State of Rhode Island

UPDATED TRANSITION PLAN TO IMPLEMENT THE SETTINGS REQUIREMENT FOR HOME AND COMMUNITY BASED SERVICES

CMS FINAL RULE OF JANUARY 2014

March 13, 2023

2023

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Summary:

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued a final rule (42 CFR 441.301 and 441.710) regarding Medicaid-funded home and community-based services (HCBS). The rule applies to HCBS provided under section 1915(c), 1915(i), and 1915(k) authorities. Rhode Island's authority to claim Federal Medicaid match for HCBS is under the state's 1115 Waiver rather than section 1915 authorities. Nonetheless, per the direction of CMS, the state has moved forward with ensuring compliance with the rule for HCBS provided under the 1115 Waiver.

The intent of the rule is to ensure that Medicaid-funded HCBS:

- Are provided to individuals in a setting that is integrated and supports full access to the community.
- Are selected by the beneficiary from among setting options.
- Ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimize autonomy and independence in making life choices.
- Facilitate individual choice regarding services and supports, and who provides them.
- Are based on a person-centered service plan.

This Transition Plan details Rhode Island's approach to achieve and maintain compliance with the HCBS Final Rule.

Components addressed in the Updated Transition Plan:

Rhode Island's Updated Transition Plan includes the following new sections:

- An updated description of the State's process for compliance with the Final Rule.
- Ongoing Monitoring of Settings
- Remediation Process
- An updated transition plan matrix with milestones towards deliverables.
- Start and end dates for each deliverable.
- An updated plan of remedial actions for a 100% validated sample size of all the settings.
- Department of Justice Consent Decree and Transition Plan
- Heightened Scrutiny
- Relocating Beneficiaries from Closed Settings
- Out of State Placements
- Non-Disability Specific Settings

Materials included in the Transition Planning Document:

- Background - 1115 Waiver
- State Team Responsibilities
- Vision for Training and Compliance
- Existing Settings in HCBS Programs and Assessment Tool Review Process
- Updated Rhode Island Statewide Transition Plan Matrix
- Areas of Vulnerability and Remedial Actions
- Statements of Public Notice from the Initial Transition Plan Submitted June 2015

- Summary of Public Comments from the Initial Transition Plan Submitted June 2015
- Summary of Public Comments from July 2018 and January 2020 Postings
- List of Advocates
- Provider Self-Assessment Tools for Residential and Non-Residential Settings

Background – 1115 Waiver:

Rhode Island's Medicaid-funded HCBS are authorized under the State's Title XI, section 1115 demonstration waiver. The State's current waiver application was approved by CMS for five years, from January 1, 2019, through December 31, 2023. The State is currently requesting a five-year extension of the waiver from January 1, 2024, through December 31, 2028.

Medicaid-funded HCBS authorized in the 1115 Waiver are provided to the following populations when they meet both clinical and financial eligibility requirements:

- Aged, blind and disabled individuals.
- Individuals at risk for long-term care (LTC) with income at or below 250 percent of the FPL, who need home and community-based services.
- 217-like Categorically Needy individuals receiving HCBS waiver-like services & PACE-like participants in the Highest need group.
- 217-like Categorically Needy individuals receiving HCBS waiver-like participants in the High need group.
- 217-like Medically Needy individuals receiving HCBS waiver-like services in the community (High and Highest group).
- Medically Needy PACE-like participants in the community.
- Adults living with disabilities with incomes at or below 300 percent of the SSI with income and resource lists above the Medicaid limits.
- Adults aged 19-64 who have been diagnosed with Alzheimer's disease or a related dementia as determined by a physician, who are at risk for LTC admission, who need home and community care services, and whose income is at or below 250 percent of the FPL.

A list of LTSS Core Services available through the 1115 Waiver are provided in Attachment A.

The Settings that will be reviewed for programs and facilities are the following:

- 356 Residential Settings
    - 275 Community Residences offering 24-hour supports for individuals with I/DD
    - 46 Semi-Independent Apartments for individuals with I/DD
    - 35 Assisted Living Residences
- 66 Non-Residential Settings
    - 36 Day Programs for individuals with I/DD
    - 1 Employment Program for individuals with I/DD
    - 29 Adult Day Programs
- 46 Non-Family Shared Living Settings
    - NOTE: Shared Living is provided by both EOHHS and BHDDH. The programs operate under two different models, with BHDDH having more non-family providers. There are 385 Shared Living settings overseen by 18 community agencies. Settings in 339 family

homes were not reviewed for compliance, because the State presumes those settings comply with the tenets of the HCBS Final Rule. Settings in 46 non-family homes were assessed through a self-assessment, consumer survey, and desk review of policies of the Shared Living provider. The 18 community agencies were also reviewed.

