure was consistent with the principles of community integration. Listed below are the documents that were reviewed. Where areas for improvement were identified, they are indicated below as part of the transition plan.

- 1) DDS regulations 115 CMR 1.00-10.00 were reviewed with an emphasis on the following chapters:
 - a. 115 CMR Chapter 5.00 – Standards to Promote Dignity
 - b. 115 CMR Chapter 7.00 – Standards for Services and Supports
 - c. 115 CMR Chapter 8.00 – Licensure and Certification

- 2) Policies and procedures, including sub-regulatory guidance such as:
 - a. DDS guidance on locks
 - b. DDS Individual Support Plan (ISP) Manual
 - c. DDS guidance on visitation
 - d. DDS Licensure and Certification process
- 3) Waiver service definitions
- 4) Provider qualifications – including review of the open bid process for providers
- 5) Quality management and oversight systems – including review of the licensing and certification process

Review of Waivers Serving Adults

DDS conducted separate review processes on 24-hour residential settings and non-residential supports (day and employment supports). In addition to this basic separation, in reviewing the status of DDS's compliance with the requirements of the HCBS Community Rule for non-residential services, we found it helpful to separate out our analysis by employment services and what DDS terms Community-Based Day Services (CBDS). While some individuals in CBDS may be on a pathway to employment, many individuals served are of retirement age or are otherwise not participating in employment-focused activities. Therefore, the focus of many CBDS programs is on meaningful day activities with a variety of individualized goals. In addition, DDS is at different stages of evolution with respect to these two discrete service types. This transition plan therefore reports separately on progress towards achieving the outcomes articulated in the Community Rule for employment and CBDS services.

Specifically, for DDS's actions to ensure compliance with the Community Rule with respect to employment settings, the transition plan relies heavily on the "Blueprint for Success: Employing Individuals with Intellectual Disabilities in Massachusetts" (see Table 4 for link) and progress reports associated with it. With respect to CBDS services, this transition plan outlines the steps DDS has taken to identify and implement strategies needed to enhance outcomes for individuals in these settings to ensure full compliance with the Community Rule.

Review of the Children's Autism Waiver

Since the services and method of delivery are so unique, DDS conducted a separate assessment of the services and supports provided in the Children's Autism waiver. The Autism waiver supports children who reside in their family home and receive services either within their family home, or in the broader community with the explicit goal of full and appropriate integration of the child into his or her community. DDS reviewed the specific settings in which Autism waiver services are delivered. All waiver services are delivered either in the family home or in community settings in which children typically socialize, for example in parks, YMCAs, Boys and Girls Clubs, libraries, grocery stores, and outdoor public events, as well as other kinds of natural environments where children of similar chronological age are present in the community. Waiver services delivered in the community are designed to help participants develop and maintain skills to more fully and effectively participate in community activities. Through this review, DDS confirmed that all services within the Autism waiver are, by their nature and under the terms of the waiver, available and delivered only in settings that are fully integrated into the community.

DDS will undertake on-going review of new planned Autism waiver service settings, if any are developed, to ensure compliance with the CMS Community Rule.

1. DDS Regulations (See Table 1. Regulatory Crosswalk)

115 CMR Chapter 5.00 – Standards to Promote Dignity

Chapter 5.00 articulates the outcomes regarding community integration, choice, and quality of life consistent with the Community Rule. In February 2020 DDS promulgated amendments to Chapter 5.00 to replace the previous “Behavior Modification” standards with a system of “Positive Behavior Supports,” a widely accepted and utilized framework for both systems change and individual treatment that supports individuals to grow and reach their maximum potential. This approach limits the use of restraint and prohibits highly restrictive interventions. The amendments to the Chapter 5.00 regulations codify the implementation of Positive Behavior Supports and confirm conformity of the regulations with the Community Rule’s protection of participant’s freedom from restraint and coercion. (See Table 3. Summary of Transition Plan Tasks and Timelines). Chapter 5.00 also addresses person centered planning-based protections and freedoms related to individual autonomy and choice, including privacy and visitation. The DDS Individual Support Plan (ISP) Manual (see Table 4 for link) instructs Service Coordinators during the ISP process to note the restrictions to rights of the individual to visitation, possessions, or privacy and the reason for the restriction.

115 CMR Chapter 7.00 – Standards for Services and Supports

Chapter 7.00 articulates the expectations that DDS has of its providers with respect to qualifications of staff, environmental standards, and outcomes for individuals. Such standards were found to be consistent with the CMS Community Rule, with two exceptions. DDS amended Chapter 7.00 to specifically address such inconsistency:

- Locks on bedroom doors. Previous regulations stipulated that locks on bedroom doors that provide access to an egress from the home were not permitted. This stipulation was included to ensure the swift evacuation of all participants in the event of a fire or other emergency. In order to protect individual safety and at the same time safeguard individuals’ right to privacy and choice, DDS current regulation encompasses the general rule that bedroom doors shall be lockable, but recognizes that some exceptions to the general rule may be necessary (115 CMR 7.07(7)(f)).:

To further support the regulatory language and provide context, specifically consistency with the Community Rule, DDS issued guidance to providers on the requirement for locks on bedroom doors. (See DDS 2016 Guidance on Locks and DDS 2022 Guidance on Locks, see Table 4 for links)

In any specific situation that contraindicates or otherwise results in the participant’s bedroom door not being lockable, a specific assessed need must be established via the person centered planning process, including discussion with and agreement by the participant and documented in the participant’s ISP. (115 CMR 6.20 - 6.25)

- **Capacity.** While the Community Rule does not establish a maximum capacity for residential settings, it clearly reflects an overall commitment to community integration and a move away from settings with institutional-like qualities. In this vein, DDS amended an existing regulatory provision to limit the capacity of residential settings to no greater than five residents (115 CMR 7.08(1)). The regulations provide an exception to this limitation, however, and provide that the 151 homes identified by DDS that had a licensed capacity greater than five prior to 1995 will be permitted to retain the capacity approved in the license for the life of the original building if the site can accommodate more than five individuals (115 CMR 7.08(2)). The regulations further provide that capacity in excess of five must be reduced if the Department determines at any time that the site can no longer accommodate more than five individuals. In the event that DDS determines that a site can no longer accommodate more than five individuals, the provider must develop and implement a plan to reduce the capacity. DDS will work collaboratively with the provider on plans to effectuate the reduction in capacity to five or fewer individuals.

DDS also added a section to Chapter 7.00 regulations that set forth standards for both employment and day supports. (115 CMR 7.09). The section is consistent with the requirements of the Community Rule and emphasizes DDS's commitment to employment as the first option for all individuals of working age.

115 CMR Chapter 8.00 – Licensure and Certification

Chapter 8.00 articulates the system DDS uses to license and certify its providers. The stringent standards and processes specified in Chapter 8.00 ensure that all providers that achieve licensure and/or certification meet all the components consistent with the HCBS Community Rule. DDS identified within Chapter 8.00 an opportunity to strengthen this regulation by more clearly aligning certain elements regarding certification with the requirements of the Community Rule. Revisions to this certification process are complete and were implemented on September 1, 2016. (See Table 3. Summary of Transition Plan Tasks and Timelines).

DDS Licensure and Certification is the process by which providers' compliance is assessed and determined. The licensure and certification process applies to all providers subject to the requirements of Chapter 19B; section 15(a) of the Massachusetts General Laws. The licensing review is conducted in a 2-year cycle if all thresholds are met. Other conditions may require a 60-day follow-up or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. In some circumstances, both a 60-day follow-up and a mid-cycle review are conducted. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and when implemented are predictive of positive outcomes in the lives of

individuals. The tool has its foundation in DDS Regulations (115 CMR Chapters 5, 7, and 8) and covers areas of respect, individual choice and control, and community integration; the tool was expanded in 2016 to align with the Community Rule. At that time, DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. The specific support expectations in certification fall into several domains, each of which is evaluated separately. These include, but are not limited to planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the community rule.

The Licensure and Certification review is conducted by DDS Quality Enhancement surveyors. The survey includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews, and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

Providers are required to make corrections when indicators are not met, and are subject to follow-up by DDS surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule.

2. Policies and procedures

Residential Settings

Tenancy protection

The CMS rule requires individuals to have a legally enforceable agreement that provides protections comparable to those provided under landlord-tenant law. The intent of this rule is to safeguard individuals against an arbitrary or capricious eviction from their home. Based on analysis of landlord-tenant law and other applicable law, DDS developed guidance for such an agreement (see Table 4. Links to Related Documents) and incorporated requirements related to legally enforceable agreements into the revised licensure and certification tool (see Table 3. Summary of Transition Plan Tasks and Timelines).

Emergency transfer is rare, but available when it is necessary to protect a DDS consumer, both waiver participants and non-waiver participants, from abuse or imminent harm in their own household. DDS transfer statute/regulations are more robust than Massachusetts landlord tenant law, and MA landlord/tenant law is considered one of the most "tenant friendly" states in the country. See 115 CMR 6.63.

Adult Foster Care

All Massachusetts HCBS waiver participants have access to the Adult Foster Care (AFC) service, which is a MassHealth state plan service, not a HCBS waiver service. The majority of AFC caregivers are family members. While MassHealth's AFC program regulation 130 CMR 408.435(A) addresses qualified AFC settings and explicitly states that AFC settings are not structured as provider operated settings, some waiver participants may choose to move into the home of an unrelated AFC caregiver concurrent to receiving HCBS waiver services in the home. In those instances where the caregiver is unrelated and the participant does not own or lease the home, MassHealth will review those AFC settings to ensure they conform to the requirements of community settings including that the participant has a lease or other legally enforceable agreement providing similar protections.

MassHealth has developed guidance for AFC provider agencies regarding the need to complete the Home- and Community-Based Services Community Rule Attestation for Waiver Participants Receiving Adult Foster Care Services and implement remediation strategies to ensure compliance with the community rule in those instances where the AFC caregiver is unrelated to the HCBS waiver participant and the participant does not own or lease the home.

Future DDS licensed and certified settings

DDS did not have a specific policy in place prior to CMS's issuance of its Community Rule that clearly articulated its position on settings that CMS considers not to meet the criteria for community-based settings. Therefore, DDS developed and disseminated a policy (dated September 2, 2014) that spells out the Department's position on future development of settings as well as how existing settings that have transitioned into compliance with the rule were addressed (See Section V. Site-Specific Assessment). This policy is now in force. (See Table 3. Summary of Transition Plan Tasks and Timelines).

Non-Residential Settings

Individual Supported Employment

On July 20, 2010, DDS issued an "Employment First Policy." This policy articulated DDS's commitment to individual integrated employment as the preferred option for individuals of working age. Since its issuance, DDS has worked and continues to work collaboratively with providers and stakeholders to ensure that individuals are assisted to enter integrated employment options.

Group Supported Employment

Issued in November 2013, "The Blueprint for Success: Employing Individuals with ID in Massachusetts" set forth DDS's plan to increase integrated employment opportunities for people with intellectual disabilities and transform sheltered workshop settings. To accomplish this goal, which aligned with the HCBS Community Rule, key policy initiatives were implemented: DDS halted new referrals to sheltered workshops, closed sheltered workshops, and transitioned individuals in sheltered workshops to integrated individual or group employment or Community Based Day Supports or both. Since FY 2014, DDS has been committed to funding a capacity-

building initiative for its provider agencies. In partnership with the Institute for Community Inclusion/UMass Boston (ICI), this initiative focused and continues to focus on staff training, organizational change consultation efforts, expanding an employment collaborative model, providing technical assistance, and supporting forums for individuals and families. The ICI is a nationally recognized organization with demonstrated expertise in the area of supporting employment and inclusion for individuals with disabilities. An important area of focus for these efforts has been on program design and quality features of inclusive CBDS programs, including three statewide trainings with national experts that reached more than 200 providers and DDS staff as well as technical assistance and consultation services with specific providers.

Previous policy initiatives supporting compliance with the HCBS Community Rule are the Department's commitment to developing alternatives to sheltered workshops as seen in FY2010 procurements for day and employment programs, and the establishment of new rates (2013) that incentivized integrated employment and community-based day services.

Community-Based Day Supports (CBDS)

The pillar of DDS's systemic assessment of CBDS programs was a voluntary survey developed by DDS and distributed to 98 Community-Based Day Supports providers, representing 170 CBDS settings. The purpose of the survey was to gather data about establishing standards for what constitutes a meaningful day for individuals, best practices, challenges, and qualitative and quantitative measures for CBDS services. Specifically, it incorporated questions that allowed a provider to discuss areas that were particularly challenging to it related to the Community Rule as a way to note areas that require systemic improvement. The results of the voluntary provider survey have been used to determine systemic changes needed, including but not limited to:

- Development of clear guidelines/standards that define CBDS services, including what constitutes meaningful day activities, and how services and supports can be integrated into the community more successfully;
- Provision of training and staff development activities to enhance the knowledge of providers and their staff with respect to successful strategies to support individuals in meaningful day activities (in part, through the ICI initiative);
- Development of revised certification indicators against which to measure provider performance and quality of services;
- Technical assistance to providers to assist in enhancing their program design and operation; and
- DDS review of contracting provisions to ensure appropriate incentives towards outcomes required by the Community Rule.

Data gleaned from the survey has been used to inform the existing DDS Employment Work Group regarding enhancement of Community Based Day Supports, as well as a group of advocates, participants/family members, state staff and other stakeholders regarding the following:

- The development of definitions and standards for what constitutes a meaningful day,

- The incorporation of both qualitative and quantitative measures into the DDS licensure and certification process, and
- Systemic strategies to assist all CBDS providers to achieve the outcomes of the Community Rule, including but not limited to technical assistance, staff development and training.

DDS also used data from the survey in the development of a Request for Responses (RFR) (see p.14). In part, the RFR solidified expectations for integration, choice, and meaningful activities. Providers qualified through this procurement/RFR initiated services in July 2019 (see p. 35).

3. Waiver service definitions

DDS reviewed all waiver service definitions to determine if the definitions themselves meet the following requirements:

- Does the service ensure individuals receive services in the community to the same degree of access as individuals not receiving Medicaid Home and Community-based services?
- Does the service definition allow for integration and access to the greater community?
- Are the services selected by the individual?
- Does the service optimize interaction, autonomy, and independence in making life choices?
- Does the service facilitate choices regarding supports and who provides them?

Based on these criteria, we determined that all current waiver service definitions are in compliance with the Community Rule.

The Day Habilitation Supplement service, which provides additional support for individuals who require one-on-one assistance in order to utilize the Day Habilitation State Plan Service, has been removed from the DDS Adult waivers. This service has been incorporated into the Day Habilitation State Plan service with a modernized rate structure that includes individualized staffing supports. Individualized Staffing Supports allow individuals with substantial clinical needs to access and benefit from Day Habilitation services and participate in the community.

4. Provider qualification

Residential Settings

Providers of 24-hour residential settings were the subject of an open bid process and were required to be qualified to provide services and supports. The RFR that providers responded to outlined critical outcomes with respect to choice, control, privacy, rights, integration, and inclusion in community life, consistent with the HCBS settings requirements. All providers that were qualified were shown to adhere to the RFR's requirements for supports to individuals. On an on-going basis, provider qualifications are reviewed through the DDS licensure and certification process described below in DDS's section on Quality Management. No changes are recommended as part of the transition plan for the way in which providers become qualified.

Non-Residential Settings

Providers of Day and Employment services are the subject of an open bid process and are required to be qualified to provide services and supports. All providers that have been qualified are thus shown to adhere to the requirements for supports to individuals. The previous Request for Responses (RFR, 2009) that providers responded to outlines critical outcomes with respect to choice, control, career exploration, employment, rights, integration, and inclusion in community life. This process demonstrates, for all Day and Employment providers, DDS's commitment to the HCBS settings requirements. An integral part of the procurement process was a requirement that providers re-structure their services to create alternative employment program options. Providers were required to submit their plan to DDS about how they would increase the number of individuals working in integrated employment, and how they would phase out sheltered workshop services within a five-year period. The RFR became an important precursor to the "Blueprint for Success."

Day and Employment services have been re-procured through a Request for Responses in the winter of 2019 (see p. 35). In addition to maintaining the critical outcomes as noted above, the RFR process provided further guidance to CBDS providers related to addressing the requirements of the Community Rule.

Following qualification, providers of day and employment services are subject to licensure and certification on an on-going basis. Certification outcomes also focus on rights, choice, control, employment and meaningful day activities, and community integration. As part of ongoing monitoring to ensure that providers are moving to enhance their outcomes, DDS revised its licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule (see Table 3. Summary of Transition Plan Tasks and Timelines).

In addition, for ABI and MFP day and employment providers not qualified through the above process by DDS, the Massachusetts Rehabilitation Commission Provider Standards for Acquired Brain Injury (ABI) and Moving Forward Plan (MFP) Waiver Service Providers identify the requirements to become credentialed to provide waiver day and employment services. Regardless of the state agency that is directly responsible to qualify a particular provider, Massachusetts will consistently meet the requirements of the Community Rule across providers, settings, and services. Please refer to Section V (Site-Specific Assessment) below for more specific information.

5. Quality management and oversight systems

DDS has an extensive and robust quality management system (QMIS) that addresses the criteria in the Community Rule in every aspect of the system. These processes have been in place for many years, and through DDS's review were determined to be responsive to the outcomes addressed in the Community Rule. Listed below are those components that most directly relate to the HCBS rule.

Licensure and certification process

The licensure and certification process is the basis for qualifying providers doing business with the Department. The process applies to all public and private providers of residential, work/day, site-based respite and individualized home support services. The system measures important indicators relating to health, personal safety, environmental safety, communication, human rights, staff competency, and goal development and implementation for purposes of licensure, as well as specific programmatic outcomes related to community integration, support for developing and maintaining relationships, exercise of choice and control of daily routines and major life decisions, and support for finding and maintaining employment and/or meaningful day activities. DDS survey teams review provider performance through on-site reviews on a prescribed cycle. Survey teams observe and interview a statistically significant number of individuals as part of the on-site review for residential and day/employment services. Interview topics for individuals include, but are not limited to, community integration, choice and control, social relationships (friends and family), intimacy and companionship, and their experiences in providing feedback to their provider and how the provider responds to that feedback. Providers are required to make corrections when indicators are not met, and are subject to follow-up by surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule. DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings (see Table 3. Summary of Transition Plan Tasks and Timelines).

Area Office oversight

DDS Area Office staff conduct bi-monthly visits to all homes providing 24-hour support, and quarterly visits to homes providing less than 24-hour support. A standardized form is used to ensure that health, safety, and human rights protections are in place. Results from these visits are monitored by Area Office staff. Visits ensure an on-going presence and oversight by Department staff.

Service coordinator (SC) supervisor tool

DDS Service Coordinators support waiver participants through the entire service planning process. This person-centered support begins by explaining the service planning process, and includes, but is not limited to, helping the participant prepare for service planning meetings, discussing who to include in the meetings, reviewing the participant's circumstances, and deciding which issues the participants wants to talk about at the meeting. Throughout, the Service Coordinator assists the participant to voice wants and needs. Importantly, the preparation involves a discussion with the participant about the person's own goals and vision for the future, from their own perspective, ensuring that the individual has goals that are personally relevant and meaningful. For each participant, this planning process explores, validates, and supports the person's goals for community integration.

The SC Supervisor tool measures the quality, content and oversight of the person-centered service planning process and its implementation. The tool measures how effective the service

planning process is in involving the individual, how well the objectives reflect the vision of the individual, whether the services being delivered address both individual needs and goals, whether the services are modified as needs and goals change, and whether service coordinators are aware of and addressing issues of concern raised by the individual. As this tool reviews important indicators of a process that fully supports the person-centered approach, building off of an individual's desired goals and objectives and ensuring that individuals exercise choice and control of their services and supports, no changes are needed.

Incident reporting

DDS has a web-based incident reporting and management system that requires providers to report a specifically defined set of incidents within 24 hours. The provider must report specific details regarding the incident as well as what actions they took to protect the health and safety of the individual and what long-range actions they may take. For an incident report to be finalized, DDS staff must review and approve the report. Aggregate information from the system is reviewed and analyzed and forms the basis for service improvement targets. Some incidents may involve events that directly relate to the Community Rule; the current Incident Reporting system will continue to be used to monitor these events, as well as identify any systemic issues that must be addressed.