The State achieved its goal of a 100% response rate for provider self-surveys. To validate these self-assessments, the State employed consumer surveys, desk audits of provider policies, site visits, engagement of advocacy groups (including the state long term care ombudsman), and licensing reviews. These assessments were completed for all HCBS settings in 2016 and 2017. Assessments for those settings identified as not complying due to heightened scrutiny issues have been made available for public comment.

Following completion of the provider surveys, the State conducted voluntary consumer surveys to further assess compliance with the Final Rule and to evaluate participants' experiences within the setting. To ensure validity, reliability, and neutrality, surveys were administered by either state personnel, contracted entities, or independent stakeholders under state staff supervision. Survey interviewers were trained on the HCBS Final Rule requirements, expectations on survey administration, and strategies to ensure neutrality and reliability throughout the process. Participants or authorized representatives were offered the survey through a variety of methods, including in person, mail, and e-mail. The State's goal was to achieve a response rate of 30% of all participants, with no minimum requirement for each individual setting. The final response rate was 10% of participants.

Rhode Island determined that services delivered in individual, private homes owned or rented by a consumer or consumer's family and integrated in community neighborhoods automatically comply with the tenets of the HCBS Final Rule and were not reviewed for compliance. The State reached this determination based on the following:

- The individual chooses to live in a family home or that of a family member.
- The individual lives in a typical community neighborhood, where people who do not receive HCBS also reside.
- Living in a private, family home allows for a private space, access to food, integration into the community of their choice, and interaction with friends/family as desired. Transportation is available from state-funded programs, public transportation, and other options.
- An individual has access to community supports (church, temple, local community groups) that are familiar to the person.
- The person has a choice of services, providers, and programs.

State Team Responsibilities:

The State Team consists of the Executive Office of Health and Human Services (EOHHS) and the Departments that are under the EOHHS umbrella: the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH); the Department of Health (RIDOH); the Department of Children, Youth and Families (DCYF); the Department of Human Services (DHS); and the Office of Healthy Aging (OHA), formerly known as the Department of Elderly Affairs.

The State worked with stakeholders and consumer advocacy groups such as:

- Advocates in Action (AIA)
- Community Provider Network of Rhode Island (CPNRI)
- Rhode Island Developmental Disabilities Council (RIDDC)

- LeadingAge Rhode Island
- Rhode Island Assisted Living Association
- Rhode Island Disability Law Center (RIDLC), the State's protection and advocacy agency
- The Long-Term Care Ombudsman
- The Paul V. Sherlock Center on Disabilities

Monthly engagement meetings with stakeholders will continue to serve as a process for educating the public about the new rules as well as an opportunity for feedback. Until the Final Rule is fully implemented, the Transition Plan will be an open document/process that works with all stakeholders to achieve gradual compliance and will be used for assistance in achieving milestones and guiding the Team's work.

The State team, with continued stakeholder engagement, will remain critical for full implementation of the Final Rule by March 17, 2023. Engagement meetings will continue to support the process for educating the public about the new rules, provide an opportunity for feedback, and guide the full implementation process.

Vision for Training and Ongoing Monitoring of Settings:

To ensure that Rhode Island has the capacity to implement the Transition Plan, the State team developed an interdepartmental training, technical assistance, and compliance team.

As the State team continues to identify areas of non-compliance that need to be addressed by the State agencies and service providers, a team of state-led trainers and technical assistance staff will be available to assist.

Depending on the needs of each agency, more intensive technical assistance may be offered by the State team to bring programs, policies, and practices into compliance. The State team will utilize its compliance resources to lead an interdepartmental team to monitor agencies' compliance.

Existing Settings in HCBS Programs and Assessment Tool Review Process:

Provider Self-Assessment

Rhode Island developed two self-assessment tools—one for residential settings and one for non-residential settings—using CMS' exploratory questions and compliance toolkits available on the Medicaid.gov website. The state required participation from 100% of providers and 100% of settings that render Medicaid-funded HCBS. Providers that operate multiple settings were required to complete a self-assessment for each setting that they operate. The self-assessment was initially conducted on paper but was transitioned to an online survey tool for greater ease of participation.