Human rights protections

The Department's Human Rights System is based on the principle that affirmation and protection of individual rights must occur on all levels of the organization and in all services and supports. Therefore, each location where individuals live or work (including CBDS) has a Human Rights officer and providers have a Human Rights Coordinator. On all levels of a provider's service system, individuals are supported to understand their rights, know who they can turn to if they have a complaint, and to speak up on their own behalf. In addition, Human Rights Committees with representation from individuals, families and professionals monitor human rights issues, including the review of behavioral interventions and restraint reports. By virtue of this strong human rights system, individuals are supported to exercise choice, control and informed decision making consistent with the intent of the Community Rule.

Site feasibility

Providers intending to serve individuals in 24-hour residential supports, site-based respite, or site-based day supports must have any proposed sites reviewed for their feasibility to provide the necessary physical site requirements for the individuals proposed to be served. Prior to moving any individual into a home, day or work site, state agency staff of the Office of Quality Enhancement (OQE), who license and certify providers, review the location and ensure that all necessary safeguards are in place and the location can be approved for occupancy.

Specifically, the site feasibility process is conducted to determine if a proposed site offers a safe and suitable living and day support environment for the individuals it is intended to serve. The review is designed to provide technical assistance to providers and Area/Regional staff by identifying any features of the home or day support affecting the well-being of individuals that

would need to be addressed before it can be occupied. The review includes how the anticipated physical features of a proposed home impact programmatic outcomes, such as adequate bedroom size and number to assure privacy, bathroom design to support individuals' needs for privacy and personal care, common dining and living space conducive to interaction with housemates and entertaining visitors. A separate set of features, consistent with Community Rule requirements, is reviewed for day supports. In addition to the site feasibility process, Area and Regional Office staff are integrally involved in working with providers to determine whether a proposed location is integrated in the community, whether it facilitates access to community activities, is consistent with the needs and desires of the individuals as identified through the person-centered planning process, and does not result in homes being clustered together. These questions are also incorporated into the initial intake process prior to the feasibility review. Taken in their entirety, these processes assure that any proposed residential setting or day setting complies with both the physical/site and programmatic requirements of the Community Rule.

Quality Council

The Department has a Statewide Quality Council that includes representation from self-advocates, family members, providers, and DDS staff. The Council is dedicated to reviewing and analyzing data, making recommendations for statewide and local service improvement targets, and monitoring progress toward achieving targets. Since its inception, the Council has reviewed and monitored, among other outcomes, statewide efforts to assist individuals to develop relationships and obtain employment in integrated settings.

National Core Indicator Surveys

Massachusetts has participated in the National Core indicators (NCI) survey for many years. Participation in NCI has enabled the Department to benchmark its performance on several key indicators of quality against other states and the national averages. Data from NCI is incorporated into the QA Briefs. NCI involves indicators related to the experience of individuals in settings. However, because NCI's data collection methods are anonymous, DDS does not intend to use NCI data to review a specific setting. Rather, NCI is but one small part of DDS's quality assurance process. Continued involvement in the NCI surveys reinforces DDS's commitment to the principles and outcomes delineated in the HCBS Community Rule.

Adult Foster Care

By March 17, 2023, AFC providers will ensure that AFC caregivers and AFC members have completed the required joint Attestation form, and executed lease agreements where necessary, for HCBS waiver participants whose residential settings are subject to the community rule and will continue to do so as a matter of practice. MassHealth or the MassHealth Long Term Services and Supports Third Party Administrator (LTSS TPA) will conduct site visits for a sample of AFC members who are HCBS Waiver participants residing in the home of an unrelated caregiver as an additional layer of ongoing monitoring and oversight to ensure compliance of AFC settings with the Community Rule.

B. Waivers operated by the Massachusetts Rehabilitation Commission (MRC)

The Massachusetts Rehabilitation Commission (MRC) conducted a review and assessment of its compliance for the following three HCBS waivers operated by MRC:

- the Traumatic Brain Injury (TBI) Waiver (MA.0359);
- the ABI Non-Residential Waiver (MA.40702); and
- the MFP Community Living Waiver (MA.1027).

All three of these waivers support individuals in the community in their own homes or apartments, or in homes and apartments with family members and other informal supports. In addition, the TBI waiver also supports participants in 24-hour, provider-operated residential settings.

MRC's systemic assessment of these three waivers included a thorough review of MRC's regulations, policies and procedures, provider qualifications and quality management and oversight systems to determine whether the systemic infrastructure was consistent with the principles of community integration as outlined in the Community Rule. In reviewing the status of MRC's compliance with the requirements of the Rule for the non-residential services (day supports and employment services), the state (MassHealth, MRC, and DDS) coordinates work undertaken across both MRC and DDS to ensure ongoing consistency in practices, standards and qualifications of the many shared providers of day and employment services.

Listed below are the areas that were reviewed to determine whether and how MRC is positioned to ensure that our standards are consistent with those outlined in the Community Rule. Where areas for improvement were identified, they are indicated below as part of the transition plan.

- MRC regulations 107 CMR 12.00 *et seq.*: Statewide Head Injury Program
- MRC Community Living Division Policies and Procedures Manual
- HCBS waiver service definitions
- Provider qualification standards and processes
- Quality Management and oversight systems including review of the Annual Monitoring Tool

1. MRC Regulations (See Table 1. Regulatory Crosswalk)

107 CMR Chapter 12.00: MRC regulations for the Statewide Head Injury Program describe the referral, application, and eligibility determination process, case closure process, and rights to appeal. MRC manages compliance with regulations through contractual agreements with providers. These regulations were reviewed and were found to be in compliance with the Community Rule; no changes are recommended.

2. Policies and procedures (See Table 3. Summary of Transition Plan Tasks and Timelines)

Residential Settings

The following policies were identified as needing modifications or revisions in order to ensure compliance with the Community Rule:

Tenancy protection

The Community Rule requires individuals to have a legally enforceable agreement comparable to a lease. The intent of this rule is to safeguard individuals against an arbitrary or capricious eviction from their home. Residential providers, however, did not necessarily have a specific document that either the individual and/or his/her guardian sign to ensure that they will not be evicted without due process. MRC developed guidance for providers regarding development of documents safeguarding individuals as discussed above in April 2016 to support providers in developing and documenting agreements with individuals. This policy states a legally enforceable agreement shall provide the participant with the same responsibilities and protections from eviction that tenants have under the landlord/tenant law(s) in Massachusetts as well as the county or town/city where the participant resides. By June 2017, residential providers had completed and executed such agreements with participants and continue to do so as a matter of practice.

Locks on doors

The Community Rule requires that units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. For reasons associated with health and safety (chiefly, in order to ensure the swift evacuation of all individuals in the event of a fire or other emergency), this was not a common practice in MRC residential homes (provider owned/leased residences) at the time MRC conducted its systemic review. MRC issued a policy as part of the Community Living Division Provider Manual in January 2016 to address this requirement. In any specific instances where health and safety issues necessitate an exception, the modification will be discussed through the participant's person-centered planning process, and agreement obtained and documented. (See Table 3. Summary of Transition Plan Tasks and Timelines.)

Number of residents

MRC recognizes the importance of developing homes that are in settings that are integrated into and support full access to the greater community; as a result, MRC will not develop new homes in excess of five people.

Dignity, independence, and individual choice and control

In addition to the requirements around locks and leases, MRC identified opportunities to improve and/or strengthen its policies related to the following conditions of the Community Rule:

- Any HCBS setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint;

- Any HCBS setting 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;
- In a provider-owned or controlled residential setting, individuals have the freedom and support to control their own schedules and activities, and have access to food at any time; and
- In a provider-owned or controlled residential setting, individuals are able to have visitors of their choosing at any time; and, furthermore,
- Any modification to these and other conditions specified must be supported by a specific assessed need and justified in the person-centered service plan.

Specifically, MRC determined that the following 10 key policies for residential providers required revision to ensure compliance with the Community Rule: (See Table 3. Summary of Transition Plan Tasks and Timelines)

- Residential Guidelines regarding family members, significant others, friends, and legal guardians
- Program participant expectations
- Elopement policy for site based programs
- Alcohol and Drug Abstinence Policy
- Leave of Absence Policy
- Sharps Policy
- Smoking Policy
- Telephone, Cable and Internet Usage Policy
- Unsupervised time in Residence/community Policy
- Vacation Policy

MRC convened an internal work group to revise the policies identified above consistent with the Community Rule. The revisions completed by this group removed any restrictive policies or procedures while ensuring the use of comprehensive and ongoing assessments to inform individualized plans. These draft policies were reviewed with stakeholders in March 2015 to ensure MRC fully understood the implications of these changes for providers and participants. MRC shared changes made to its policies and procedures with DDS, as well as with the Statewide Transition Plan Cross-Agency Workgroup to promote consistency between agencies. Once the draft policies were finalized in April 2015, MRC held a statewide training for all staff and providers. These trainings were completed in June 2015. Additional changes were made to the Community Living Division Practices, Policies and Procedures Manual (also referred to as the Provider Policy Manual) in 2016. Both MRC staff and provider staff were trained in the complete 2016 Manual by May 2016.

In response to the policy changes described above, the MRC clinical and program staff, working collaboratively with providers, completed initial assessment of each participant to determine if an individual may require a behavioral intervention plan stemming from clinical support needs and necessitating a modification to their person-centered plan consistent with the Community Rule.

Adult Foster Care

All Massachusetts HCBS waiver participants have access to the Adult Foster Care (AFC) service, which is a MassHealth state plan service, not a HCBS waiver service. The majority of AFC caregivers are family members. While MassHealth's AFC program regulation 130 CMR 408.435(A) addresses qualified AFC settings and explicitly states that AFC settings are not structured as provider operated settings, some waiver participants may choose to move into the home of an unrelated AFC caregiver concurrent to receiving HCBS waiver services in the home. In those instances where the caregiver is unrelated and the participant does not own or lease the home, MassHealth will review those AFC settings to ensure they conform to the requirements of community settings including that the participant has a lease or other legally enforceable agreement providing similar protections.

MassHealth has developed guidance for AFC provider agencies regarding the need to complete the Home- and Community-Based Services Community Rule Attestation for Waiver Participants Receiving Adult Foster Care Services and implement remediation strategies to ensure compliance with the community rule in those instances where the AFC caregiver is unrelated to the HCBS waiver participant and the participant does not own or lease the home.

Non-residential Settings

MRC reviewed its Community Living Division Policies and Procedures Manual to ensure compliance with the Community Rule for day and employment settings. Revisions were made with input from stakeholders. Changes applicable to day and employment settings were limited to the incorporation of behavioral assessment and management into the person-centered plan. As noted above, both MRC staff and provider staff were trained in the complete Manual by May 2016.

In concert with DDS, MRC utilized the Day Services survey tool developed by DDS for shared providers of waiver day services, in order to avoid duplication of effort. As described above (see Section IV.A.2 Non-residential Settings), the purpose of the survey was to gather data from DDS-qualified Community-Based Day Support (CBDS) providers to inform the establishment or enhancement of existing standards for what constitutes a meaningful day for individuals for whom employment is not a goal, as well as best practices, challenges, and qualitative and quantitative measures for CBDS services. MRC staff reviewed the survey responses, and in several instances, contacted providers where clarification was needed. MRC determined that one day program provider did not meet these criteria. At the time of MRC's review, that program was not utilized by any waiver participant. If at any time the program wishes to commit to changes in services and settings, MRC will offer support through this process. Unless that occurs, the program is not and will not be utilized for any waiver participants.

Data gleaned from the surveys was shared with MRC and used by DDS to inform the existing Employment Work Group that is also addressing enhancement of CBDS as well as a group of advocates, participants/family members, and other stakeholders regarding the following:

- The development of definitions and standards for what constitutes a meaningful day,

- The incorporation of both qualitative and quantitative measures into the DDS licensure and certification process,
- The modification of the MRC monitoring tool to reflect changes in program expectations and standards, and
- Systemic strategies to assist all CBDS providers to achieve the outcomes of the Community Rule including but not limited to technical assistance and staff development and training.

MRC distributed the same Day Services survey to seven TBI, ABI, or MFP waiver day service providers who were not also licensed or certified by DDS as CBDS providers. Again, the intent was to ensure consistency across the programs of multiple state agencies, and to collect data to support the establishment of standards around what constitutes a meaningful day for individuals, best practices, challenges, and qualitative and quantitative measures for day services. Surveys were reviewed, and providers were contacted as necessary to clarify responses. (See Table 3. Summary of Transition Plan Tasks and Timelines.)

3. Waiver service definitions

MRC reviewed all waiver service definitions to determine if the definitions themselves met the following requirements:

- Does the service ensure individuals receive services in the community to the same degree of access as individuals not receiving Medicaid Home and Community-based services?
- Does the service definition allow for integration and access to the greater community?
- Are the services selected by the individual?
- Does the service optimize interaction, autonomy, and independence in making life choices?
- Does the service facilitate choices regarding supports and who provides them?

Based on these criteria, MRC determined that all waiver service definitions were in compliance with the HCBS rule. In addition, the flexibility of these waivers to use multiple providers or diverse day or employment service settings ensures maximum choice and opportunity for participants to access various settings and specialized services based on individualized interests.

4. Provider qualification **Residential Settings**

Provider owned/leased residential settings were the subject of an open bid process in 2014 and were required to be qualified to begin or continue to provide residential services. The RFR that providers responded to outlined critical outcomes with respect to choice, control, privacy, rights, integration, and inclusion in community life, consistent with the requirements of the Community Rule. All providers that were determined qualified to provide services and supports were shown to adhere to the requirements for supports to individuals. In addition to the initial review of qualifications involved in the procurement process, provider qualifications are reviewed through the Annual Monitoring process described in the quality management and oversight section

below. No changes were recommended as part of the transition plan for the process MRC uses to qualify providers.

Non-residential Settings

Provider standards

The MRC Provider Standards for Acquired Brain Injury (ABI) and Moving Forward Plan (MFP) Waiver Service Providers identify the requirements to become credentialed to provide waiver day and employment services. These standards have general requirements for all providers and additional requirements for each type of service a provider is seeking to provide. A thorough review identified no areas where the standards were in conflict with the Community Rule. Overall, the standards appropriately speak to community inclusion and individualized, person-centered service planning. They also point directly to the MRC Community Living Division Provider Manual, which articulates policies and procedures in alignment with the Community Rule. Changes in the MRC Community Living Division Provider Manual were finalized in February 2016 to strengthen language and ensure alignment with the Community Rule. Under the revised Provider Manual, providers must provide services consistent with the principles of person-centered planning and establish a complaint resolution process that includes providing consumers with a cognitively accessible, written copy of this process.

Provider credentialing

Under the ABI and MFP waivers, MRC uses the University of Massachusetts Medical School Provider Network Administration unit (UMMS-PNA) to credential day and employment services providers. UMMS-PNA, under a contract with MassHealth, credentials organizations following the MRC Provider Standards. Additionally, MRC supports the credentialing process of new day service providers by conducting an initial site visit and subsequent annual site visits. These visits use a comprehensive monitoring tool inclusive of an assessment of the physical site; policies and procedures to ensure safety and quality; staffing requirements and qualifications; individualized service planning; and community integration. For the credentialing of employment providers, MRC collaborated with UMMS-PNA to ensure that the requirements of the Community Rule are reflected in the review tool used by the UMMS-PNA in the credentialing and recredentialing process. (See Table 3. Summary of Transition Plan Tasks and Timelines.)

Procurement

Providers of day and employment services under the TBI Waiver are the subject of open bid processes and are qualified by either MRC or DDS (or both agencies) to provide these services and supports. The Request for Responses (RFR) that day and employment providers respond to outlines critical outcomes with respect to choice, control, career exploration, employment, rights, integration and inclusion in community life. MRC reviews the credentials of those waiver service providers who are not qualified by DDS through annual, onsite monitoring to ensure that all day and employment settings utilized for TBI waiver services meet the requirements of the Community Rule.

At the time the Community Rule went into effect, MRC was utilizing 33 day services supports providers for the ABI/MFP waivers. Of these providers, 26 were certified or licensed for comparable day services by DDS and were credentialed to provide day services for ABI/MFP

through the above UMMS-PNA credentialing process. As part of this transition plan, DDS expanded their licensure/certification process to include the requirements of the Community Rule to ensure compliance. The remaining seven qualified waiver day service providers and any newly qualified providers are subject to on-site reviews incorporating applicable Community Rule requirements by MRC staff, as described above, to support the full credentialing requirement by UMMS-PNA.

Similarly, for the ABI/MFP waivers, MRC utilized 37 supported employment providers, 29 of which were licensed or certified by DDS. The remaining eight providers and any newly qualified providers undergo monitoring and credentialing for this service by either UMMS-PNA or MRC to ensure compliance with the standards of this service and the requirements of the Community Rule.

5. Quality management and oversight systems

MRC has an extensive and robust quality management system that addresses the criteria in the HCBS rule in every aspect of the system. Below are those components of the MRC system that monitor and relate to outcomes addressed in the Community Rule; DDS, in close partnership with MRC, has responsibility for quality oversight for the ABI-N and MFP-CL waivers.

MRC Monitoring Tool

The Monitoring Tool measures the quality, content and oversight of the person-centered service planning process and its implementation. This tool measures how effective the service planning process is in involving the individual, how well the objectives reflect the vision of the individual, whether the services being delivered address both individual needs and goals, whether the services are modified as needs and goals change, and whether case managers are aware of and addressing issues of concern raised by the individual. Proper implementation of this tool is targeted to ensure optimal person-centered outcomes.

Residential Monitoring

MRC staff conduct monthly site visits for all residential providers in connection with routine, in-person case management meetings with participants. As part of these visits, MRC staff utilize a residential monitoring tool that assesses provider compliance with all MRC requirements, ensuring that participants are receiving services consistent with their desired goals and objectives as described in their person-centered plan. No changes were identified as being necessary to ensure that this tool reviews appropriate indicators to ensure compliance with Community Rule requirements.

Credentialing process

The credentialing process conducted by UMMS-PNA is the basis for qualifying providers under the ABI and MFP waivers. As detailed above in the section on provider qualification standards and processes, this process occurs for both initial qualification of a provider for a specific waiver service as well as annually thereafter to ensure continued qualification for these services. The annual credentialing visits are conducted by MRC agency staff.

Incident reporting

MRC uses access to a web-based incident reporting and management system, HCSIS, for two of its referenced waivers, ABI-N and MFP-CL. This incident reporting system is the result of a collaborative interagency project that leveraged and expanded the functionality of DDS's robust incident management system used with other HCBS waivers that are operated by DDS. For TBI waiver participants, a separate incident reporting system is maintained but with a nearly identical incident reporting tool and requirements. In both systems, the provider must report specific details regarding the incident as well as what actions they took to protect the health and safety of the individual and what additional long-range actions they may take. Aggregate information from both systems is reviewed and analyzed and forms the basis for service improvement targets.

Site feasibility

Providers intending to serve individuals in site-based settings must have any proposed sites reviewed by MRC staff for their feasibility to provide the necessary physical site requirements for the individual participants. Prior to serving any participant in a residential, day or employment site, review of the location is conducted to ensure that all necessary safeguards are in place and the location can be approved for occupancy. These safeguards include accessibility issues, so ongoing compliance with certain aspects of the Community Rule will be monitored for new providers and settings.

Adult Foster Care

By March 17, 2023, AFC providers will ensure that AFC caregivers and AFC members have completed the required joint Attestation form, and executed lease agreements where necessary, for HCBS waiver participants whose residential settings are subject to the community rule and will continue to do so as a matter of practice. MassHealth or the LTSS TPA will conduct site visits for a sample of AFC members who are HCBS Waiver participants residing in the home of an unrelated caregiver as an additional layer of ongoing monitoring and oversight to ensure compliance of AFC settings with the Community Rule.