Residential providers and settings serving individuals receiving Medicaid HCBS in Rhode Island include assisted living residences, community residences, semi-independent apartments, and shared living arrangements. Non-residential providers and settings include adult day care, center-based day, community-based day, and sheltered workshops.[1]

[1] Note: sheltered workshops were not evaluated for compliance with the HCBS Final Rule because these settings are closing. Please see the Department of Justice Consent Decree and Transition Plan section for more information about sheltered workshops.

The Provider Self-Assessment Tools for Residential and Non-Residential Settings are included at the end of this document.

Provider Assessment Validation Process

Rhode Island created a process to validate 100% of provider self-assessments through desk reviews of settings policies. In addition, many settings received an on-site visit and had results from consumer surveys. Please see Table 1 below for detail about the number of each type of validation method used for residential, non-residential, and shared living settings following the provider self-assessment. Consumers, caregivers, providers, and other stakeholders will continue to have input in the review process and ongoing monitoring of providers and settings.

Consumer surveys were the preferred method of validation. Consumer and advocacy groups have driven the discussion and process on the administration of the consumer surveys. When possible, Rhode Island conducted one or more consumer surveys at the setting. The consumer survey tool is similar to the provider self-assessment tool and includes questions about the consumer's experience at the setting. This method is resource intensive, and the State was not able to conduct consumer surveys at 100% of the settings. However, Rhode Island did conduct at least one consumer survey at most of the settings where individuals receive Medicaid HCBS. Results of the provider self-assessments were compared by category with the results of the consumer surveys to identify any significant discrepancies. Training about person-centeredness and education about the HCBS Final Rule is a key way the State will assure compliance and greater consistency between the provider assessments and consumer surveys.

As a second means of validation, Rhode Island required providers to submit policies for each setting to assess HCBS Final Rule compliance for each category. Assisted living residences and adult day care programs were required to submit their full policies to the State. Licensed developmental disability organizations, shared living programs with non-family homes, and semi-independent apartment programs were required to provide the specific sections of their policies that demonstrated compliance. State staff received training on the HCBS Final Rule from supervisors with knowledge and understanding of the federal requirements. The trained staff then conducted desk reviews of the provider policies. For each setting requirement, staff determined whether the provider policy was fully compliant or not. Staff conducted a policy review and validated each setting for 100% of the settings that were reviewed for compliance. To further validate the provider self-surveys, the State requested that providers submit documents to support their survey responses. These documents included policies and procedures, leases or rental documents, reports of activity programming, assessments used by the setting, participant rights documents, and staff training documents.

Review of information for the Division of Developmental Disabilities (DD) was completed using a tool that was specific to factors impacting the DD population and service structure. Please see Attachment Q for the DD Policy Review Tool. The review was conducted by one individual with extensive knowledge of the Final Rule. The review considers each question on the self-survey and matches the policy that impacts that question. Policies are reviewed across disciplines and departments within settings to verify that no conflicting policy exists.

To maintain and support evaluation of the results of the provider self-assessments, consumer surveys, and desk policy reviews, Rhode Island developed an HCBS database. The database tracks responses to assessments and enables the State to generate compliance reports for each of the settings. Responses to the self-survey and policy review are entered by category, facilitating an evaluation of compliance by category. In addition to identifying specific areas of non-compliance for each setting, the database helps

identify common areas of non-compliance and discrepancies between provider and consumer assessments which may indicate larger systemic issues where additional technical assistance is needed for providers and settings.

For settings that were identified as possibly requiring heightened scrutiny, settings that were concerned about their ability to achieve compliance, and settings that had a low number of consumer survey responses, State staff conducted on-site reviews. All settings had at least two validation actions. If a setting did not receive an on-site review, validation was determined by a combination of provider survey and desk review of policies. In addition, consumer surveys were conducted where possible.

Table 1. Completed Validation Method per Percentage of Total Settings

Setting Type	Number of Settings	Provider Survey	At Least One Consumer Survey*	Desk Policy Review	On-site Review
Residential	356	356	223	356	209
Non-Residential	66	66	40	66	41
Shared Living	46	46	46	46	0
TOTAL	**468**	**468**	**309**	**468**	**250**

*NOTE: Many settings had multiple consumer surveys. There were a total of 609 consumer surveys conducted. This table reflects the proportion of settings that had *at least one* consumer survey conducted at the setting to validate the provider survey.