C. Waiver operated by the Executive Office of Elder Affairs (EOEA)

The Executive office of Elder Affairs (EOEA) is the Massachusetts state agency responsible for helping to support elders in the Commonwealth to live independently and with dignity in the settings of their choice. EOEA is the operating agency for the state's 1915(c) Frail Elder Waiver (FEW). This waiver does not include services intended to provide 24/7 care or supervision to participants, such as residential group homes, assisted living residences, or other such settings. Rather, the goal of the FEW is to support elders' abilities to age in place, in the community settings of their choice, including one's own private home or apartment or family home. To support this overarching goal, FEW services are provided to participants who typically reside in the community in their own private home or apartment or in a private family home. With the exception of the following waiver services: Supportive Day Program services, transportation, and respite services, all other FEW services are delivered in a participant's home which the state considers fully compliant with the Community Rule. In addition, in an effort to demonstrate full commitment to the Community Rule, the state notes that FEW participants may reside,

based on their personal choice, in congregate housing settings. The transition plan for the FEW, therefore, addresses EOEA's review of elder Supportive Day Program settings as well as certain congregate housing settings in which a small number of FEW participants live. (While there is no specific "congregate housing" or "congregate" waiver service, participants who reside in such a setting may receive FEW services in their homes; therefore, the state reviewed these specific settings for compliance.)

The basic foundation of the state's administration of the Frail Elder Waiver is the state law that establishes EOEA's responsibility to implement the elder Home Care Program, which in its focus on independence and community-based programming is aligned well with the Community Rule. Specifically, M.G.L. c. 19A § 4 provides that EOEA "shall be the principal agency of the Commonwealth to mobilize the human, physical, and financial resources available to plan, develop, and implement innovative programs *to insure [sic] the dignity and independence of elders*, including the planning, development, and implementation of a Home Care program for the elderly *in the communities of the Commonwealth.*" (*emphasis added*)

In the context of this state law, EOEA administers the Frail Elder Waiver pursuant to the approved 1915(c) waiver application and in accordance with EOEA Home Care Program Regulations and additional sub-regulatory guidance. The systemic review process for the Frail Elder Waiver's compliance with the Community Rule evaluated each of these areas and is described below; see Table 1. Regulatory Crosswalk for additional detail.

1. EOEA Regulations (See Table 1. Regulatory Crosswalk)

The Frail Elder Waiver is administered pursuant to EOEA's Home Care Program regulations (651 CMR 3.00 *et seq.*), which set forth requirements for EOEA in the administration of the Home Care Program, as well as the functions and responsibilities of EOEA's agents (Aging Services Access Points, or "ASAPs," described below under Policies and Procedures). Our review of these regulations focused on the standards and requirements outlined in the CMS Community Rule. The Commonwealth determined that EOEA's Home Care Program regulations, as they apply to administration of the FEW, are fully compliant with the Community Rule.

2. Policies and procedures

EOEA contracts with a geographically-based network of Aging Services Access Points (ASAPs) through a procurement process. The ASAPs provide comprehensive Protective Services and Information and Referral services, as well as coordinate Home Care, for Massachusetts elders. In conjunction with the EOEA Home Care Program regulations described above, section 3.5 (contract management) of the ASAP contract sets out the ASAPs' responsibilities and requirements as EOEA's agents for contract management, compliance, and corrective action with service providers. ASAPs are **not** providers of direct services; this prohibition ensures there is no conflict of interest in the establishment of plans of care, the provision of needed services, or in participant and provider monitoring processes.

Administration of the FEW also includes sub-regulatory guidance in the form of overarching HCBS Program Guidelines and specific Program Instructions (PIs) and Information Memoranda

(IMs) that set out programmatic requirements and through which EOEa dictates and communicates certain business practices and policy and program changes to its agents.

EOEA does not recommend any changes to the sub-regulatory guidance, which includes the ASAP contract, PI, and IM documents as part of the transition plan. EOEa identified an opportunity to update and revise the HCBS Waiver Program Guidelines to more clearly align with the requirements of the Community Rule, including to clarify the requirements for settings in which FEW participants reside and receive services. Within the updated HCBS Waiver Program Guidelines the components and areas of review to ensure compliance with the community rule are included and these guidelines outline the requirement that any new waiver applicant's residential setting and any new provider settings must be reviewed for compliance with the community rule. EOEa issued revised HCBS Program Guidelines in January 2023 (see Table 3. Summary of Transition Plan Tasks and Timelines).

Service Plans

ASAPs are responsible for conducting assessments and developing service plans based on the needs of FEW participants. Program instructions developed and distributed to all ASAPs lay out fundamental requirements of all service plans, in particular that they must incorporate the values and preferences of the HCBS waiver participant and be developed in conjunction with the participant and his/her representative(s) and having free choice of providers. The ASAP contract includes specific program instructions related to service plan development and review, such as at a minimum annual update and more frequently as required by changes with the waiver participant.

Adult Foster Care

All Massachusetts HCBS waiver participants have access to the Adult Foster Care (AFC) service, which is a MassHealth state plan service, not a HCBS waiver service. The majority of AFC caregivers are family members. While MassHealth's AFC program regulation 130 CMR 408.435(A) addresses qualified AFC settings and explicitly states that AFC settings are not structured as provider operated settings, some waiver participants may choose to move into the home of an unrelated AFC caregiver concurrent to receiving HCBS waiver services in the home. In those instances where the caregiver is unrelated and the participant does not own or lease the home, MassHealth will review those AFC settings to ensure they conform to the requirements of community settings including that the participant has a lease or other legally enforceable agreement providing similar protections.

MassHealth has developed guidance for AFC provider agencies regarding the need to complete the Home- and Community-Based Services Community Rule Attestation for Waiver Participants Receiving Adult Foster Care Services and implement remediation strategies to ensure compliance with the community rule in those instances where the AFC caregiver is unrelated to the HCBS waiver participant and the participant does not own or lease the home.

3. Waiver service definitions

EOEA reviewed all waiver service definitions to determine if the definitions themselves meet the following requirements:

- Does the service ensure individuals receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS?
- Does the service definition allow for integration and access to the greater community?
- Are the services selected by the individual?
- Does the service optimize interaction, autonomy, and independence in making life choices?
- Does the service facilitate choices regarding supports and who provides them?

Based on these criteria, EOEА determined that all current waiver service definitions are in compliance with the HCBS rule. As noted above, aside from Supportive Day Program services, transportation, and respite services, all FEW services are delivered in a participant's home; and, as noted, a FEW participant's home may be a congregate housing setting, if such setting is fully compliant with the Community Rule.

4. Provider qualifications

Pursuant to the provider contract management section 3.5 of the ASAP contract, ASAPs review the qualifications of waiver service providers, including Supportive Day Program services. Qualifications are reviewed as part of initial on-site review visits with new providers, as well as when conducting regular monitoring visits of each provider at a minimum of every three years as part of the provider contract renewal process. EOEА has developed and, through its agents implemented, tools designed to detect, monitor, and ensure provider compliance with the CMS Community Rule on an on-going basis. Although EOEА found that the previous tool ASAPs used to review providers was consistent with the Community Rule, EOEА identified an opportunity to strengthen the tool to align more clearly with the requirements of the Rule. The Supportive Day provider review tool was therefore revised to incorporate specific questions related to the Rule's requirements to better facilitate compliance monitoring. For example, the tool includes questions about Plans of Care, meaningful activities, and physical setting. In addition, Program Instruction PI-09-13 (Home Care Program Service Definitions, Attachment A) establishes detailed Home Care program service definitions for Supportive Day services that are consistent with requirements outlined in the CMS Community Rule.

HCBS services provided through the FEW are largely delivered to participants in their current home setting. The participant's home is not chosen as part of FEW enrollment. Some participants have chosen to live in congregate housing. Congregate housing is not a waiver service within the FEW. However, since some participants live in such settings, EOEА reviewed these settings to confirm their community character.

5. Quality management and oversight systems

The administrative structure in place for the Frail Elder Waiver includes several layers of program oversight and quality management. At the state level, EOEА is the operating agency for the Massachusetts 1915(c) Frail Elder Home and Community Based Services Waiver. Reporting to the Executive Office of Health and Human Services (EOHHS), EOEА is subject to EOHHS's oversight authority. The Office of Medicaid, the medical assistance unit within EOHHS, oversees EOEА's administration of the FEW. Within this structure, the Director of

Home and Community Programs and the Home Care Unit Quality Manager at EOEa have responsibility for ensuring that effective quality management systems are in place.

As EOEa's agents, ASAPs implement clinical eligibility, financial, contract management, quality, and other administrative functions of the Home Care Program, including with respect to FEW participants. EOEa's oversight of ASAP operations includes on-site visits ("designation reviews") every three years. In addition, each ASAP must submit annually an attestation of compliance with program guidelines and waiver requirements in order to maintain continued designation as an appropriate contractor. At the local level, ASAPs conduct operational and administrative functions such as quality monitoring, service provider contracting, and monitoring and incident reporting under the direction of EOEa.

Each ASAP's Executive Director manages day-to-day compliance with waiver guidelines along with the ASAP Home Care Program Manager and RN Manager. The provider contract manager, an employee of the ASAP, conducts all provider monitoring, including quality monitoring for all waiver services delivered to FEW participants.

A standing quality improvement committee which meets at least monthly is an ASAP requirement. This includes an agency quality improvement plan that is updated at least annually and a staff member with assigned responsibility for operational management of quality improvement activities. Tracking performance measures, including aggregation, remediation, and follow up with EOEa is specified in the ASAP contract.

Provider network management and quality assurance

ASPs proactively manage the performance of providers in accordance with the Provider Network Quality Assurance Manual, including monitoring and enforcing standards and instruction from EOEa. These requirements include ensuring licensure and certification, when applicable, implementing satisfaction surveys, having processes to log, track, and respond appropriately to provider, critical incidents, complaints and compliments, and conducting monitoring reviews in accordance with EOEa standards.

Service Plan Quality Improvement

The approved FEW application details the performance measures that are tracked and acted upon to ensure waiver services are delivered in accordance with the service plan and that they are meeting the participant's needs and preferences. Case managers document their review of waiver participant service plans in the data management system, and an annual report is produced out of that system for use in FEW quality performance reporting. For the FEW participants who are SCO members, the SCO plans provide similar data. In the event problems are discovered, EOEa and MassHealth will ensure that a corrective action plan is created, approved, and implemented within appropriate timelines. Timelines for remediation will be dependent on the nature and severity of the issue to be addressed. Further, EOEa, and MassHealth are responsible for identifying and analyzing trends related to the service plans and operations of the FEW waiver and determining strategies to address quality-related issues.

Adult Foster Care

By March 17, 2023, AFC providers will ensure that AFC caregivers and AFC members have completed the required joint Attestation form, and executed lease agreements where necessary, for HCBS waiver participants whose residential settings are subject to the community rule and will continue to do so as a matter of practice. MassHealth or the LTSS TPA will conduct site visits for a sample of AFC members who are HCBS Waiver participants residing in the home of an unrelated caregiver as an additional layer of ongoing monitoring and oversight to ensure compliance of AFC settings with the Community Rule.

V. Site-Specific Assessment

A. Waivers operated by the Department of Developmental Services (DDS)

In conjunction with its providers, DDS Senior and Regional Staff reviewed residential and non-residential settings in which DDS-operated waiver services are provided to assess their compliance with the Community Rule.

For the limited number of day service providers providing services only under the MFP and ABI waivers, please refer to Section 4.B.4 above, describing the Massachusetts Rehabilitation Commission (MRC) monitoring tool used for these providers, which fully assesses and ensures compliance with the Community Rule. Also see Section B, below, describing MRC's site-specific review process, findings, and remedial actions/actions related to compliance.

1. Process (See Table 3. Summary of Transition Plan Tasks and Timelines) Residential settings

DDS has approximately 4,000 community residences, both public and private, that offer 24-hour supports: approximately 2,500 are group home settings and over 1,400 are placement services (shared living) in private homes (see Table 2 for additional details). The vast majority of these homes are located in the community and integrated into the many neighborhoods of the State.

DDS Licensure and Certification is the process by which providers' compliance is assessed and determined. The licensure and certification process applies to all providers subject to the requirements of Chapter 19B; section 15(a) of the Massachusetts General Laws. The licensing review is conducted in a 2-year cycle if all thresholds are met. Other conditions may require a 60-day follow-up or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. In some circumstances, both a 60-day follow-up and a mid-cycle review are conducted. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and when implemented are predictive of positive outcomes in the lives of individuals. The tool has its foundation in DDS Regulations (115 CMR Chapters 5, 7, and 8) and covers areas of respect, individual choice and control, and community integration; the tool was expanded in 2016 to align with the Community Rule. At that time, DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. The specific support expectations in certification fall into several domains, each of which is evaluated separately. These include, but are not limited to planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the community rule.

The Licensure and Certification review is conducted by DDS Quality Enhancement surveyors. The survey includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews, and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

Providers are required to make corrections when indicators are not met, and are subject to follow-up by DDS surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule.

DDS conducted a review of existing 24-hour residential settings to determine those settings that had a license and certification in good standing. (For Assisted Living sites that are part of ABI and MFP waivers, where DDS licensure is not applicable, the review determined whether they were credentialed in good standing.) Given the outcomes that are reviewed during the licensure and certification process conducted by DDS surveyors independent of the agency being reviewed, DDS assures that providers that have received a full license and certification meet the standards established in the Community Rule—with the exception of the requirements for legally enforceable written agreements and locks on bedroom doors, which has been dealt with on a statewide, systemic basis. In the rare situation in which providers were reviewed and leases / locks were not in place, a follow-up process was activated to ensure that the provider will comply. DDS residential provider licensure and certification reports are publicly available on the state website (See Table 4. Links to Related Documents).

Central, Regional, and Area Office DDS staff identified specific 24-hour residential settings as potentially presumed to have the qualities of an institution. Staff closely followed 2014 CMS guidance for this identification, looking at settings that were campus based; located in a building on the grounds of, or immediately adjacent to a public institution; included a cluster of homes co-located next to one another or that may have had the effect of isolating individuals from the broader community. Based on this analysis, 2 providers, representing 25 settings, were identified for in-depth review and further identified for Heightened Scrutiny due to having the

effect of isolating individuals from the broader community.¹ These settings are reflected in Table 2. To facilitate further evaluation of that set of providers, DDS developed and deployed a provider self-assessment tool that borrowed substantially from the exploratory questions that CMS had published:

- The tool was piloted with a specific provider for whom DDS anticipated there might be challenges to meeting the Community Rule requirements.
- Based on the pilot, the tool was modified and finalized for implementation.
- The provider self-assessments were completed by each identified provider, with review by DDS Central and Regional Office staff to identify areas for remediation and improvement.
- Verification of each of the providers' self-assessments was conducted by DDS staff through on-site visits and meetings with key agency staff.
- DDS staff then categorized each site as fully compliant, compliant with changes, or as settings that cannot meet the requirements.

The self-assessment tool included all settings rule criteria as noted in the "CMS Exploratory Questions to Assist States in Assessment of Residential Settings" including provider-specific assessment questions related to:

- The setting was selected by the individual.
- The individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCB services.
- The individual is employed or active in the community outside of the setting.
- The individual has his/her own bedroom or shares a room with a roommate of choice.
- The individual chooses and controls a schedule that meets his/her wishes in accordance with a person-centered plan.
- The individual controls his/her personal resources.
- The individual chooses when and what to eat.
- The individual chooses with whom to eat or to eat alone.
- Individual choices are incorporated into the services and supports received.
- The individual chooses from whom they receive services and supports.
- The individual has access to make private telephone calls/text/email at the individual's preference and convenience.
- Individuals are free from coercion.
- The individual, or a person chosen by the individual, has an active role in the development and update of the individual's person-centered plan.
- The setting does not isolate individuals from individuals not receiving Medicaid HCBS in the broader community.

¹ Based on the Frequently Asked Questions (FAQs) Guidance on Heightened Scrutiny (HS) issued on March 22, 2019, some of this set would not have been identified as potentially having the qualities of an institution; however, an in-depth analysis had already taken place before CMS issued the FAQs.

- The setting is an environment that supports individual comfort, independence and preferences.
- The individual has unrestricted access in the setting.
- The physical environment meets the needs of those individuals who require supports.
- Individuals have full access to the community.
- The individual's right to dignity and privacy is respected.
- Individuals who need assistance to dress are dressed in their own clothes appropriate to the time of day and individual preferences.
- Staff communicates with individuals in a dignified manner.
- Modifications of the setting requirements for an individual are supported by an assessed need and justified in the person-centered plan.
- Individuals have privacy in their sleeping space and toileting facility.
- The individual has privacy in his/her living space.
- The individuals have comfortable places for private visits with family and friends.
- Individuals furnish and decorate their sleeping and/or living units in the way that suits them.
- There is a legally enforceable agreement for the unit or dwelling where the individual resides.
- Individuals are protected from eviction and afforded appeal rights in the same manner as all persons in the State who are not receiving Medicaid HCBS.

There are approximately 13,700 recipients of the MassHealth AFC state plan service as of July 2022, 2,154 of whom are DDS HCBS waiver participants. Of those waiver participants, 1,805 reside with a related AFC caregiver. The remaining 349 waiver participants appear to be living in settings with an unrelated caregiver. For that subset, MassHealth deployed an attestation form that will identify residential situations that will need to come into compliance. Attestations are a combination of provider self-assessment and participant experience assessment in one document; the provider and participant both have the opportunity to confirm a setting's compliance with all community rule criteria. Attestations are completed by the AFC caregiver and AFC member with facilitation by the AFC provider and all three parties sign the document. The Attestation captures the specific address and setting in which the participant resides.

To ensure identification of all HCBS waiver participants living with an unrelated caregiver, further data analysis was completed to remove duplicates and participants who have disenrolled, and to add new enrollees. The final number of waiver participants who appear to be living in settings with an unrelated caregiver is 308.

Non-residential settings

Employment

As identified in Table 2, there are 116 group supported employment settings and 183 individual employment support provider locations. The process described in the Blueprint for Success, including Next Steps and Progress Reports, represents DDS's system-wide approach to transforming sheltered workshops and supporting integrated individual employment options consistent with the Community Rule.

As DDS closed all of its sheltered workshops, the focus of the Employment Workgroup shifted to a systemic review of both group employment and CBDS day supports settings. With the revision process to the statewide transition plan, DDS took the opportunity to re-evaluate the Group Supported Employment settings to ensure that all settings comply with the Community Rule. Group employment supports include mobile work crews and other business-based workgroups employing small groups of workers with disabilities in employment in the community. Typically, group supported employment consists of 2-8 participants, working in the community under the supervision of a licensed provider agency. DDS reviewed site-specific data, including licensure and certification information, for a variety of different group employment settings, including but not limited to hospitals, retail, and community business settings, in order to evaluate provider practices at a range of different types of sites. Given that these employment settings are typical workplaces fully integrated into the community in terms of their overall community integration, DDS's review focused on the *experiences* of individuals within each setting, including the following major domains:

- Integration within the workplace (e.g., clusters of individuals with disabilities versus individuals with disabilities working in scattered ways throughout the workplace);
- Access to workplace amenities to the same degree as non-disabled workers; and
- Incorporation of individual interests and preferences.

CBDS

There are 225 CBDS settings in 2022. As described in the discussion of DDS's systemic assessment approach, DDS developed a voluntary survey that was distributed in 2015 to all 98 Community-Based Day Support (CBDS) providers at the time, representing 170 CBDS settings. The tool was instrumental in evaluating the current state of CBDS settings statewide with respect to the Community Rule requirements by asking providers about their progress in Community Rule compliance. It provided valuable information to inform DDS's approach to enhancing CBDS services through capacity building, technical assistance, and training.

Although voluntary in nature, the survey provided rich and generalizable information upon which to base a broad compliance action strategy that was deployed at the site level across all CBDS providers and settings. Senior DDS staff utilized site-specific program data including licensure and certification information in combination with review of the site-level data from the CBDS survey responses to establish a comprehensive understanding of this setting type in relation to requirements of the Community Rule. These review steps informed a thorough picture of the need for remediation of all CBDS sites in order to ensure comprehensive site-level compliance as part of the 2019 RFR process documented in the systemic assessment section and Section 3 below.

Day Habilitation

As identified in Table 2, there are 161 Day Habilitation providers. Day Habilitation providers are not inherently covered settings as the Day Habilitation service is not included in a 1915(c), 1915(i), or 1915(k) authority. However, there are DDS Adult waiver participants who receive Day Habilitation Supplement in Day Habilitation settings. The Day Habilitation Supplement service is in the process of phasing out as a waiver service and transitioning to Individualized Staffing Supports, a component of the Day Habilitation State Plan service. Now that transition is complete (as of the end of 2022), Day Habilitation providers will not be a setting for any services covered under the Community Rule authorities.