Remediation Process

When a provider self-identifies non-compliance, and/or when consumer survey responses differ from the provider's survey response, the provider is required to develop an action plan for remediating the non-compliance. Similarly, when a provider policy is deemed to be partially compliant or non-compliant, the provider is required to prepare a plan for remediating the policy. Using a report from its HCBS database, the State identifies the discrepancy and need for an action plan and notifies the provider of the requirement.

The compliance reports are shared with providers to guide them through remediation and assist in achieving compliance. Providers are required to submit periodic updates to the State team describing progress to assure completion of remediation by March 17, 2023. If a provider's plan for compliance is found to be inadequate, the State will work with the provider to identify necessary steps to bring its settings into compliance. The State will provide ongoing technical assistance and guidance to ensure smooth transition and full compliance with the HCBS Final Rule. Please see Attachments C and D for a sample of the compliance chart and policy compliance report.

None of the Medicaid HCBS settings operating in Rhode Island were fully compliant with the HCBS Final Rule following the initial assessment. Nearly all of the settings required minor modifications to come into compliance, except for six settings that are subject to heightened scrutiny and two settings that were required to close. Please see the Heightened Scrutiny sections for more information about these settings. Table 2 displays HCBS Final Rule compliance by setting as of October 2016, following completion of the provider surveys.

Table 2. HCBS Final Rule Compliance by Setting, as of October 2016

Setting Type	Number of Settings	Fully Compliant	Partially Compliant, and can be brought into compliance	Requires Heightened Scrutiny	Not Compliant, and cannot be brought into compliance*
Residential – Community Residences	275	0	273	0	2
Residential – Semi-Ind. Apartments	46	0	46	0	0
Residential – Assisted Living	35	0	29	6	0
Non-Residential – Adult Day	29	0	29	0	0
Non-Residential – Day Program	36	0	36	0	0
Non-Residential – Employment	1	0	1	0	0
Shared Living – Non-Family Homes	46	0	46	0	0
TOTAL	**468**	**0**	**460**	**6**	**2**

*NOTE: Of the 275 I/DD Community Residences, 2 settings were not compliant and could not be brought into compliance. These settings were closed in 2018 and 2019 and residents were transitioned to other settings.

By March 17, 2023, all settings will have presented documentation to demonstrate their compliance, with the exception of the 6 assisted living residences subject to heightened scrutiny.

Next Steps

The assessment process and compliance analysis allow the State to target technical assistance to providers identified as not fully compliant. As the State provides technical assistance and providers create their action plans, the State will track progress towards compliance with the HCBS Final Rule through periodic updates and ongoing monitoring processes. As required by CMS, the State conducted on-site visits with providers. Sites were selected based on requests for assistance with the Final Rule, heightened scrutiny assessments, and document review.

With the extension of the compliance date for the HCBS Final Rule, HCBS settings in Rhode Island were given until September 30, 2022, to provide the State with an updated compliance plan. The review process will be completed by State staff by December 2022.

Examples of remedial action taken include:

- Rewriting policies/procedures.
- Posting notices related to grievances.
- Rewriting resident agreements.
- Increasing staff training on issues related to respect and privacy.
- Changing House Rules that do not allow for autonomy and that restrict choice.

Updated Rhode Island Statewide Transition Plan Matrix:

The updated transition plan matrix provides milestones toward full remediation. In summary, the goal was to initiate action plans from the providers starting October 1, 2016. The State allowed 60 days for a plan to be submitted to the State for further review. The State reviewed and approved a plan for remediation within 90 days after receiving the plan. Periodic progress updates are provided to the State team to assure completion by March 17, 2023. The State provided technical assistance to support providers in achieving compliance.