DDS non-residential provider licensure and certification reports, including day and employment, services, are publicly available on the state website (See Table 4. Links to Related Documents).

2. Findings

Residential settings

Based upon the review and assessment, and as further described in the attached Analysis of Waiver Settings, the residential settings described in section 1(a) above fall into the following designations as of February 2022:

- The residential setting complies: 4,055
- The residential setting meets HCBS but subject to Heightened Scrutiny: 25
- The residential setting cannot meet the requirements: none

Given the above numbers, almost all of the set of providers and settings that had been originally identified for in-depth review are now no longer identified as such. These providers initiated and completed the substantive changes required and have been licensed and certified through the enhanced and strengthened licensure and certification process. The work completed by these providers included compliance actions related to the following Community Rule domains:

- The setting is integrated in and supports full access to the community –
Some examples of provider activities to comply with this domain included dental and medical appointments shifted to community providers; unbundling of services; fuller use of interest inventories as part of person-centered planning; wider use of community resources and partnerships; removing all “commercial” signage; and explore/encourage shared living model.
- The setting is selected by the individual from among setting options –
Some examples of provider activities to comply with this domain included provider staff training on person-centered planning; and unbundling of residential and day/employment services.

- The setting optimizes, but does not regiment, individual initiative, autonomy, and independence –
Some examples of provider activities to comply with this domain included provider staff training on person-centered planning; and additional staff/community members to ensure individualized activities.
- The setting facilitates individual choice regarding services and supports –
Some examples of provider activities to comply with this domain included provider staff training on person-centered planning; additional staff to ensure individualized activities; and more individual input into hiring and retaining staff.
- Individuals have freedom to control their own schedules and activities and have access to food at any time –
Some examples of provider activities to comply with this domain included provider staff training on person-centered planning; and additional staff to ensure individualized activities.
- Individuals are able to have visitors of their choosing at any time –
Some examples of provider activities to comply with this domain included revision of visiting policy to comport with Community Rule. Any modification to visitation must be supported by a specific assessed need and supported in the person-centered plan. See 42 CFR 441.301(c)(4)(vi)(F). DDS' Licensure and Certification process monitors providers and settings to assure that individuals' rights to visitation are upheld. Also see DDS guidance on visitation (see Table 4 for link).

DDS residential provider licensure and certification reports are publicly available on the state website (See Table 4. Links to Related Documents).

Non-residential settings

The non-residential settings fall into the following designations as of February 2022: (See Table 2. Analysis of Waiver Settings, detailing all setting types)

- The non-residential setting complies: 524
- The non-residential setting cannot meet the requirements: none
- All sheltered workshops have closed (completed June 2016)
- The non-residential Day Habilitation settings will no longer be a site of HCBS waiver service delivery as of December 31, 2022: 161

Individual Supported Employment

The state's presumption of compliance for individual supported employment settings is based on review of the corresponding waiver service definition as described in the DDS section of the systemic assessment narrative in the STP.

Group Employment

DDS Licensure and Certification is the process by which providers' compliance is assessed and determined. The licensure and certification process applies to all providers subject to the

requirements of Chapter 19B; section 15(a) of the Massachusetts General Laws. The licensing review is conducted in a 2-year cycle if all thresholds are met. Other conditions may require a 60-day follow-up or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. In some circumstances, both a 60-day follow-up and a mid-cycle review are conducted. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and when implemented are predictive of positive outcomes in the lives of individuals. The tool has its foundation in DDS Regulations (115 CMR Chapters 5, 7, and 8) and covers areas of respect, individual choice and control, and community integration; the tool was expanded in 2016 to align with the Community Rule. At that time, DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. The specific support expectations in certification fall into several domains, each of which is evaluated separately. These include, but are not limited to planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the communi

The Licensure and Certification review is conducted by DDS Quality Enhancement surveyors. The survey includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews, and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

Providers are required to make corrections when indicators are not met, and are subject to follow-up by DDS surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule. Through a past and ongoing review of licensure and certification data, 113 group employment settings were compliant with the Community Rule, as noted in Table 2 "Analysis of Waiver Settings." This number includes the 6 settings that were, in the past, not yet determined to be in compliance.

Community Based Day Supports (CBDS)

Responses to the survey tool described above were received from 34 out of 98 providers, representing 45 of 170 settings at the time (2015). Responses to the tool indicate that a wide variety of activities are offered by most CBDS settings; that activities are offered both on-site and off-site; that many activities are most commonly offered in a

group; and that offered activities are disability-specific as well as integrated into the community. At the same time, CBDS sites identified challenges to providing a meaningful day for a variety of different populations. While DDS identified challenges in 2016, as is noted in Table 2 “Analysis of Waiver Settings,” all CBDS settings are now in compliance. This challenge has been remediated and DDS Licensure and Certification is the process by which providers’ compliance is assessed and determined.

Through a past and ongoing review of Licensure and certification data, 225 CBDS settings were found in full compliance with the Community Rule.

DDS non-residential provider licensure and certification reports, including day and employment, services, are publicly available on the state website (See Table 4. Links to Related Documents).

3. Remedial Actions/Actions Related to Compliance (See Table 3. Summary of Transition Plan Tasks and Timelines)

Residential settings

As of today, over 4,000 residential settings are in compliance with the Community Rule.

In 2014, in response to the Community Rule, DDS and its providers worked together to assure compliance. Initially, almost all residential settings met the goals of the Community Rule with the exception of the requirements for privacy (locks) and legally enforceable residency agreements. Guidance was offered to providers and providers have worked diligently to comply. Any divergence in these requirements is noted upon Licensure and Certification reviews and providers are notified of their responsibility to address these requirements. If locks are clinically contraindicated, an exception may be incorporated into the Individual’s person-centered plan.

In addition, as noted above, DDS initially identified a small set of residential providers that required more substantive changes to achieve full compliance. The residential providers in these settings are collaborating or collaborated with DDS on detailed provider transition plans related to necessary changes identified in the provider specific self-assessment tool and validated by DDS Regional/Central Office staff.

Massachusetts previously identified a small set of providers as “presumptively institutional.” DDS has worked with those providers and determined through their Licensure and Certification process that all but two of those providers came into full compliance by July 1, 2021. The remaining two providers, representing 25 settings, have been submitted to CMS for heightened scrutiny review.

To assist providers in this process, DDS developed criteria that were used to review the content of each provider’s plan (“DDS Revised Guidance Criteria to Assist Providers in Compliance with HCB Settings Requirements,” see Table 4 for link). DDS also initiated a work group comprised of DDS staff and providers to assist providers in implementing their transition plans. As providers developed their transition plans and moved towards compliance with the Community

Rule, additional technical assistance was and continues to be available to them from the Association for Developmental Disability Providers (ADDP), a statewide organization that represents the vast majority of ID providers.

Specific steps in the development and implementation of providers' transition plans included the following:

- Providers developed and submitted transition plans to DDS by December 31, 2015.
- DDS reviewed each provider transition plan.
- DDS has worked with providers to assure that each provider's transition plan adequately addresses necessary changes.
- DDS provides technical assistance and consultation to providers, as needed. In addition, Central/Area Office staff hold regular meetings with these providers to share updated Community Rule guidance as it becomes available from CMS, and to discuss with the providers specific issues and strategies for compliance. Past meetings have included, among other topics, in-depth discussions about community integration expectations and how providers can meet these outcomes.
- In April 2015, DDS launched a statewide initiative, "Creating Our Common Wealth," that focuses on inclusion, integration, supporting real and meaningful friendships. As part of this initiative, DDS hosts a series of expert-led training sessions for emerging agency and provider leaders, and makes education and training materials available online to promote uptake of best practices.
- DDS monitors provider progress towards implementing its strategic and transition plans on a quarterly basis as well as the results of licensure and certification.
- For most providers so identified, licensure and certification results demonstrate compliance with the Community Rule.
- For two providers, which were not fully compliant by July 1, 2021, ongoing work is being completed. The state is submitting evidence packages for CMS review.
- For the small set of DDS residential providers that required more substantive changes to achieve full compliance, as identified in Table 3, individual residential provider licensure and certification reports are publicly available on the state website, along with all DDS licensure reports (See Table 4. Links to Related Documents).

DDS Licensure and Certification is the process by which providers' compliance is assessed and determined. The licensure and certification process applies to all providers subject to the requirements of Chapter 19B; section 15(a) of the Massachusetts General Laws. The licensing review is conducted in a 2-year cycle if all thresholds are met. Other conditions may require a 60-day follow-up or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. In some circumstances, both a 60-day follow-up and a mid-cycle review are conducted. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and when implemented are predictive of positive outcomes in the lives of individuals. The tool has its foundation in DDS Regulations (115 CMR Chapters 5, 7, and 8) and covers areas of respect, individual choice and control, and community integration; the tool was expanded in 2016 to align with the Community Rule. At that time, DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. The specific support expectations in certification fall into several domains, each of which is evaluated separately. These include, but are not limited to planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the community rule.

The Licensure and Certification review is conducted by DDS Quality Enhancement surveyors. The survey includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews, and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

Providers are required to make corrections when indicators are not met, and are subject to follow-up by DDS surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule.

Individuals in settings that cannot meet requirements will be notified by the DDS Waiver Unit that they will no longer be residing in settings on the HCBS Waiver. Individuals will be informed of their right to request a move to another HCBS setting and of the implications for their MassHealth status and services, if they choose to stay in their current setting. They will also be informed of their appeal rights.

Going forward, residential provider compliance will be reviewed and validated by DDS's licensure and certification staff through deployment of the revised licensure and certification tool, which, as a result of DDS's systemic assessment of residential services, has been enhanced to ensure that it captures all the elements necessary to meet the requirements of the HCBS Rule. The enhancements include nine new indicators as well as strengthening certain existing indicators. Providers that fall below meeting 80 percent of the standards will be required to submit a progress report detailing how they are addressing the standards that were not met. DDS assures that 100% of providers are reviewed and determined to be in compliance through licensure and certification processes and other monitoring mechanisms, such as site visits and person-centered planning processes and meetings. Indicators not met are reported to providers

as part of the licensure and certification process and DDS or provider follow up is expected. Additionally, there is oversight and monitoring of the regular site visits and of person centered processes through DDS operations staff. Lastly, a special review by the licensure and certification team can be requested for additional assessment and or monitoring outside the licensure process. These processes will assure continuous and ongoing monitoring of compliance with the Rule.

Non-residential settings

Employment (General)

DDS has undertaken the following actions related to employment settings as noted within the Blueprint for Success: Employing Individuals with ID in Massachusetts:

- Cease referrals to sheltered workshop programs by 1/1/14 (completed);
- Phase out of center-based work/sheltered workshops by 6/30/16 (completed);
- Transition participants from sheltered workshops to other options (completed);
- Maintain stability for individuals during the transition period and non-work hours (ongoing);
- Expand CBDS programs to include career exploration and a planning component to serve as a pathway to employment (completed).

Additional actions to build capacity include:

- Staff training and professional development opportunities for provider and DDS staff;
- Technical Assistance/consultation for provider agencies to facilitate organizational change and new service models, including *community-based*, as opposed to center-based day supports programs;
- Expansion of Regional Employment Collaboratives, to a total of six across the state, to facilitate and coordinate new job opportunities; and
- Outreach and communication with individuals with ID and their families/guardians to offer information, resources, and support.

Highlights of the progress to date include:

- 17 out of 31 sheltered workshop agencies received new funding in FY15 to facilitate transitions to phase out sheltered workshops by 6/30/15; 14 received funding in FY16 to facilitate movement of about 800 individuals to new integrated employment and CBDS services and completed the phase-out of sheltered workshop services by 6/30/16 (completed).
- Monthly meetings of the Employment Work Group to develop plans, address issues and identify new ways to support goals- this continues on a quarterly basis.
- Holding regular meetings of Regional Employment First Implementation Teams to share information, best practices, and resources.
- Development of an Employment First electronic newsletter and website, employmentfirstma.org (in place and ongoing).

- 19 Regional Employment Forums for families and self-advocates with a total of 1,250 participants (completed); continued information-sharing and input is sought through provider agency meetings with families and through the person-centered service planning process.
- 5 forums for self-advocates with a total of 100 participants (completed).
- Technical assistance provided to a total of 28 provider agencies, with active consultation ongoing with 8 agencies.
- Trainings have reached more than 700 provider staff, including through a statewide conference, a six-day comprehensive employment supports series, and one- and two-day sessions (including benefits training).
- Explore, Prepare, Act training reaches about 500 individuals/self-advocates and 200 support staff annually.
- Expansion of Regional Employment Collaboratives has resulted in about 250 new job placements annually for individuals served by DDS employment programs.
- 2019 RFR procurement with Community Rule outcomes highlighted.

Next Steps:

- Provide additional trainings;
- Provide ongoing technical assistance support;
- Distribute guidance on development of social enterprises; and
- Further develop programs focused on transition from school to employment.

Group Employment

In addition to DDS' on-going work to fully implement the "Blueprint for Success," and in response to the site-specific assessment process and findings described above, DDS has undertaken a standardized, system-wide approach to ensuring full site-specific compliance of group supported employment settings, similar to that described for CBDS services, for two reasons. First, a system-wide approach offered a collaborative and supportive springboard from which providers can come into compliance with the requirements of the Community Rule. Second, DDS has been able to leverage existing system-wide processes to implement and provide oversight and monitoring of changes that will ensure full compliance across all 106 Group Supported Employment settings. Together with the Employment Workgroup, DDS has engaged in the following specific activities designed to ensure that all settings, on a site-specific basis, support integration and access (for details, see Table 3. *Summary of Transition Plan Tasks and Timelines*):

- Establishing a clearer definition of what the components of a group supported employment setting are, including assuring integration into the workplace and access to all the same workplace amenities as non-disabled workers enjoy as well as assuring that individuals are earning at least the minimum wage or work with providers that hold a Department of Labor certificate under Section 14(c) of the Fair Labor Standards Act and adhere to the rules and standards set forth in applicable law and regulation, including WIOA (Workforce Innovation and Opportunity Act),

- Establishing consistent standards that apply to all group settings,
- Development of guidelines for social enterprises,
- Technical assistance and support to providers as they implement modifications and enhancements (this includes DDS's continued partnership with the Institute for Community Inclusion/UMass Boston to provide targeted trainings as well as ongoing publication of an e-newsletter; see Systemic Assessment section).

On a site-specific basis, DDS licensure staff began utilizing the enhanced licensure and certification tool for ongoing reviews and oversight, beginning in August 2016, to ensure that providers' implementation of policies and practices reflect full compliance with the Community Rule. Group employment settings are reviewed every two years. Licensure and Certification data indicate that 116 settings are in compliance.

Going forward, employment provider compliance will be reviewed and validated by DDS's licensure and certification staff through deployment of the revised licensure and certification tool, which, as a result of DDS's systemic assessment of employment services, has been enhanced to ensure that it captures all the elements necessary to meet the requirements of the HCBS Rule. The enhancements include nine new indicators as well as strengthening certain existing indicators. Providers that fall below meeting 80 percent of the standards will be required to submit a progress report detailing how they are addressing the standards that were not met. DDS assures that 100% of providers are reviewed and determined to be in compliance through licensure and certification processes and other monitoring mechanisms, such as site visits and person-centered planning processes and meetings. Indicators not met are reported to providers as part of the licensure and certification process and DDS or provider follow up is expected. Additionally, there is oversight and monitoring of the regular site visits and of person centered processes through DDS operations staff. Lastly, a special review by the licensure and certification team can be requested for additional assessment and or monitoring outside the licensure process. These processes will assure continuous and ongoing monitoring of compliance with the Rule.

CBDS

Based on a review of Licensure and Certification data, 225 CBDS settings are in full compliance, as noted in Table 2 "Analysis of Waiver Settings." This number includes the 8 settings that were, in the past, not yet determined to be in compliance.

To ensure a consistent approach to addressing compliance across non-residential programming, a DDS/provider workgroup meets regularly, in part to address specific activities related to aligning CBDS services with the Community Rule. Such activities include reforms in provider certification requirements and/or processes, enhanced training and staff development activities, standards for meaningful community integration in the context of CBDS programs, provider technical assistance to enhance program design and operation, and contract-based incentives related to outcome goals in the Community Rule.

The workgroup's revision of certification indicators for CBDS providers connected DDS's systemic approach to its implementation of site-specific remediation activities. The revised

indicators were incorporated into the FY2020 re-procurement documentation to provide further guidance to CBDS providers related to addressing the requirements of the Community Rule. DDS issued a request for response (RFR) for the re-procurement in the winter of 2019 so CBDS providers and sites were able to use this documentation to ensure Community Rule compliance as they developed plans for program service development and quality enhancement that reflect the Community Rule. All potential CBDS providers were required to submit a response to the RFR that included how the provider will deliver services in a way that is aligned with the expectations of DDS, including expectations related to the Community Rule. As needed, DDS continues to provide training and technical assistance to CBDS providers to support their development and implementation of plans, including but not limited to capacity building activities such as staff training and professional development, program development activities, and regional implementation groups.

Going forward, individual CBDS provider compliance will be reviewed and validated by DDS's licensure and certification staff through deployment of the revised licensure and certification tool, which, as a result of DDS's systemic assessment of CBDS services, has been enhanced to ensure that it captures all the elements necessary to meet the requirements of the HCBS Rule. The enhancements include nine new indicators as well as strengthening certain existing indicators. Providers that fall below meeting 80 percent of the standards will be required to submit a progress report detailing how they are addressing the standards that were not met. DDS assures that 100% of providers are reviewed and determined to be in compliance through licensure and certification processes and other monitoring mechanisms, such as site visits and person-centered planning processes and meetings. Indicators not met are reported to providers as part of the licensure and certification process and DDS or provider follow up is expected. Additionally, there is oversight and monitoring of the regular site visits and of person centered processes through DDS operations staff. Lastly, a special review by the licensure and certification team can be requested for additional assessment and or monitoring outside the licensure process. These processes will assure continuous and ongoing monitoring of compliance with the Rule.

The licensing review is conducted in a 2-year cycle if all thresholds are met. Other conditions may require a 60-day follow-up or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. In some circumstances, both a 60-day follow-up and a mid-cycle review are conducted. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and when implemented are predictive of positive outcomes in the lives of individuals. The tool has its foundation in DDS Regulations (115 CMR Chapters 5, 7, and 8) and covers areas of respect, individual choice and control, and community integration; the tool

was expanded in 2016 to align with the Community Rule. At that time, DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. The specific support expectations in certification fall into several domains, each of which is evaluated separately. These include, but are not limited to planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the community rule.

The Licensure and Certification review is conducted by DDS Quality Enhancement surveyors. The survey includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews, and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

Providers are required to make corrections when indicators are not met, and are subject to follow-up by DDS surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule.

B. Waivers operated by the Massachusetts Rehabilitation Commission (MRC)

1. Process (See Table 3. Summary of Transition Plan Tasks and Timelines) Residential Settings

At the time of initial assessment, MRC had contracts with providers for 42 Residential Habilitation programs located throughout Massachusetts. MRC reviewed these settings, as well as two shared living sites, by utilizing the following process, which did not include the use of provider self-assessments:

- MRC developed a residential setting assessment tool based on the exploratory questions that CMS published. The tool included all of the settings rule criteria.
- MRC staff familiar with each residential setting through required monthly site visits completed the assessment tool for all residential settings via a desk review.
- Upon completion of the assessment tool, which included all of the settings rule criteria, for all residential settings, five sites were determined to need on-site visits.
- Supervisory staff of the MRC Brain Injury and Statewide Specialized Community Services program conducted the on-site visits (which were in addition to the monthly site visits regularly conducted by MRC staff as noted above) to evaluate the 5 sites whose compliance with the Community Rule required further review to confirm that the physical location did not isolate individuals. These on-site visits consisted of an interview of the site manager, observation, and discussion with participants. These site visits were focused on key elements that had not been confirmed during the monthly site reviews

and assessment tool results. The following areas were further considered and discussed:

- Site integrated with good access to the larger community and opportunities to engage freely in community life
- Options readily available to support the individual in engaging in work or meaningful day activities chosen by the individual
- Freedom from coercion and restraint supported
- The site supports treatment of all with dignity and respect; privacy is respected
- The individual and/or his/her delegates have the opportunity to develop and update his/her person-centered plan
- The opportunity for individual choice is widespread and a part of the culture of the site

All settings were assessed and validated for all settings rule criteria. Locks and lease agreements were not in place at the time of initial review and all providers were required to implement changes in these areas. Subsequent reviews confirmed that all providers had implemented necessary changes to comply with requirements for locks on bedroom doors and lease agreements. The annual contracted provider review process includes both a site visit and a review of policies, training records, and has been updated to include review of lease agreements.

In addition, for any provider-owned/leased facilities with more than five residents, particular attention was given to the following elements:

- To determine the community character of the site;
- To ensure that policy and practice support full community integration;
- To ensure that the provider is engaged in making the changes supported by the new MRC policies that clarify requirements to comply with the Community Rule (see below);
- To ensure that the number of unrelated individuals living in the home does not create anything other than a comfortable home; and
- To ensure that the individual is comfortable and wishes to remain in what he/she considers his/her home.

There are approximately 13,700 recipients of the MassHealth AFC state plan service as of July 2022, 12 of whom are MRC HCBS waiver participants. Of those waiver participants, 9 reside with a related AFC caregiver. The remaining 3 waiver participants appear to be living in settings with an unrelated caregiver. For that subset, MassHealth deployed an attestation form that will identify residential situations that will need to come into compliance. Attestations are a combination of provider self-assessment and participant experience assessment in one document; the provider and participant both have the opportunity to confirm a setting's compliance with all community rule criteria. Attestations are completed by the AFC caregiver and AFC member with facilitation by the AFC provider and all three parties sign the document. The Attestation captures the specific address and setting in which the participant resides.

To ensure identification of all HCBS waiver participants living with an unrelated caregiver, further data analysis was completed to remove duplicates and participants who have disenrolled, and to add new enrollees. The final number of waiver participants who appear to be living in settings with an unrelated caregiver is 3.

Non-residential settings

Day Services

MRC sent out the same survey tool that DDS used (see above) to Day Services providers qualified either by MRC or by UMMS-PNA. This survey tool incorporated questions that enabled providers to assess where they fell on the continuum of outcomes necessary to meet the requirements of the Community Rule.

Survey responses were received from all surveyed providers. MRC staff validated the survey responses based on extensive knowledge of each provider gained through annual on-site visits which includes a review of credentialing materials, policy and training materials, and onsite visit checklist/review tool. Where necessary, providers were contacted to clarify responses.

The survey included all of the settings rule criteria and all settings were assessed and validated, including where one provider organization owns and controls multiple settings locations.

Supported Employment

Of the 37 qualified supported employment providers at the time of initial review, all but 8 are licensed or certified by DDS. The assessment process for the 29 providers licensed or certified by DDS is described in the DDS site-specific assessment section, above. For the 8 employment providers that are not licensed or certified by DDS, MRC reviewed the credentialing information gathered by UMMS-PNA to ensure each setting's fidelity to the service model of individualized supported employment in integrated community settings. All new providers have been reviewed for compliance prior to enrollment.

2. Findings

Residential settings

Residential Habilitation

A total of 42 Residential Habilitation sites were initially reviewed and new providers are being reviewed with current requirements as updated. Following review in the domains described in the Process discussion above, the sites were determined to be substantially in compliance with the revised MRC policies designed to support the Community Rule, other than with regard to locks on bedroom doors and participant leases (see Section IV.B, above, describing MRC's systemic assessment). Due to the identified need to implement locks and tenancy agreements, MRC initially determined that the 42 Residential Habilitation settings fell in the category of needing minor changes to comply with the Rule (see Table 2. Analysis of Settings). Additional specific findings were as follows.

All 42 sites demonstrated compliance regarding physical accessibility: MRC's residential settings assessment tool and on-site evaluation process confirmed that adaptations have been made as needed to participants' homes in order to ensure full accessibility. Hoyer lifts, roll-in showers, accessible kitchens, roll-out beds, ramps, and lifts are available to all participants who require them. New-construction homes are all fully accessible in order for participants to remain in their homes should their needs change.

MRC staff found during the initial survey that 37 of the 42 residential habilitation sites were in full compliance with all the areas of review described in the Process section above. Participants confirmed in conversation that they felt engaged in activities of their choosing and were supported in learning about their community and have opportunities for community membership and participation.

Questions regarding five sites were addressed through on-site visits conducted by MRC staff. These on-site reviews provided an opportunity to further evaluate compliance with the Community Rule, including with respect to community access and integration as well as individual choice. For each site, the visits, through discussion and observation concluded that the site:

- Is integrated with good access to the larger community, with opportunities to engage freely in community life;
- Has options readily available to support the individual in engaging in work or meaningful day activities chosen by the individual;
- Is supportive of the right to freedom from coercion and restraint;
- Is respectful of the right of individuals to privacy and their right to be treated with dignity;
- Actively engages the individual and/or their delegates in development and updating the individual's person-centered plan; and
- Maintains a culture that supports individual choice and decision-making.

The on-site reviews of these five sites confirmed that they were in compliance with all aspects of the Community Rule, except with regard to locks and tenancy agreements as noted above.

Since completion of the review, all 42 sites have implemented locks and tenancy agreements as required and at the present time demonstrate full compliance with the Rule. All newly qualified sites demonstrate full compliance with the Rule. As of February 2023, MRC contracts with 41 Residential Habilitation providers.

Shared Living 24-Hour Supports

The initial two shared living sites were found to be in full compliance with accessibility, community engagement, right to privacy, choice, and support for individuals to make independent decisions. All participants confirmed that they felt supported to engage in activities of their choosing, were fully engaged in developing services and in the service planning process, felt that supports were available to assist them as needed, and felt fully supported in making choices for their lives. Homes were accessible as needed for the participant. These sites developed legally enforceable agreements providing the participant with the same

responsibilities and protections from eviction that tenants have under the landlord/tenant law(s) in Massachusetts as well as the county or town/city where the participant resides.

As of February 2023, MRC contracts with 1 Shared Living provider/site. The original count of shared living sites included one participant who is no longer enrolled and incorrectly included two sites with non-Medicaid individuals.

Non-residential settings

Day Services

Consistent with DDS's findings, all of the day services providers that contract with both DDS and MRC were found to require some level of modification to come into full compliance with the Rule.

Through the review process one provider who contracts only with MRC was found to be not fully compliant. This provider is not currently utilized by MRC to serve waiver participants and will not be utilized unless settings and services come into full compliance with the Community Rule.

Of the remaining day providers referenced above that contract with the UMMS PNA or with MRC only, all are visited annually and are engaging participants in services in a manner that complies with the Community Rule.

Supported Employment

All providers that are licensed or certified by DDS require some level of modification to achieve full compliance with the Community Rule (see discussion of DDS's site-specific assessment above). Of the remaining providers that are not licensed or certified by DDS, review of these services for compliance with the Community Rule determined that all providers with one exception are in compliance. The final provider is not currently utilized by MRC to serve waiver participants and was determined to not be in compliance with the Community Rule. This provider was notified that in order to work with TBI recipients, services would need to change to meet the requirements of the Community Rule.

3. Remedial Actions/Actions Related to Compliance (See Table 3. Summary of Transition Plan Tasks and Timelines)

Residential settings

As noted in the Systemic Assessment section, needed changes across all sites included development of written tenancy agreements and locks on bedroom doors when this is not prohibited by state law; i.e., if the bedroom contains an emergency egress. In these cases, the modification as well as the available privacy protocols was discussed through the participant's person-centered planning process, and the participant's agreement to accept the non-lockable bedroom was documented. Other changes include an emphasis within the participant's person-centered plan on community engagement and compliance with the policy changes noted elsewhere.

All settings were assessed and validated for all settings rule criteria. Locks and lease agreements were not in place at the time of initial review and all providers were required to implement changes in these areas. Subsequent reviews confirmed that all providers had implemented necessary changes to comply with requirements for locks on bedroom doors and lease agreements. The annual contracted provider review process includes both a site visit and a review of policies, training records, and has been updated to include review of lease agreements.

Non-residential settings

The remediation strategy for both day services and employment settings aligns fully with the approach described above in the DDS site-specific assessment section for all providers that are contracted with or are licensed or certified by DDS. Of the day services and employment settings operating at the time of the initial review that were not DDS-contracted, -licensed, or -certified, all but one of each type were determined to comply fully with the Community Rule, and therefore required no remediation. One day services provider was determined to be unable to comply and will not serve waiver participants going forward. The one employment provider identified as not compliant currently does not serve any waiver participants. MRC determined that this setting is unable to comply; this setting will not serve waiver participants going forward.

Any individuals served in settings that cannot meet requirements will be notified by the Waiver Unit that they will no longer be receiving services in these settings through an HCBS Waiver. Individuals will be informed of their right and supported around their interest to receive services in another setting or through another qualified provider. Additionally, if they choose to stay in their current setting, they will be informed of the implications of that decision for their continued waiver participation as well as the potential impact on their MassHealth eligibility. All such participants will also be notified of their appeal rights.

All newly qualified day and employment settings have demonstrated full compliance with the Rule upon enrollment.

C. Waiver operated by the Executive Office of Elder Affairs (EOEA)

The nature of the Frail Elder Waiver (FEW) is to keep participants in their homes in the communities that they have chosen. EOEA's systemic review (described above in Section IV) identified two types of settings that EOEA determined should be further examined in its site-specific assessment process in order to ensure full compliance with the HCBS Community Rule:

- settings in which the FEW service of Supportive Day Care is delivered; and
- congregate housing settings in which a small number of FEW participants have chosen to live.

1. Process (See Table 3. Summary of Transition Plan Tasks and Timelines) *Supportive Day Programs*

A FEW participant may chose, during his/her person-centered service planning process, to include Supportive Day services in his/her service plan. Supportive Day services provide an opportunity for socialization with peers and include activities geared to ensuring participants' integration into the wider community.

In September 2015, EOEa conducted, through its agents (ASAPs), a comprehensive review of all Supportive Day settings. At that time, fifty-six (56) Supportive Day providers were contracted with one or more of the then 26 ASAPs throughout the commonwealth. Twelve of these sites were utilized by 87 FEW participants. To ensure that all FEW participants have access to the available Supportive Day services and sites, all 56 contracted Supportive Day providers were reviewed.

A survey was developed by EOEa and completed by the ASAPs in order to determine compliance of each Supportive Day Program potentially available to FEW participants. The survey supplemented EOEa's systemic assessment of existing policies, including the Supportive Day Program service specifications that outline the minimum requirements each program must meet in order to become and remain a contracted provider of this service. EOEa's agents ensure that providers maintain compliance with such requirements through the regular and ongoing contract management process described in Section IV.C., Systemic Assessment. Where EOEa identified, through its systemic assessment process, that the physical location requirements of the Community Rule were not included in the service specifications for contracted providers in terms of physical location, the survey required submission of information about Supportive Day Program locations and physical settings. For sites that reported being located in the same building as, adjacent to, or on the grounds of a campus with a medical facility or other service site, the survey was designed to elicit additional information about the design of the program, comprehensiveness of the programs' approach to ensuring participants' integration in and with the community, as well as staff knowledge of participants' preferences, capabilities, and interests and how they are integrated in care planning and the programming provided. Together, the survey and the program specifications address all aspects of the Community Rule. The survey responses thus enabled the ASAPs to fully review and document each setting's compliance with the Community Rule.

ASAP staff conduct on-site reviews of each contracted Supportive Day Program site as part of their contract monitoring responsibilities. Based on that on-site monitoring and specific knowledge of each program, ASAP staff completed the surveys regarding each Supportive Day Program's compliance with all aspects of the community rule. EOEa reviewed and analyzed survey results for all 56 Supportive Day programs, gathering additional information as needed from the ASAP staff that performed the primary review. A total of four of the 56 sites was identified as needing additional review, and EOEa staff subsequently conducted on-site visits at each of these four sites. These site visits were focused on key elements that had not been confirmed during the ASAP site reviews and survey results. On-site visits included review of the setting, discussion with participants and staff regarding the setting's relationship with nearby medical, nursing, or assisted living facilities, ability to meet consumer's needs and desires, freedom from coercion and restraint, access to food, person centered care planning processes, participants' freedom to choose activities important to them, and inclusion in the community.

Congregate Housing

In Massachusetts, certain elders have chosen to live in congregate housing. Within the state of Massachusetts, there were 44 congregate housing sites that encompassed 572 individual units at the time of initial review. Congregate housing is a shared living environment designed to integrate housing and certain services needed by elders and younger disabled individuals who choose this environment as their home. Congregate housing settings are located in the community within neighborhoods or housing developments. Within the setting, each resident has a private bedroom, but may share one or more of the following: kitchen facilities, dining facilities, and/or bathing facilities. Throughout the state, there are many variations in size and design of congregate housing. The goal of congregate housing is to increase self-sufficiency through the provision of supports in a shared setting. As for any FEW participant, a participant who resides in congregate housing will develop with their case manager a person-centered individual care plan to identify and authorize the specific waiver services they may need and want. These services are delivered separately and independent of any supports available within the congregate housing setting. Congregate housing is neither a nursing home nor a medical facility. It does not offer 24-hour care or supervision. Congregate housing provides housing in a supportive, communal—but not custodial—environment. Congregate housing is not a waiver service, nor is it a 24/7 staffed residence. Services are not inherent to the congregate setting, nor are residents required to receive services in order to reside in congregate housing.

As noted, congregate housing is not a waiver service. A small number of FEW participants have chosen to reside in congregate housing and may have waiver services delivered in their home consistent with their person-centered plan of care. In October 2014, EOEa developed and, through its agents (ASAPs), conducted a survey of each congregate housing setting. The survey was based on the exploratory questions that CMS published and included the following areas of review: location, leases, access to visitors, freedom from coercion and restraint, consumer choice, consumer integration in the community, and occupant privacy and access. This compliance survey was completed for all 44 congregate housing sites within the state, including sites in which no FEW participants reside.

ASAP staff, based on their extensive knowledge and frequent on-site visits to each of the congregate settings, completed the required survey. ASAPs are required to visit each congregate setting located within the ASAP's designated area at a minimum of monthly. During their monthly visit, the ASAPs are required to conduct whole-house meetings and visit with individual residents. Such visits typically focus on consumers' satisfaction with the congregate setting, reassessment of needs, satisfaction with support provided and any concerns or unmet needs identified. These agents are part of a Multi-Disciplinary team comprised of housing authority representatives and other necessary agencies that supports the resident during the application, selection, and integration process into the congregate setting. EOEa analyzed survey results for each congregate setting, followed up with the ASAP as needed for clarification, and conducted site visits to any setting where survey results indicated need for additional review to determine compliance with the Community Rule.

Adult Foster Care

There are approximately 13,700 recipients of the MassHealth AFC state plan service as of July 2022, 225 of whom are FEW waiver participants. Of those waiver participants, 205 reside with a related AFC caregiver. The remaining 20 waiver participants appear to be living in settings with an unrelated caregiver. For that subset, MassHealth deployed an attestation form that will identify residential situations that will need to come into compliance. Attestations are a combination of provider self-assessment and participant experience assessment in one document; the provider and participant both have the opportunity to confirm a setting's compliance with all community rule criteria. Attestations are completed by the AFC caregiver and AFC member with facilitation by the AFC provider and all three parties sign the document. The Attestation captures the specific address and setting in which the participant resides.

To ensure identification of all HCBS waiver participants living with an unrelated caregiver, further data analysis was completed to remove duplicates and participants who have disenrolled, and to add new enrollees. The final number of waiver participants who appear to be living in settings with an unrelated caregiver is 15.

2. Findings (See Table 2. Analysis of Settings)

Supportive Day Programs

EOEA identified 56 Supportive Day service sites that provide, or may provide, waiver services to FEW participants. Of these 56 sites, 12 were providing waiver services to 87 FEW participants at the time the survey was completed. All 12 sites in which FEW participants are served are in full compliance with the Community Rule, as demonstrated by their confirmed compliance with EOEA program specifications that are consistent with the Community Rule, and through their responses to the survey regarding additional physical and programmatic qualities required by the rule. Of the remaining 44 sites, none of which currently provides waiver services to FEW participants:

- Forty (40) sites were confirmed to comply fully with the Community Rule, and
- Four (4) sites were identified as requiring further review to assess their compliance status.

EOEA conducted on-site visits of the four sites that were identified as needing further review. All four of these Supportive Day Program sites reported information on the survey that could have indicated qualities presumed to be non-HCB in nature. Following are the results of EOEA's on-site visits to assess the status of each site:

- For one site, the agent reported that the location was on the campus of an assisted living residence. EOEA staff found that this Supportive Day Program setting and the assisted living residence occupied rear-abutting properties, but that they were in fact located on different streets in a general area characterized by both residential and commercial properties, and had no physical or programmatic relationship to one another. Based on the actual physical site characteristics and programmatic qualities of this Supportive Day Program, and that the survey response inaccurately described the setting's location relative to an assisted living residence, EOEA determined that this site in fact does not

have qualities presumed to be non-HCB in nature, and that it is fully compliant with the requirements of the Community Rule.

- For one site, the agent reported on the survey that the location was on a campus with elder housing. EOE staff found that this Supportive Day Program setting's property was not appropriately described as a campus. Based on the actual physical site characteristics and programmatic qualities of this Supportive Day Program, and that the survey response inaccurately described the settings' location relative to certain types of housing units, EOE staff determined that this site in fact does not have qualities presumed to be non-HCB in nature, and is fully compliant with the requirements of the Community Rule.
- For one site, the agent reported that it was co-located with a medical facility. This Supportive Day Program subsequently closed altogether.
- For the last of these four sites, the agent reported on the survey that its location was in or on the grounds of a nursing facility. EOE staff determined that this site in fact does have qualities presumed to be non-HCB in nature due to its location. EOE staff further concluded that this site cannot come into compliance with the Community Rule. This site currently does not serve any FEW participants, and as a result of EOE staff's determination, this Supportive Day Program provider is precluded from serving FEW participants going forward.

Congregate Housing

Following a review of all site-specific survey results, EOE staff determined that 40 out of 44 congregate housing settings fully comply with the Community Rule. Specifically, these settings' locations, physical accessibility characteristics, and programmatic qualities fully support community integration and individual choice. Four congregate settings were found to require further review for compliance of the Community Rule. Identified concerns were programmatic in nature. Only three FEW participants reside in two of these four identified settings.

EOE staff conducted on-site visits to these four congregate housing settings. Following are the results:

- All four settings were flagged by the ASAPs in their reviews as having policies regarding visitors that were potentially inconsistent with the Community Rule requirement. EOE staff found that in all four cases, the settings' policies do in fact allow residents to have visitors of their choosing at any time. EOE staff's site visits further determined that three of these congregate settings comply fully with the Community Rule in all respects.
- EOE staff determined during its on-site visits, that one of the four settings was not compliant due to a lack of locks on bedroom doors as well as lack of adequate protections for privacy during personal care (specifically, it lacked locks or other privacy mechanism on a bathroom door). EOE staff determined that this setting could, with minor modification, achieve compliance.

3. Remedial Actions/Actions Related to Compliance (See Table 3. Summary of Transition Plan Tasks and Timelines)

Supportive Day Programs

Based on the results of EOEAs' site-specific reviews, no remedial actions are required.

Congregate Housing

EOEA directed the congregate housing setting described above as requiring minor modifications to make the necessary modifications no later than February 2017. The ASAP monitored the settings' remediation implementation, confirming that bedroom door locks and adequate privacy protections for personal care activities are in place and the setting demonstrates full compliance. (See Table 3. Summary of Transition Plan Tasks and Timelines.) Concomitantly, EOEAs' housing director conducted site visits to a sample of congregate housing settings to verify compliance with the Community Rule. If any setting is unable to achieve compliance, EOEAs and its agent will work with the congregate setting to relocate FEW participants, if any, to another setting that has met the requirements of the Community Rule or, after ensuring the participant is fully informed, determine whether the participant wishes to discontinue their waiver enrollment.

In addition, EOEAs has revised its HCBS Waiver Program Guidelines to provide standards and guidance to its agents of the appropriate settings for waiver participants, including congregate housing to ensure compliance with the Community Rule. This policy includes a new review tool that explicitly addresses the exploratory questions published by CMS. (See Section VI. Ongoing Monitoring.)

VI. Ongoing Monitoring

MassHealth continues to monitor and oversee compliance with the STP on an agency-by-agency basis, as each agency monitors and oversees compliance across its provider network.