The following tables describe the EOHHS comprehensive transition plan. The State's Transition Plan includes the following elements:

1. Stakeholder review and public comment process for the Updated Transition Plan
2. Assessment process and remediation
3. Heightened Scrutiny and remediation
4. Remediation plan for changing statutes, regulations, certification standards, and policies
5. Ongoing monitoring

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
1115	1. Stakeholder review and public comment process for the Updated Transition Plan	February 1, 2016	July 31, 2016	Comments and responses from state team meetings, comments and responses from EOHHS Monthly Task Force meetings, EOHHS website, and responses to postings February 2016	EOHHS, BHDDH, RIDOH, CPNRI, DCYF, DHS/OHA, ICI CAC, Sherlock Center, LeadingAge RI, RIALA, Advocates in Action, RI Developmental Disabilities Council, Long Term Care Coordinating Council[2]	Completion of Updated Transition Plan with public comments by March 31, 2016	Updated Transition Plan approved by CMS by July 31, 2016

Milestones towards deliverable:	
1) Updated Transition Plan to be posted for public comment for 30 days electronically on EOHHS website and in print in the Providence Journal newspaper by February 29, 2016. 2) All public comments will be reviewed, receive responses, and be incorporated into the transition plan that will be submitted to CMS by March 31, 2016. 3) Updated Transition Plan will be approved by CMS by July 31, 2016.	Completed

[2] EOHHS is the Rhode Island Executive Office of Health & Human Services; BHDDH is the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals; RIDOH is the Rhode Island Department of Health; CPNRI is the Community Provider Network of Rhode Island; DCYF is the Rhode Island Department of Children Youth and Families; DHS/OHA is the Rhode Island Department of Human Services, Office of Healthy Aging; ICI CAC is the Rhode Island Integrated Care Initiative Consumer Advisory Committee; RIALA is the Rhode Island Assisted Living Association.

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
1115	2. Assessment process and remediation	April 30, 2015	September 30, 2017	Comments and responses from EOHHS Monthly Task Force meetings, EOHHS website, E-mail and monthly Stakeholder meetings	EOHHS, BHDDH, RIDOH, CPNRI, DCYF, DHS/OHA, ICI CAC, Sherlock Center, RIALA, LeadingAge RI, Advocates in Action, RI Developmental Disabilities Council, Long Term Care Coordinating Council	2. Assessment process and remediation	April 30, 2015

Milestones towards deliverable:	
1) Ongoing monthly state team meetings to review and disseminate all information to relevant stakeholders on the status of the assessment process. Ongoing until full compliance with Final Rule by March 17, 2023. 2) All Provider self-assessments completed and validated, with evidence to support each question by December 31, 2022. 3) Initiation of Consumer Survey started in October 2015, with completion by July 31, 2016 (completed). 4) Developing database for aggregating data for review by January 31, 2016, in order to enable data analysis after completion of assessment process, February 28, 2017 (completed). 5) Analyzing data and provide each provider with areas of vulnerability that need remedial action by May 31, 2017 (completed). 6) Public Comment on assessment results and final submission to CMS by March 31, 2020 7) Initiate remediation strategy of action plans starting September 30, 2018. After the State has identified the areas for remediation in each setting, the State will allow 60 days for a plan to be submitted to the State for further review. The State will review and approve plans for remediation 90 days after receiving the plan. Periodic progress updates will be provided to the State team to assure timely completion. State will provide technical assistance as needed for compliance.	In process

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
1115	3. Heightened Scrutiny and remediation	January 31, 2016	TBD – depends on CMS review	Comments and responses to EOHHS Monthly Task Force meetings, EOHHS website, E-mail and non-electronic mail or distribution at Stakeholder meeting	EOHHS, BHDDH, RIDOH, CPNRI, DCYF, DHS/OHA, ICI CAC, Sherlock Center, LeadingAge RI, RIALA, Advocates in Action, RI Developmental Disabilities Council, Long Term Care Coordinating Council	Remediate all settings designated with Heightened Scrutiny	In process

Milestones towards deliverable:	
1) The State will notify each provider individually by January 31, 2016, if they must go through the Heightened Scrutiny Review process. Each setting will post the letter in the setting so Consumers are aware of the issue. 2) The State identified six settings that were co-located with institutional settings and therefore subject to heightened scrutiny. The State posted the addresses of these settings by adding Attachment E to the Updated Statewide Transition Plan. Information was posted for public comment electronically on the EOHHS HCBS website and non-electronically in the Providence Journal for 30 days, from January 21, 2020, through February 21, 2020. 3) The State recorded comments and made necessary changes to the updated transition plan. A summary of comments is provided in Attachment L. 4) The State will work with each designated setting to create a rebuttal portfolio to demonstrate why the settings overcome the institutional presumption and are considered home and community-based. These rebuttal portfolios will be submitted to CMS for review on March 17, 2023. 5) Upon notification from CMS, the State will notify facilities of CMS determination. Those facilities deemed compliant by CMS will be removed from the Heightened Scrutiny list. The State will work with those facilities that are still considered non-compliant to create a remediation plan or create a transition plan for individuals receiving services within that setting. The State Team will work with all Heightened Scrutiny settings to develop and implement action plans by a date determined after CMS reviews. The State will allow 60 days for a plan to be submitted to the State for further review. The State will review and approve plans for remediation 90 days after receiving the plan. Providers will submit periodic updates to the state team on their progress to assure compliance on a schedule determined by CMS reviews. 6) If any setting remains out of compliance, the State will work with individuals in these setting to transition to a new setting that is integrated and is of the participant's choice. This process will begin after a final determination by CMS.	In process