In addition, the MassHealth-convened STP Cross-Agency Workgroup will serve as a locus for ongoing collaboration as the agency-level plans are implemented, as well as a vehicle to share best practices and monitor accountability. Moreover, as MassHealth and the waiver-operating agencies look to the future, the MassHealth HCBS Waiver Unit will identify initiatives and potential waiver changes and will utilize the Cross-Agency Workgroup to review plans for any possible compliance issues.

A. Waivers operated by the Department of Developmental Services (DDS)

For all settings in which changes were required, DDS instituted a process to ensure that the changes occur as stipulated. This process includes consultation and support to providers to enable them to successfully transition, quarterly reporting by providers to update DDS on progress towards compliance, and reviews by designated Area, Regional and Central Office DDS staff to ensure provider adherence to transition plans and processes.

In addition, the quality management systems outlined in the discussion of DDS's systemic assessment in Section IV above are the mechanisms through which DDS will monitor providers' and settings' compliance with the spirit and intent of the HCBS Rule. While providers are expected to have robust internal quality management and improvement processes, DDS does not rely on provider assessment as a measure of compliance with the Community Rule. All reviews and monitoring processes are conducted by an array of DDS staff including licensure and certification surveyors, program monitors, and Area and Regional staff, none of whom have any direct service responsibility.

Should any of the ongoing monitoring indicate a need for a substantive change in the Statewide Transition Plan, DDS along with MassHealth will revise the STP, complete public input activities (as noted below) and resubmit the STP for CMS approval.

DDS Licensure and Certification is the process by which providers' compliance is assessed and determined. The licensure and certification process applies to all providers subject to the requirements of Chapter 19B; section 15(a) of the Massachusetts General Laws. The licensing review is conducted in a 2-year cycle if all thresholds are met. Other conditions may require a 60-day follow-up or a mid-cycle review where the agency is reviewed for those indicators where the threshold has not been met. In some circumstances, both a 60-day follow-up and a mid-cycle review are conducted. Providers are certified for two years, concurrent with their Two-Year Licensure. If the certification threshold is not met, the provider is required to complete a progress report at the one-year mark.

Licensure and certification results are reported separately, with Certification findings specific to individual service types and measuring key areas such as human rights, choice and control, and community access and integration.

The certification tool and process set forth standards for specific services that promote quality and responsiveness and when implemented are predictive of positive outcomes in the lives of individuals. The tool has its foundation in DDS Regulations (115 CMR Chapters 5, 7, and 8) and covers areas of respect, individual choice and control, and community integration; the tool was expanded in 2016 to align with the Community Rule. At that time, DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. The specific support expectations in certification fall into several domains, each of which is evaluated separately. These include, but are not limited to, planning and quality improvement, choice and personal growth, supporting and enhancing relationships, career planning and development, and access and integration, to reflect the community rule.

The Licensure and Certification review is conducted by DDS Quality Enhancement surveyors. The survey includes preparatory documentation review, administrative review and interview, on-site visits, individual observation and interviews, and individual documentation reviews. Survey findings are made based on extensive evidence obtained through these various processes.

Upon the completion of the survey, a feedback meeting is held for the purpose of presenting the survey team's findings. In addition to outlining the level of licensure and certification results, the

meeting allows sufficient time to discuss any areas where additional agency effort might be needed. The goal of this meeting is to support continuous service quality improvement.

Providers are required to make corrections when indicators are not met, and are subject to follow-up by DDS surveyor staff or provider staff. These indicators are supportive of and fully in compliance with the HCBS Community Rule.

DDS assures that 100% of providers are reviewed and determined to be in compliance through licensure and certification processes and other monitoring mechanisms, such as site visits and person-centered planning processes and meetings. Indicators not met are reported to providers as part of the licensure and certification process and DDS or provider follow up is expected. Additionally, there is oversight and monitoring of the regular site visits and of person centered processes through DDS operations staff. Lastly, a special review by the licensure and certification team can be requested for additional assessment and or monitoring outside the licensure process. These processes will assure continuous and ongoing monitoring of compliance with the Rule.

All participants, regardless of their residential setting (residing on their own, with family members in a privately owned or rented home, or in a provider owned and controlled setting), receive ongoing monitoring for all service requirements as part of the existing case management monitoring practices as outlined in the approved waiver application(s).

B. Waivers operated by the Massachusetts Rehabilitation Commission (MRC)

MRC intends to continue to monitor all residential settings through use of state agency staff (Residential Coordinators) who do not provide direct services to participants. This creates a conflict-free monitoring system. In addition, MRC staff conduct annual on-site compliance evaluations. The annual contracted provider review process includes both a site visit and a review of policies, training records, and has been updated to include review of lease agreements to ensure 100% compliance with all of the settings criteria. Any setting found to be not compliant would be subject to a remediation plan that identifies the criteria not being met, steps that need to be taken to bring the setting into compliance, and a deadline by which the plan must be complete. If the setting remains non-compliant at the deadline, then the process outlined in *VIII. Participant Relocation* is followed.

MRC conducts annual site visits of non-residential day service settings not licensed or certified by DDS. For all such day services, MRC utilizes a monitoring tool to review each site and the activities/services provided for all day programs, to monitor ongoing Community Rule compliance. Supported employment provider qualifications are reviewed every two years or as specified in the waiver application, to ensure continued compliance with requirements. In addition, MRC case managers monitor provider compliance, through annual meetings with participants as part of the person-centered planning process.

If any of the ongoing monitoring indicates a need for a substantive change in the Transition Plan, MRC along with MassHealth will revise the Transition Plan, complete public input activities, and resubmit the Transition Plan for CMS approval.

All participants, regardless of their residential setting (residing on their own, with family members in a privately owned or rented home, or in a provider owned and controlled setting), receive ongoing monitoring for all settings rule requirements as part of the existing case management monitoring practices as outlined in the approved waiver application(s).

C. Waiver operated by the Executive Office of Elder Affairs (EOEA)

Supportive Day Programs

EOEA updated the service provider monitoring tool used to conduct on-going monitoring of Supportive Day Programs to include revised standards. All ASAPs conduct monitoring of Supportive Day Programs utilizing this monitoring tool on an on-going basis, as well as in the process of evaluating any new Supportive Day Program providers. Provider monitoring, conducted every two years, and ongoing Case Management oversight will ensure that all Supportive Day Program providers maintain compliance, and will assist the ASAPs and EOEA to identify any programs that are not in compliance. EOEA will discontinue or preclude utilizing any program that does not maintain compliance with the Community Rule.

Congregate Settings

Going forward, EOEA's agents will play a two-fold role to ensure that all congregate settings in which FEW participants reside maintain long-term compliance with the Community Rule. First, the ASAPs work closely with waiver participants who are seeking a congregate unit during the process of applying for residence in and moving into a congregate housing setting. Applicants will be informed that they will not be eligible to receive FEW services should they choose to reside in any setting that is not compliant with the Community Rule. ASAPs will not authorize FEW services for individuals who reside in a non-compliant setting. Second, EOEA's agents are required to visit each congregate housing setting in their designated area on a monthly (minimum) basis. The ASAPs will use information obtained through these on-site visits to identify any required compliance updates or changes related to physical plant, programming, or resident rights over time. In addition, for each congregate housing setting, the ASAPs will update the congregate housing setting survey (described above under Site Specific Assessment Process) every two years as an additional tool to verify the settings' continued compliance.

In addition, EOEA conducts case record reviews for a statistically significant sample of waiver participants. Cases are chosen at random and may include FEW participants residing in congregate settings or receiving Supportive Day Program services. These reviews include the review of the assessment of the consumer's environment and functioning within their environment and serve as an additional layer of ongoing monitoring and oversight to ensure compliance of Supportive Day Programs and congregate settings with the Community Rule.

All participants, regardless of their residential setting (residing on their own, with family members in a privately owned or rented home, or in a provider owned and controlled setting),

receive ongoing monitoring for all settings rule requirements as part of the existing case management monitoring practices as outlined in the approved waiver application(s).

Every participant has an in-person visit at least twice annually. In-person visits are almost always conducted in the home. However, a participant may choose a different location that accommodates their needs. In cases where the participant elects an approach that does not include an in-person visit, the case manager is expected to draw on other sources of information about the participant, including providers, family members, or other individuals or organizations providing support to confirm information about the home environment.

D. MassHealth oversight of HCBS waiver participants in MassHealth State Plan Adult Foster Care (AFC) Settings

MassHealth has issued two Provider Bulletins to AFC providers detailing the Community Rule requirements. To ensure compliance with the Community Rule, AFC providers will identify members who are HCBS Waiver participants living in the home of an unrelated AFC caregiver. For each AFC member who is a HCBS Waiver participant residing in the home of an unrelated caregiver, the AFC provider will work with the AFC caregiver and AFC member to complete an attestation in the form and format required by MassHealth to confirm compliance with the Community Rule. Attestations are a combination of provider self-assessment and participant experience assessment in one document; the provider and participant both have the opportunity to confirm a setting's compliance with all community rule criteria. Attestations are completed by the AFC caregiver and AFC member with facilitation by the AFC provider and all three parties sign the document. The Attestation captures the specific address and setting in which the participant resides.

MassHealth has issued guidance about leases and comparable protections for those without a lease, use of prescribed documentation and related record-keeping or reporting, and certain timing of these requirements. This process will include consultation and support to AFC providers to ensure compliance (See Table 4. Links to Related Documents). Furthermore, AFC provider agencies attended a mandatory training by MassHealth staff in which the two AFC Provider Bulletins, the Attestation Form, and location of materials was discussed at length; the training included a question and answer session.

Attestations are submitted by the AFC provider to the MassHealth Long Term Services and Supports Third Party Administrator (LTSS TPA) and all undergo review for completeness. A desk review of all attestation forms is then completed by MassHealth staff to validate findings. This process will be completed by March 17, 2023.

All participants, regardless of their residential setting (residing on their own, with family members in a privately owned or rented home, or in a provider owned and controlled setting), receive ongoing monitoring for all settings rule requirements as part of the existing case management monitoring practices as outlined in the approved waiver application(s).

MassHealth or the LTSS TPA will conduct site visits for a sample of AFC members who are HCBS Waiver participants residing in the home of an unrelated caregiver as an additional layer

of ongoing monitoring and oversight to ensure compliance of AFC settings with the Community Rule.

VII. Heightened Scrutiny

At the time of this submission to CMS, the state has identified two providers, representing 25 settings, subject to Heightened Scrutiny review. These settings are reflected in Table 2. These settings were categorized as presumptively having the effect of isolating individuals from the broader community in consideration of the following factor: Individuals have limited, if any, opportunities for interaction in and with the broader community and /or the setting is physically located separate and apart from the broader community and does not facilitate individual opportunity to access the broader community and participate in community services consistent with their person-centered service plan.

A list of these settings was submitted to CMS on December 15, 2022, and the evidentiary packages for these settings were posted for public comment simultaneously with the posting of this plan from December 12, 2022 through January 11, 2023. The evidence packages were prepared consistent with the [Frequently Asked Questions \(FAQs\) Guidance on Heightened Scrutiny \(HS\)](#) issued by CMS on March 22, 2019—for settings that overcome the presumption of having the qualities of an institution, including those re identified as presumptively institutional due to isolation. See the process outlined below:

Step	For settings/providers the state identifies through site-specific assessment as presumed to have characteristics of an institution, the state will:
1	Receive provider transition plan and work with each provider to determine the responsiveness of its plan to the Community Rule. The state will work with the provider to bring the plan to timely compliance, reviewing outcomes and other factors as appropriate to ensure the provider meets all Community Rule requirements.
2	The state monitors provider progress toward the goals and objectives as identified in each setting's compliance transition plan, identifies issues with provider progress as needed, and works with the provider to improve performance.
3	<p>State reviews waiver participants at each of the settings to determine if the setting complies with the Community Rule.</p> <ul style="list-style-type: none"> • Through on-site visits, the state documents the outcomes experienced by HCBS waiver participants and ensures that such outcomes reflect and demonstrates compliance with all Community Rule requirements, including true community integration for such participants. • The state works with the provider to document practical and verifiable demonstration of on-going compliance for such participants in the settings in question.

Step	For settings/providers the state identifies through site-specific assessment as presumed to have characteristics of an institution, the state will:
4	<p>If the state determines a setting cannot demonstrate true, verifiable and on-going compliance with the Community Rule, the setting would not continue to serve waiver participants, and the state would not submit the site to CMS for the heightened scrutiny process. Any participants impacted would be supported through the Participant Relocation process described in Section VIII.</p> <p>If the state determines a setting demonstrates true, verifiable and on-going compliance with the Community Rule, the state prepares documentation and explanatory information for the heightened scrutiny process, consistent with the Frequently Asked Questions (FAQs) Guidance on Heightened Scrutiny (HS) issued by CMS on March 22, 2019.</p>
5	Engage stakeholders in the review of documentation related to Step 4 in a manner that is consistent with protecting member privacy and security.
6	Submit documentation prepared in Step 4 to CMS.
7	Work with CMS to develop/plan for conducting heightened scrutiny for each such provider/setting and carry out the plan with CMS collaboration.

On November 29, 2022, the state wrote to CMS to request a Corrective Action Plan for the two providers, representing 25 settings, subject to Heightened Scrutiny review. The request is for an additional year (through March 16, 2024) for these settings to meet the community integration criterion of the Settings Rule: that a setting must be integrated in and support access to the greater community. The state worked with these providers to develop action plans, and providers have put systems and processes in place. The Public Health Emergency has created barriers to full and consistent compliance due to staffing shortages. State staff plan to meet with these providers regularly to provide technical assistance and quality management support and to monitor data on community integration and access.

VIII. Participant Relocation

Massachusetts has not identified any waiver participants receiving services in non-compliant settings. However, should the state identify residential or non-residential settings that are not compliant with the Community Rule, the state intends to discontinue use of such settings within its HCBS waivers, in the following manner.

Residential Settings

If a waiver participant is identified to be living in a residential setting found not to be compliant with the community rule the participant would be notified that they may continue to reside in the setting if they so choose, but if so, their participation in the waiver would be discontinued.

State supported-programming could be continued until such time as the individual chooses to move to a compliant setting, at which point they may choose to reenroll in the waiver, assuming appropriate eligibility is met at that time and there is sufficient available capacity.

Each waiver operating agency that may have the need to relocate individuals will work with each individual to clarify options for moving as well as support the individual and their family to make choices about potential new living situations, bring the individual to visit the potential options, work out the timing of a move, plan and execute the individual's move to the new environment, and help acclimate them to the new surroundings.

The waiver operating agencies rely on case managers to assist participants to identify suitable residential service settings. All notices regarding service changes or disenrollment from the waiver follow the timelines and requirements outlined in the waiver applications. All adverse actions, including reductions in services or disenrollment from the waiver include appeal rights, as outlined in the applicable waiver application. Whenever an action is taken that adversely affects a waiver participant post-enrollment (e.g., services are denied, reduced or terminated), the participant is notified in writing by letter of the action on a timely basis in advance of the effective date of the action. The notice includes information about how the participant may appeal the action and provides, as appropriate, for the continuation of services while the participant's appeal is under consideration. Copies of notices are maintained in the person's record. It is up to the participant to decide whether to request an appeal of the action.

For waivers operated by DDS, regulations at 115 CMR 6.33-6.34 describe the procedure for requesting and receiving a Fair Hearing. Informal conferences and Fair Hearings are conducted in accordance with the Massachusetts Administrative Procedures Act and the Standard Adjudicatory Rules of Practice and Procedure. See 801 CMR 1.00 et seq. Individuals are notified that they may appeal Fair Hearing decisions to the Superior Court pursuant to M.G.L. c. 30A (the Massachusetts Administrative Procedures Act.) The right to a fair hearing within timeframes in Federal regulations is not impeded by any other method of problem resolution. The timeframe for any other state problem-resolution activity runs concurrent with a person's right to a fair hearing.

For participants enrolled in the Frail Elder Waiver, all reviews and appeals are conducted in accordance with Massachusetts Administrative Procedures Act (M.G.L. c. 30A) and the Executive Office of Administration and Finance Standard Adjudicatory Rules of Practice and Procedure (801 CMR 1.00 et seq.). In addition, pursuant to federal regulation 42 CFR 438 and SCO contract requirements, each SCO offers a grievance and appeal system to all of its enrollees, including waiver participants. After exhausting the internal appeal process, a participant may request a Fair Hearing in accordance with the process for appeals described above, and pursuant to the Senior Care Options Contract and 42 CFR 438.

For participants enrolled in the ABI, MFP and TBI waivers, regulations of the Executive Office of Administration and Finance at 801 CMR 1.02 et seq. (Executive Office for Administration and Finance regulations establishing standard adjudicatory rules of practice and procedure), shall govern all appeal proceedings.

Non-Residential Settings

If any non-residential service provider is identified as unable to meet community rule requirements that provider will be disenrolled as a waiver service provider. Individuals served in such settings will have a choice of different options to continue to receive services, including switching to other compliant settings that deliver the same/comparable waiver services. Alternatively, as described above, a waiver participant may opt to continue to receive services in the non-compliant setting, supported by state funding only, while remaining a participant in the waiver for receipt of other, compliant waiver services.

The participant may also continue receiving a non-compliant non-residential service at his/her discretion, until such time as he/she can switch into a compliant waiver service, when the state identifies and, through the person-centered planning process, arranges for transition to a program/setting the participant finds acceptable. Each waiver-operating agency that may have the need to transition individuals to new programs/settings will work with each individual to clarify program/setting options, support the individual and their family to consider such options and make choices, work out the timing of the change, and help acclimate them to the new program/setting.

The waiver operating agencies rely on case managers to assist participants to identify suitable non-residential service settings. All notices regarding service changes or disenrollment from the waiver follow the timelines and requirements outlined in the waiver applications. All adverse actions, including reductions in services or disenrollment from the waiver include appeal rights, as outlined in the applicable waiver application and as outlined in the Residential Settings section above.

IX. Further Revisions to Statewide Transition Plan, Ongoing Public Input

MassHealth and the waiver-operating agencies are committed to transparency during both the planning phase and the implementation phase of the Statewide Transition Plan (STP) to comply with the HCBS Community Rule. Once finalized, implementation of the plan and its various components will be subject to periodic updates with stakeholders to gather continued feedback and keep stakeholders apprised of progress toward implementation of the plan. If, in the course of monitoring activities, MassHealth and/or the waiver-operating agencies determine substantive changes to the STP are necessary, we will engage in public input activities including:

- Publication of draft plan for 30 days with the opportunity for comments to be submitted by email or regular mail;
- Public forums; and
- Review and comment on all input received by email, mail and in the public forums.

MassHealth will collaborate with the waiver-operating agencies as described below to engage stakeholders throughout implementation of the STP.

Department of Developmental Services (DDS)

Information and updates on the implementation of the STP will be posted on the DDS website. In addition, updates will be provided to DDS' Statewide Advisory Council, the Statewide Quality Council and other stakeholder groups as appropriate. These groups will include but not be limited to Arc/Massachusetts, Massachusetts Advocates Standing Strong, the Massachusetts Developmental Disabilities Council, The Disability Law Center, the Brain Injury Association of Massachusetts, Massachusetts Families Organizing for Change, and The Association of Developmental Disability Providers. Thus, individuals and families receiving services, self-advocates, potential recipients of services and providers will be made aware of progress towards compliance.

Massachusetts Rehabilitation Commission (MRC)

MRC's implementation of the finalized STP will be subject to periodic updates with stakeholders to gather continued feedback and keep stakeholders apprised of progress toward full implementation. Stakeholders will include the DDS stakeholders listed above, as well as the Brain Injury Association of Massachusetts and the MFP/ABI/TBI Stakeholders Advisory Committee.

Executive Office of Elder Affairs (EOEA)

EOEA's implementation of the finalized STP will be subject to periodic updates with stakeholders to gather continued feedback and keep stakeholders apprised of progress toward full implementation. Stakeholders will include those listed above, as well as the Massachusetts Association of Older Americans, AARP, Councils on Aging, the EOEA Advisory Committee, and others.

Table 1. Regulatory Crosswalk

For Waivers Operated by the Department of Developmental Services

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(i): The setting is integrated in and supports full access to the community</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.04(1) Standards for Services and Supports</p> <ul style="list-style-type: none"> a) Protection and Affirmation of Rights and Dignity b) Individual Choice and Control c) Community Membership d) Relationships e) Skill Acquisition and Accomplishments f) Health, Safety, and Economic Security <p>Policy #2014-1-HCBS settings</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>To meet the requirements of the cited DDS regulations and policy instrument, a setting must be integrated in and support full access to the community.</p>	<p>115 CMR 7 updated in July 2016.</p> <p>HCBS settings policy published September 2014.</p>
<p>441.301(c)(4)(ii): The setting is selected by the individual from among setting options</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.04(1)(b) Individual Choice and Control</p> <p><u>MA.0826, MA.0827, MA.0828:</u></p> <p>115 CMR 6.20(2)(a)(3) Principles Governing Individual Support Planning (self-determination)</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited DDS regulations establish the right of the individual exercise control and choice in all aspects of life, a fundamental aspect of which is choice of where to reside. State standards were strengthened further through issuance of a policy manual and member handbook for MA.40701 and MA.1028 .</p>	<p>115 CMR 7 updated in July 2016.</p> <p>115 CMR 6 updated in August 2016.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(iii): Privacy, dignity, respect, freedom from coercion and restraint</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.04 Standards for Services and Supports</p> <p><u>MA.0826, MA.0827, MA.0828:</u></p> <p>115 CMR 5.03 General Principles 115 CMR 5.04 Other Rights of Individuals 115 CMR 5.05 Mistreatment 115 CMR 5.08 Informed Consent 115 CMR 5.11 Crisis Prevention, Response, and Restraint</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p>	<p>State standards are compliant with the HCBS Settings Rule. The cited DDS regulations provide for rights of privacy, dignity and respect, and freedom from coercion and restraint. State standards are strengthened further with implementation of revisions to the cited DDS regulations pertaining to restraint (effective date 2/21/2020). The state also developed a policy manual and member handbook for MA.40701 and MA.1028, completed in July 2017, to further support this aspect of Community Rule compliance.</p>	<p>115 CMR 7 updated in July 2016.</p> <p>115 CMR 5 updated in February 2020.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p>
<p>441.301(c)(4)(iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.04 Standards for Services and Supports</p> <p><u>MA.0826, MA.0827, MA.0828:</u></p> <p>115 CMR 5.03 General Principles 115 CMR 5.04 Other Rights of Individuals 115 CMR 5.10 Possessions (and Funds)</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p>	<p>State standards are compliant with the HCBS Settings Rule. To meet the requirements of the cited DDS regulations, a setting must optimize, but not regiment, individual initiative, autonomy, and independence. State standards were strengthened further with issuance of a policy manual and member handbook for MA.40701 and MA.1028 (completed July 2017).</p>	<p>115 CMR 7 updated in July 2016.</p> <p>115 CMR 5 updated in February 2020.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(v): Facilitates individual choice regarding services and supports</p>	<p><u>MA.0826, MA.0827, MA.0828:</u> 115 CMR 6.20(2) Principles Governing Individual Support Planning 115 CMR 5.04(6) Other Rights of Individuals (right to decline any service or support) <u>MA.40701, MA.1028:</u> Person-centered planning tools <u>MA.40701, MA.1028:</u> ABI/MFP policy manual and member handbook</p>	<p>State standards are compliant with the HCBS Settings Rule. The cited DDS regulations and tools describe and ensure deployment of person-centered planning principles that facilitate individual choice regarding services and supports, and set out an individual’s right to decline any service or support. State standards were strengthened further with issuance of a policy manual and member handbook for MA.40701 and MA.1028 (completed July 2017).</p>	<p>115 CMR 6 updated in August 2016. 115 CMR 5 updated in February 2020. Policy manual updated in December 2016. Member handbook updated in August 2019.</p>
<p>441.301(c)(4)(vi)(A): Unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u> Licensure tool with guidelines</p>	<p>State standards are compliant with the HCBS Settings Rule. Where state standards did not previously address this aspect of the Rule, a sub-regulatory change that incorporates this requirement into the licensure and certification process was made; effective 8/1/2016.</p>	<p>August 2016 Updated March 2019; most recently updated March 2022</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(A):</p> <p>Unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(B):</p> <p>Each individual has privacy in their sleeping or living unit</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.07(5).(6).(7)</p> <p>Environmental Standards for All Site Based Services</p> <p>DDS 2016 Guidance on Locks</p> <p>DDS 2022 Guidance on Locks</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited DDS regulations provide for individual privacy. State standards were strengthened further through issuance of a policy manual and member handbook for MA.40701 and MA.1028 (July 2017). DDS issued provider guidance on locks in 2016 and 2022.</p>	<p>115 CMR 7 updated in July 2016.</p> <p>Lock guidance updates 2016 and October 2022.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(B): Each individual has privacy in their sleeping or living unit</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(C): Individuals have freedom to control their own schedules and activities and have access to food at any time</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.04(1)(b),(c),(f) Individual Choice and Control; Community Membership; Health, Safety, and Economic Security</p> <p><u>MA.0826, MA.0827, MA.0828:</u></p> <p>115 CMR 5.03(3)(c) General Principles (self-determination and freedom of choice)</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited DDS regulations and sub regulatory standards establish freedom of individual choice in all aspects of community living, including the right and freedom to choose food, schedules, and activities. State standards were strengthened further with issuance of a policy manual and member handbook for MA.40701 and MA.1028 (completed July 2017).</p>	<p>115 CMR 7 updated in July 2016.</p> <p>115 CMR 5 updated in February 2020.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(C):</p> <p>Individuals have freedom to control their own schedules and activities and have access to food at any time</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(D):</p> <p>Individuals are able to have visitors of their choosing at any time</p>	<p><u>MA.0826, MA.0827, MA.0828:</u></p> <p>115 CMR 5.04(3) Other Rights of Individuals (right to be visited and to visit others)</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p> <p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>DDS Provider Guidance on Visitation</p>	<p>State standards comply with the HCBS Settings Rule.</p> <p>The DDS regulation establishes individuals' right to have visitors of their choosing at any time. State standards were strengthened further with issuance of a policy manual and member handbook for MA.40701 and MA.1028 (July 2017)</p> <p>See DDS Guidance on Visitation (October 2022).</p>	<p>115 CMR 5 updated in February 2020.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p> <p>DDS provider guidance on visitation published October 2022.</p>
<p>441.301(c)(4)(vi)(D):</p> <p>Individuals are able to have visitors of their choosing at any time</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(E):</p> <p>The setting is physically accessible to the individual</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>115 CMR 7.07(4),(5) Environmental Standards for All Site Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited DDS regulation requires settings to be physically accessible to accommodate the needs of the individual.</p>	<p>115 CMR 7 updated in July 2016.</p>
<p>441.301(c)(4)(vi)(E):</p> <p>The setting is physically accessible to the individual</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(F):</p> <p>Modifications must be supported by a specific assessed need and justified in PCP</p>	<p><u>MA.0826, MA.0827, MA.0828:</u></p> <p>115 CMR 5.03, 5.04 (Standards to Promote Dignity: General Principles and Other Rights of Individuals) 115 CMR 5.03(3)(f)(7) (right to privacy); 115 CMR 5.03(3)(f)(5)(6) (freedom to furnish or decorate their living units); 115 CMR 7.07(7)(f) (units have bedroom doors lockable by the individual, unless clinically contraindicated); 115 CMR 5.03(2)(3), 5.04 (freedom and support to control individual schedules and activities) 115 CMR 5.04(3)(c) (restrictions on visitation considered a modification of the ISP). 115 CMR 6.20-6.25 Individual Support Plans</p> <p><u>MA.40701, MA.1028:</u></p> <p>ABI/MFP policy manual and member handbook</p> <p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>DDS 2016 Guidance on Locks DDS 2022 Guidance on Locks DDS Provider Guidance on Visitation</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited DDS regulations require that modifications to individual rights must be supported by a specific assessed need and justified in the PCP.</p> <p>The state also developed a policy manual and member handbook for MA.40701 and MA.1028, July 2017, to further support this aspect of Community Rule compliance</p> <p>See DDS Guidance on Locks and Guidance on Visitation (October 2022).</p>	<p>115 CMR 5 updated in February 2020.</p> <p>115 CMR 7 updated in July 2016.</p> <p>115 CMR 6 updated in August 2016.</p> <p>Policy manual updated in December 2016.</p> <p>Member handbook updated in August 2019.</p> <p>Lock guidance updates 2016 and October 2022.</p> <p>DDS provider guidance on visitation published October 2022.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(F):</p> <p>Modifications must be supported by a specific assessed need and justified in PCP</p>	<p><u>MA.0826, MA.0827, MA.0828, MA.40701, MA.1028:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

For Waivers Operated by the Massachusetts Rehabilitation Commission

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(i):</p> <p>The setting is integrated in and supports full access to the community</p>	<p><u>MA.0359, MA.40702, MA.1027:</u></p> <p>130 CMR 630.404(A)(2) Provider Eligibility</p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Home and Community-Based Settings (General);</i> and ○ <i>Home and Community-Based Settings For Residential Homes</i> 	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>To meet the requirements of the cited MRC policy, a setting must be integrated in and support full access to the community.</p>	<p>115 CMR 630 last updated in June 2022.</p> <p>Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(ii):</p> <p>The setting is selected by the individual from among setting options</p>	<p><u>MA.0359, MA.40702, MA.1027:</u></p> <p>130 CMR 630.404(A)(2) Provider Eligibility</p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Home and Community-Based Settings (General);</i> ○ <i>Home and Community-Based Settings For Residential Homes;</i> ○ <i>Person-Centered Planning Principles;</i> and ○ <i>Person-Centered Service Plan</i> 	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited MRC policy ensures that the individual selects from among settings options as part of the person-centered planning process.</p>	<p>115 CMR 630 last updated in June 2022.</p> <p>Provider manual was revised in April 2016.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(iii): Privacy, dignity, respect, freedom from coercion and restraint</p>	<p><u>MA.0359, MA.40702, MA.1027:</u> 130 CMR 630.404(A)(2) Provider Eligibility MRC Community Living Division Provider Manual <ul style="list-style-type: none"> ○ <i>Guiding Principles;</i> ○ <i>Home and Community-Based Settings (General);</i> ○ <i>Alcohol Use and Drug Abstinence; and</i> ○ <i>Home and Community-Based Settings For Residential Homes</i> </p>	<p>State standards are compliant with the HCBS Settings Rule. The cited MRC policy provides for rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>115 CMR 630 last updated in June 2022. Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence</p>	<p><u>MA.0359, MA.40702, MA.1027:</u> 130 CMR 630.404(A)(2) Provider Eligibility MRC Community Living Division Provider Manual <ul style="list-style-type: none"> ○ <i>Home and Community-Based Settings (General);</i> ○ <i>Person-Centered Planning Principles; and</i> ○ <i>Additional Policies for Group Living Residential Program Providers Only</i> <u>MA.40702, MA.1027:</u> ABI/MFP member handbook </p>	<p>State standards are compliant with the HCBS Settings Rule. Under the cited MRC policy, settings must optimize, but not regiment, individual initiative, autonomy, and independence. State standards were strengthened further with issuance of a member handbook for MA.40702 and MA.1027 (completed July 2017).</p>	<p>115 CMR 630 last updated in June 2022. Provider manual was revised in April 2016. Member handbook updated in August 2019.</p>

CMS Regulatory Citation	Massachusetts Regulatory/Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(v): Facilitates individual choice regarding services and supports</p>	<p><u>MA.0359, MA.40702, MA.1027:</u></p> <p>130 CMR 630.404(A)(2) Provider Eligibility</p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Guiding Principles;</i> ○ <i>Home and Community-Based Settings (General);</i> ○ <i>Home and Community-Based Settings For Residential Homes;</i> ○ <i>Person-Centered Planning Principles;</i> and ○ <i>Person-Centered Service Plan</i> <p><u>MA.40702, MA.1027:</u></p> <p>ABI/MFP member handbook Person-centered planning tools</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited MRC policy and tools describe and ensure deployment of person-centered planning principles that facilitate individual choice regarding services and supports. State standards were strengthened further with issuance of a member handbook for MA.40702 and MA.1027(completed July 2017).</p>	<p>115 CMR 630 last updated in June 2022.</p> <p>Provider manual was revised in April 2016.</p> <p>Member handbook updated in August 2019.</p>
<p>441.301(c)(4)(vi)(A): Unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement</p>	<p><u>MA.0359:</u></p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Home and Community-Based Settings For Residential Homes;</i> and ○ <i>Leases</i> 	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>For provider-owned or controlled residential settings, the cited MRC policy sets out requirements consistent with this part of the HCBS Settings Rule.</p>	<p>Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(vi)(A): Unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement</p>	<p><u>MA.1027, MA.40702, MA.0359:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(B): Each individual has privacy in their sleeping or living unit</p>	<p><u>MA.0359:</u> MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Guiding Principles; and</i> ○ <i>Home and Community-Based Settings For Residential Homes</i> 	<p>State standards are compliant with the HCBS Settings Rule. The cited MRC policy requires that each individual has privacy in their sleeping or living unit.</p>	<p>Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(vi)(B): Each individual has privacy in their sleeping or living unit</p>	<p><u>MA.1027, MA.40702, MA.0359:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(C): Individuals have freedom to control their own schedules and activities and have access to food at any time</p>	<p><u>MA.0359, MA.40702, MA.1027:</u> 130 CMR 630.404(A)(2) Provider Eligibility</p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Person-Centered Planning Principles; and</i> ○ <i>Home and Community-Based Settings For Residential Homes</i> 	<p>State standards are compliant with the HCBS Settings Rule. The cited MRC policy establishes that individuals have the right and freedom to control their own access to food, schedules, and activities.</p>	<p>115 CMR 630 last updated in June 2022.</p> <p>Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(vi)(C): Individuals have freedom to control their own schedules and activities and have access to food at any time</p>	<p><u>MA.1027, MA.40702, MA.0359:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(D): Individuals are able to have visitors of their choosing at any time</p>	<p><u>MA.0359:</u> MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Guiding Principles;</i> ○ <i>Home and Community-Based Settings (General);</i> ○ <i>Home and Community-Based Settings For Residential Homes;</i> ○ <i>Person-Centered Planning Principles;</i> and ○ <i>Person-Centered Service Plan</i> 	<p>State standards are compliant with the HCBS Settings Rule. The cited MRC policy establishes that individuals have the right and freedom to have visitors of their choosing at any time.</p>	<p>Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(vi)(D): Individuals are able to have visitors of their choosing at any time</p>	<p><u>MA.1027, MA.40702, MA.0359:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(E): The setting is physically accessible to the individual</p>	<p><u>MA.0359, MA.40702, MA.1027:</u> 130 CMR 630.404(A)(2) Provider Eligibility</p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Home and Community-Based Settings (General)</i> <p><u>MA.40702, MA.1027:</u> 130 CMR 630.436 Location Requirements for HCBS Waiver Providers</p>	<p>State standards are compliant with the HCBS Settings Rule. The cited policy and regulation require settings to be physically accessible to accommodate the needs of the individual.</p>	<p>115 CMR 630 last updated in June 2022.</p> <p>Provider manual was revised in April 2016.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(E): The setting is physically accessible to the individual</p>	<p><u>MA.1027, MA.40702, MA.0359:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(F): Modifications must be supported by a specific assessed need and justified in PCP</p>	<p><u>MA.0359, MA.40702, MA.1027:</u></p> <p>130 CMR 630.404(A)(2) Provider Eligibility</p> <p>MRC Community Living Division Provider Manual</p> <ul style="list-style-type: none"> ○ <i>Home and Community-Based Settings For Residential Homes;</i> ○ <i>Behavioral Assessment, Management, and Supports in Site-Based Programs;</i> ○ <i>Person-Centered Planning Principles; and</i> ○ <i>Person-Centered Service Plan</i> 	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>The cited MRC policy requires that modifications to individual rights must be supported by a specific assessed need and justified in the PCP.</p>	<p>115 CMR 630 last updated in June 2022.</p> <p>Provider manual was revised in April 2016.</p>
<p>441.301(c)(4)(vi)(F): Modifications must be supported by a specific assessed need and justified in PCP</p>	<p><u>MA.1027, MA.40702, MA.0359:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

For Waivers Operated by the Executive Office of Elder Affairs

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(i):</p> <p>The setting is integrated in and supports full access to the community</p>	<p><u>MA.0059:</u></p> <p>651 CMR 3.04(3)(b) Residential settings</p> <p>1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. The cited EOEA regulation provides that services shall not be delivered to an individual residing in an inpatient setting, group home or assisted living residence. EOEA further strengthened the state standards through updates to its HCBS Program Guidelines.</p>	<p>651 CMR 3 last updated in January 2017.</p> <p>HCBS Program Guidelines were updated in January 2023.</p>
<p>441.301(c)(4)(ii):</p> <p>The setting is selected by the individual from among setting options</p>	<p><u>MA.0059:</u></p> <p>PI-09-20 Service Plans – State issued person-centered planning guidance</p> <p>ASAP Contract: Choice of providers 4.4.15, 4.6.1.5</p>	<p>State standards are compliant with the HCBS Settings Rule. The cited EOEA Program Instruction (PI) and ASAP Contract ensure that participants have a free choice of providers and are supported in their decision-making through the person-centered planning process.</p>	<p>Program Instruction was published in December 2009.</p> <p>The ASAP Contract was last updated in June 2021.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(iii): Privacy, dignity, respect, freedom from coercion and restraint</p>	<p><u>MA.0059:</u></p> <p>651 CMR 3.01 Scope and Purpose</p> <p>Frail Elder Waiver Application, Appendix G-2</p> <p>PI-09-13 Attachment A Provider Agreement – Mandated reporting</p> <p>1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. The overarching purpose of the Home Care program and the Frail Elder Waiver is to ensure elders’ dignity and independence in the community. Use of restraints is not authorized in the Home Care program, as stated in Frail Elder Waiver application. The other EOEA policies cited as well as the ASAP Contract, set forth standards regarding privacy and the mandatory reporting of elder abuse, neglect, and mistreatment. EOEA further strengthened the state standards through updates to its HCBS Program Guidelines.</p>	<p>651 CMR 3 last updated in January 2017.</p> <p>Frail Elder Waiver Application last updated in March 2022.</p> <p>Program Instruction was published in August 2009.</p> <p>HCBS Program Guidelines were updated in January 2023.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence</p>	<p><u>MA.0059:</u> 651 CMR 3.03(1) Functions and Responsibilities PI-09-13 Attachment A – I. Program goals, and VI. Program services (Supportive Day Program)</p>	<p>State standards are compliant with the HCBS Settings Rule. As set out in the cited EOE regulation, participants’ dignity and independence are the cornerstone of the planning and delivery of services in the waiver. The cited Program Instruction (PI) emphasizes participants’ independence, self-determination, and choice, as well as structured yet flexible service settings.</p>	<p>651 CMR 3 last updated in January 2017. Program Instruction was published in August 2009.</p>
<p>441.301(c)(4)(v): Facilitates individual choice regarding services and supports</p>	<p><u>MA.0059:</u> PI 97-31 (Medicaid Waiver Manual Clarification) – Attachment D (Recipient Choice Form) PI-09-13 Attachment A – VI. Program services ASAP Contract: Choice of Providers 4.4.15, 4.6.1.5</p>	<p>State standards are compliant with the HCBS Settings Rule. The cited policies and procurement document establish that individuals have choice regarding services and supports, as well as free choice of providers.</p>	<p>Program Instruction 97-31 was published in September 1997. Program Instruction 09-13 was published in August 2009. The ASAP Contract was last updated in June 2021.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(A):</p> <p>Unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement</p>	<p><u>MA.0059:</u></p> <p>651 CMR 3.04(3)(b) Waiver services are provided to consumers living in community settings that are not waiver service provider owned or controlled.</p> <p>1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. EOEA updated and revised its HCBS Program Guidelines to clarify this requirement for congregate housing settings.²</p>	<p>651 CMR 3 last updated in January 2017.</p> <p>HCBS Program Guidelines were updated in January 2023.</p>
<p>441.301(c)(4)(vi)(A):</p> <p>Unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement</p>	<p><u>MA.0059:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(B):</p> <p>Each individual has privacy in their sleeping or living unit</p>	<p><u>MA.0059:</u></p> <p>651 CMR 3.04(3)(b) Waiver services are provided to consumers living in community settings that are not waiver service provider owned or controlled.</p> <p>1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines – Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. EOEA has updated and revised its HCBS Program Guidelines to clarify this requirement for congregate housing settings.</p>	<p>651 CMR 3 last updated in January 2017.</p> <p>HCBS Program Guidelines were updated in January 2023.</p>

² Even though congregate housing is not an HCB service and is not a provider-controlled setting, we have chosen to treat it consistent with standards for such settings, and applied the Rule in that spirit, because some Frail Elder Waiver participants have chosen to reside, and in some cases receive waiver services, in congregate housing settings.

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(B): Each individual has privacy in their sleeping or living unit</p>	<p><u>MA.0059:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule. Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(C): Individuals have freedom to control their own schedules and activities and have access to food at any time</p>	<p><u>MA.0059:</u> 651 CMR 3.04(3)(b) Waiver services are provided to consumers living in community settings that are not waiver service provider owned or controlled. 1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. EOEA has updated and revised its HCBS Program Guidelines to clarify this requirement for congregate housing settings.</p>	<p>651 CMR 3 last updated in January 2017. HCBS Program Guidelines were updated in January 2023.</p>
<p>441.301(c)(4)(vi)(C): Individuals have freedom to control their own schedules and activities and have access to food at any time</p>	<p><u>MA.0059:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule. Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(D): Individuals are able to have visitors of their choosing at any time</p>	<p><u>MA.0059:</u></p> <p>651 CMR 3.04(3)(b) Waiver services are provided to consumers living in community settings that are not waiver service provider owned or controlled.</p> <p>1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. EOEA has updated and revised its HCBS Program Guidelines to clarify this requirement for congregate housing settings.</p>	<p>651 CMR 3 last updated in January 2017.</p> <p>HCBS Program Guidelines were updated in January 2023.</p>
<p>441.301(c)(4)(vi)(D): Individuals are able to have visitors of their choosing at any time</p>	<p><u>MA.0059:</u></p> <p>Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p> <p>Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule.</p> <p>Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(E): The setting is physically accessible to the individual</p>	<p><u>MA.0059:</u></p> <p>651 CMR 3.04(3)(b) Waiver services are provided to consumers living in community settings that are not waiver service provider owned or controlled.</p> <p>1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. EOEA has updated and revised its HCBS Program Guidelines to clarify this requirement for congregate housing settings.</p>	<p>651 CMR 3 last updated in January 2017.</p> <p>HCBS Program Guidelines were updated in January 2023.</p>

CMS Regulatory Citation	Massachusetts Regulatory/ Policy/Practice/Citation	Compliance Status	Compliance Date
<p>441.301(c)(4)(vi)(E): The setting is physically accessible to the individual</p>	<p><u>MA.0059:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule. Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>
<p>441.301(c)(4)(vi)(F): Modifications must be supported by a specific assessed need and justified in PCP</p>	<p><u>MA.0059:</u> 651 CMR 3.04(3)(b) Waiver services are provided to consumers living in community settings that are not waiver service provider owned or controlled. 1915 (c) Home and Community Based Services Waiver for Frail Elders Program Guidelines - Document Library (800ageinfo.com)</p>	<p>State standards are compliant with the HCBS Settings Rule. EOEA has updated and revised its HCBS Program Guidelines to clarify this requirement for congregate housing settings.</p>	<p>651 CMR 3 last updated in January 2017. HCBS Program Guidelines were updated in January 2023.</p>
<p>441.301(c)(4)(vi)(F): Modifications must be supported by a specific assessed need and justified in PCP</p>	<p><u>MA.0059:</u> Adult Foster Care Provider Bulletin 27: Specific Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services Adult Foster Care Provider Bulletin 28: Additional Guidance for Adult Foster Care Providers Regarding Certain Home- and Community-Based Services</p>	<p>State standards are compliant with the HCBS Settings Rule. Assessments of AFC homes not owned or leased by waiver participants with an unrelated caregiver are underway. These settings will be fully compliant by 3/17/2023.</p>	<p>March 2023</p>

Table 2. Analysis of Waiver Settings

Department of Developmental Services – Residential Settings

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS, but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Intensive Supports (MA.0827) 	Residential Habilitation	Private Provider Owned, Operated or Leased Group Residences	2065	2040	25 (2 providers)	0	0
<ul style="list-style-type: none"> Intensive Supports (MA.0827) 	Residential Habilitation	State Operated Group Residences	247	247	0	0	0
<ul style="list-style-type: none"> Intensive Supports (MA.0827) 	Residential Habilitation	Placement Service Settings	1461	1461	0	0	0
<ul style="list-style-type: none"> Acquired Brain Injury (ABI) - Residential Habilitation (MA.40701) Moving Forward Plan (MFP) - Residential Supports (MA.1028) 	Residential Habilitation	Private Provider Owned, Operated or Leased Group Residences	259	259	0	0	0
<ul style="list-style-type: none"> Acquired Brain Injury (ABI) - Residential Habilitation (MA.40701) Moving Forward Plan (MFP) - Residential Supports (MA.1028) 	Assisted Living	Assisted Living	4	4	0	0	0

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS, but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Acquired Brain Injury (ABI) - Residential Habilitation (MA.40701) Moving Forward Plan (MFP) - Residential Supports (MA.1028) 	Shared Living 24-Hour Supports	Placement Service Settings	44	44	0	0	0
<ul style="list-style-type: none"> Intensive Supports (MA.0827) Community Living (MA.0826) Adult Supports (MA.0828) 	N/A - A variety of waiver services can be provided in Adult Foster Care settings	State Plan Adult Foster Care	2,154	1,805	0	308 Remediation will be complete by March 17, 2023	0

Department of Developmental Services – Non-Residential Settings

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS, but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Intensive Supports (MA.0827) Community Living (MA.0826) Adult Supports (MA.0828) 	Center Based Day Supports	Sheltered workshops	0 All Remaining Closed (June 2016)	0	0	0	0

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS, but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Community Based Day Supports	Community Based Day Supports Private Provider	224	224	0	0	0
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Community Based Day Supports	Community Based Day Supports State Operated Provider	1	1	0	0	0
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Day Habilitation Supplement	Day Habilitation	161 ³	0	0	0	0

³ These settings will not be the site of waiver services with the shift of service delivery from Day Habilitation Supplement as a waiver service to Individualized Staffing Supports in the State Plan (December 31, 2022)

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS, but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Group Supported Employment	Group Supported Employment Private Provider (supports are provided in business, social enterprises, and locations in the community)	113	113	0	0	0
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Group Supported Employment	Group Supported Employment State Operated Provider (supports are provided in business, social enterprises, and locations in the community)	3	3	0	0	0
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Individual Supported Employment	Employment Supports Private Provider (supports are provided in businesses, self-employment opportunities, and locations in the community)	178	178	0	0	0

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS, but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> • Intensive Supports (MA.0827) • Community Living (MA.0826) • Adult Supports (MA.0828) 	Individual Supported Employment	Employment Supports State Operated Provider (supports are provided in businesses, self-employment opportunities, and locations in the community)	5	5	0	0	0

Massachusetts Rehabilitation Commission – Residential Settings

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
• Traumatic Brain Injury Waiver (MA.0359)	Residential Habilitation	Private Provider Owned or Leased	41	41	0	0	0
• Traumatic Brain Injury Waiver (MA.0359)	Shared Living 24-Hour Supports	Private Provider Owned or Leased	1	1	0	0	0

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Traumatic Brain Injury Waiver (MA.0359) Acquired Brain Injury (ABI) - Non-Residential Habilitation (MA.40702) Moving Forward Plan (MFP) - Community Living (MA.1027) 	N/A - A variety of waiver services can be provided in Adult Foster Care settings	State Plan Adult Foster Care	12	9	0	3 Remediation will be complete by March 17, 2023	0

Massachusetts Rehabilitation Commission – Non-Residential Settings

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Traumatic Brain Injury Waiver (MA.0359) Acquired Brain Injury (ABI) - Non-Residential Habilitation (MA.40702) Moving Forward Plan (MFP) - Community Living (MA.1027) 	Day Services	Community-Based Day Services	4 TBI and ABI/MFP is 13	4 for TBI and ABI /MFP is 13	0	0	0

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> • Traumatic Brain Injury Waiver (MA.0359) • Acquired Brain Injury (ABI) - Non-Residential Habilitation MA.40702) • Moving Forward Plan (MFP) - Community Living (MA.1027) 	Supported Employment	Supported Employment	16 for TBI and ABI/MFP is 43	16 for TBI and ABI/MFP is 43	0	0	0

Executive Office of Elder Affairs – Residential Settings

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
• Frail Elder Waiver (MA.0059)	N/A – A variety of waiver services can be provided in Congregate Housing settings	Congregate Housing Settings	42	42	0	0	0

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Frail Elder Waiver (MA.0059) 	N/A - A variety of waiver services can be provided in Adult Foster Care settings	State Plan Adult Foster Care	225	205	0	15 Remediation will be complete by March 17, 2023	0

Executive Office of Elder Affairs – Non-Residential Settings

Waiver(s)	Waiver Service	Type of Setting	Number of Settings	Meets HCBS	Meets HCBS; but subject to Heightened Scrutiny	Not yet; individual site assessment in process	No; Cannot Meet
<ul style="list-style-type: none"> Frail Elder Waiver (MA.0059) 	Supportive Day	Supportive Day Programs	24	24	0	0	0

Table 3. Summary of Transition Plan Tasks and Timelines

Department of Developmental Services (DDS)

Transition Category	Specific Task	Timeframe	Comments
Systemic Changes	Create, conduct, and analyze survey of Community Based Day Supports (CBDS) providers to determine specific compliance challenges	November 2015	Complete
Systemic Changes	Revise DDS regulations 115 CMR 5.00	December 2019	Complete
Systemic Changes	Revise DDS regulations 115 CMR 7.00	July 2016	Complete
Systemic Changes	Implement certification changes	September 2017	Complete
Systemic Changes	Revise Licensure and Certification Manual	September 2019	Complete
Systemic Changes	Issue guidance on requirement for locks on bedroom doors	March 2016	Complete
Systemic Changes	Issue updated guidance on requirement for locks on bedroom doors	October 2022	Complete
Systemic Changes	Issue guidance on visitation	October 2022	Complete
Systemic Changes	Incorporation of requirements for locks on bedroom doors into Licensure and Certification tool	August 2016	Complete
Systemic Changes	Incorporation of requirements for residency agreements into Licensure and Certification tool	August 2016	Complete
Systemic Changes	Full Implementation of Positive Behavior Supports, including continued training	All components for full compliance complete by March 2023; other efforts ongoing	In process
Systemic Changes	Closure of all sheltered workshops (Blueprint for Success)	June 2016	Complete
Systemic Changes	Develop and distribute clear definitions, standards, and criteria of integration for group employment and CBDS (to be included in the coming re-procurement for FY 2020)	March 2019	Complete
Systemic Changes	Develop and distribute guidelines for social enterprises	January 2019	Complete

Transition Category	Specific Task	Timeframe	Comments
Systemic Changes	Develop and implement policy manual for MA.40701 and MA.1028	July 2017	Complete
Systemic Changes	Develop and distribute member handbook for MA.40701 and MA.1028	July 2017	Complete
Oversight of Systemic Changes	Revise Licensure and Certification tool to facilitate stronger monitoring of systemic changes in residential, CBDS, and employment services	August 2016	Complete
Oversight of Systemic Changes	Full implementation of Blueprint for Success (Employment Supports)	All components for full compliance complete by March 2023; other efforts ongoing	In process
Oversight of Systemic Changes	Develop and distribute as part of the re-procurement standardized guidance to all potential CBDS providers	March 2019	Complete
Specific Setting Changes	14 residential providers challenged to meet the Community Rule submit transition plans to DDS for review	December 2015	Complete
Specific Setting Changes	All potential CBDS providers submit responses to the RFR/procurement that address DDS expectations including Community Rule compliance	June 2019	Complete
Oversight of Specific Setting Changes	Develop specific mechanism to monitor progress toward system-wide milestones (Residential settings)	December 2015	Complete
Oversight of Specific Setting Changes	Review Year 1 quarterly milestones within setting-specific transition plans (Residential settings)	December 2016	Complete
Oversight of Specific Setting Changes	25% of milestones across statewide system are met	June 2017	Complete
Oversight of Specific Setting Changes	Review Year 2 quarterly milestones within setting-specific transition plans	December 2017	Complete
Oversight of Specific Setting Changes	50% of milestones across statewide system are met	June 2018	Complete
Oversight of Specific Setting Changes	Review Year 3 quarterly milestones within setting-specific transition plans	December 2018	Complete

Transition Category	Specific Task	Timeframe	Comments
Oversight of Specific Setting Changes	Review list of identified providers in accordance with new CMS guidance and licensure and certification data and determine providers in compliance	June 2019	Complete
Oversight of Specific Setting Changes	Work with any identified provider on compliance and then complete onsite verification/evidence package to be submitted to CMS for review.	Beginning in 2019; complete by December 2022	As providers complete implementation of plans, DDS will verify
Oversight of Specific Setting Changes	Full implementation of compliance across all group employment settings	February 2022	Compliance verified using enhanced licensure and certification tool. Full compliance has been confirmed and is ongoing.
Oversight of Specific Setting Changes	Full implementation of CBDS compliance	February 2022	Compliance verified using enhanced licensure and certification tool. Full compliance has been confirmed and is ongoing.

Massachusetts Rehabilitation Commission (MRC)

Transition Category	Specific Task	Timeframe	Comments
Systemic Changes	Policy workgroup reviews Policies and Procedures and incorporates stakeholder feedback	March 2015	Complete
Systemic Changes	MRC staff trained in 10 key revised policies	April 2015	Complete
Systemic Changes	Provider staff trained in 10 key revised policies	June 2015	Complete
Systemic Changes	Develop policy to require locks on bedroom doors	January 2016	Complete
Systemic Changes	Update MRC Provider Policy Manual	April 2016	Complete
Systemic Changes	Train MRC staff on new policies and procedures delineated in the final 2016 MRC Provider Policy Manual	April 2016	Complete
Systemic Changes	Train providers on new policies and procedures delineated in the final 2016 MRC Provider Policy Manual	May 2016	Complete

Transition Category	Specific Task	Timeframe	Comments
Systemic Changes	Develop guidance for residency agreements	June 2016	Complete
Systemic Changes	System-wide implementation of locks on bedroom doors	September 2016	Complete
Systemic Changes	Implementation of requirement of residency agreements for all participants in provider-operated residences	June 2017	Complete
Systemic Changes	Create, conduct, and analyze survey of day service providers to determine specific compliance challenges	February 2016	Complete
Systemic Changes	Develop and distribute member handbook for MA.40702 and MA.1027	July 2017	Complete
Oversight of Systemic Changes	Revise MRC monitoring tools for day services and employment settings to facilitate monitoring of ongoing compliance	September 2015	Complete
Oversight of Systemic Changes	Revise UMMS-PNA employment provider credentialing tool to reflect all Community Rule requirements	May 2017	Complete
Specific Setting Changes	Develop and implement plan for each participant with any modifications documented in individual service plan	November 2015	Complete

Executive Office of Elder Affairs (EOEA)

Transition Category	Specific Task	Timeframe	Comments
Systemic Changes	Develop congregate housing setting policy guidance and review/monitoring tool	January 2016	Complete
Systemic Changes	Revise HCBS Program Guidelines	December 2022	In process
Specific Setting Changes	EOEA agents assess each congregate housing setting	September 2014	Complete
Specific Setting Changes	EOEA conducts congregate housing site visits as needed	June 2016	Complete
Specific Setting Changes	Congregate housing providers implement required modifications	February 2017	Complete
Specific Setting Changes	EOEA agents assess each Supportive Day Program setting	November 2015	Complete
Specific Setting Changes	EOEA conducts Supportive Day Program site visits as needed	June 2016	Complete
Oversight of Specific Setting Changes	EOEA reviews congregate housing site-specific assessment results	November 2014	Complete
Oversight of Specific Setting Changes	EOEA reviews Supportive Day Program site-specific assessment results	November 2015	Complete

Oversight of Specific Setting Changes	EOEA agents verify full compliance of all congregate housing settings	March 2017	Complete
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MassHealth

Transition Category	Specific Task	Timeframe	Comments
Oversight of Specific Setting Changes	Developed processes for ongoing oversight and monitoring of compliance of AFC settings with waiver participants not living in their own home with an unrelated AFC caregiver.	March 17, 2023	Complete

Table 4. Links to Related Documents

Document	URL
CMS Frequently Asked Questions (FAQs) Guidance on Heightened Scrutiny (HS) (March 22, 2019)	https://www.medicaid.gov/federal-policy-guidance/downloads/smd19001.pdf
DDS Blueprint for Success (Employment Supports)	2023: https://www.mass.gov/doc/dds-blueprint-for-success-moving-forward-together 2013: https://www.mass.gov/doc/blueprint-for-success/download
DDS Guidance on Locks	2022: https://www.mass.gov/doc/dds-guidance-on-locks-october-2022/download 2016: https://www.mass.gov/doc/guidance-on-locks-1/download
DDS Guidance on Residential Agreements	https://www.mass.gov/doc/guidance-on-residential-agreements-2023/download
DDS Guidance on Visitation	https://www.mass.gov/doc/dds-guidance-on-visitation-october-2022/download
DDS Individual Support Plan Manual	https://www.ddslearning.com/isp
DDS Employment Progress Report	https://www.mass.gov/doc/fy21-progress-report/download
DDS Revised Guidance Criteria to Assist Providers in Compliance with HCB Settings Requirements	https://www.mass.gov/doc/dds-appendix-d-dds-criteria-for-review-of-provider-transition-plans-2
DDS Survey of Community Based Day Services	https://www.mass.gov/doc/dds-appendix-f-survey-of-community-based-day-services/
MA.0059.R07.00 Frail Elder Waiver application	https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/82036
Attachment D - Responses to Comments Received on the Massachusetts Transition Plan (October 15 – November 15, 2014)	https://www.mass.gov/doc/responses-to-comments-received-on-the-massachusetts-transition-plan/download
Attachment D - Responses to Comments Received on the Addendum for Non-residential Services (May 18 – June 18, 2015)	https://www.mass.gov/doc/attachment-d-responses-to-comments-received-on-the-addendum-for-non-residential-services/download
Responses to Comments Received on the Revised Massachusetts STP (July 8 – August 10, 2016)	https://www.mass.gov/doc/summary-of-public-input-0/download

Document	URL
DDS Residential and Day/Employment Provider Licensing Reports	https://www.mass.gov/lists/dds-provider-licensing-reports
DDS Provider licensure reports for the small set of DDS residential providers that required more substantive changes to achieve full compliance	<ol style="list-style-type: none"> 1. Archway https://www.mass.gov/doc/archway-provider-report-2020/download 2. Berkshire Hills https://www.mass.gov/doc/berkshire-hills-music-academy-provider-report-2023/download 3. Justice Resource Institute (Berkshire Meadows) https://www.mass.gov/doc/justice-resource-institute-2020/download 4. Cardinal Cushing https://www.mass.gov/doc/cardinal-cushing-centers-2021/download 5. Central Residential Services https://www.mass.gov/doc/dds-central-state-ops-provider-report-2022/download 6. Charles River https://www.mass.gov/doc/charles-river-center-follow-up-2022/download 7. Commonwealth Community https://www.mass.gov/doc/dds-western-region-1-provider-report-2022/download 8. Crystal Springs https://www.mass.gov/doc/crystal-springs-2021/download 9. Dr. Franklin Perkins School/ RFK Community Alliance https://www.mass.gov/doc/dr-franklin-perkins-school-2019/download 10. New England Village https://www.mass.gov/doc/new-england-village-2022/download 11. Riverbrook https://www.mass.gov/doc/riverbrook-residence-provider-report-2022/download 12. Southeastern Residential Services https://www.mass.gov/doc/dds-southeast-state-op-2022/download 13. Templeton https://www.mass.gov/doc/templeton-community-services-provider-report-2022/download 14. The Ledges https://www.mass.gov/doc/the-ledges-provider-report-2022/download

Document	URL
AFC Attestation Community Rule Form, Lease Guidance, and Templates	Link: AFC Attestation Community Rule Form Link: AFC Lease Residency Agreement Guidance Link: AFC Residency Agreement Template Link: MA Residential Lease Agreement Form