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
1115	4. Plan and Remediation for changing statutes, regulations, certification standards, and policies	February 1, 2015	March 2019	State team conducts internal reviews of statutes, regulations, and policies pertaining to all HCBS	State team, providers, advocacy groups and key stakeholders to review statutes, regulations, and policies with provider input	All statutes, regulations and policies in compliance by March 2019	Completed

Milestones towards deliverable: 1) A complete list/grid of regulations, policies, certification standards, and statutes that need remediation will be completed by January 30, 2016. 2) The Grid will be provided to stakeholders by February 5, 2016 and posted on the HCBS website and be presented at the Stakeholder meeting January 25, 2016. 3) The State will request comments and feedback to the list by February 19, 2016. 4) The State will then compile a final grid/list of statutes, regulations, certification standards, and polices by March 1, 2016. 5) By April 1, 2016, the State will provide stakeholders with proposed changes to each item on the list/grid for comments. 6) The State will follow the rule making process and initiate rule changes by June 1, 2016. For each rule the State is required to provide a fiscal impact and description for the change. Rule changes may require public hearings prior to implementation. The State will prioritize each rule that requires public comment and follow until completion. The goal for completion of the rule making process is June 30, 2017. 7) For legislative rule changes, the State will initiate the process in June 2016 with the goal for completion by June 30, 2017. 8) All certification standards and polices required to be rewritten as remediation will be completed by June 30, 2017. 9) The monthly stakeholder meetings and HCBS will provide stakeholders and the public with updates with regulations that have been updated. 10) State team will monitor for compliance and remediation of the changing statutes, regulations, certification standards, and polices starting June 30, 2017, and expect full compliance by March 2019.	Completed

Waiver	Item	Start Date	End Date	Sources	Key Stakeholders	Deliverable	Completed
1115	5. Ongoing Monitoring	March 2023	Ongoing	State Team	State team		To be initiated March 2023 and be ongoing

Milestones towards deliverable: 1) For monitoring beyond 2023, each Department will include the HCBS final rules as part of their regulations and/or certification agreements. As a result, as part of State auditing and licensing review, the HCBS Final Rule will be embedded into each Department's auditing, oversight, and monitoring processes. The start date for new monitoring requirements is March 2023 and the requirements are ongoing. 2) As part of the provider enrollment process and ongoing monitoring, all new providers will be required to meet the new HCBS setting final rule prior to enrollment as a Medicaid provider.	

Areas of Vulnerability and Remedial Actions:

The State team initiated the provider self-assessment tool in February 2015 by sampling approximately 10% of all the settings. This was done to provide feedback on the use of the tool and to provide the State and stakeholders with a preliminary overview of the settings. By June 30, 2016, the remaining 90% of the settings submitted their provider self-assessments. In addition, consumer surveys, policy reviews, site visits, engaging an advocacy group (ombudsman), licensing reviews, and/or the use of National Core Indicators were used to validate and complete the assessment process.

To analyze needs for remediation, the State will prepare reports that identify the areas of vulnerability for compliance for each setting. Please see Attachment D for a sample policy compliance report. Each setting submitted information to the State that was reviewed by State staff who are educated about the HCBS Final Rule. The information was entered into the report, and the analysis was shared with each setting to provide information necessary to achieve compliance with the HCBS Final Rule.

Each setting had the option for technical assistance with a state staff member to review and discuss the needs identified through the data analysis. Settings were required to submit action plans, with dates of planned correction, to be reviewed by the State.

Examples of remedial action include:

- Rewriting policies/procedures
- Posting notices related to grievances
- Rewriting resident agreements
- Increasing staff training on issues related to respect and privacy
- Changing House Rules that do not allow for autonomy and that restrict choice

Areas identified as needing remediation include locks, privacy, and choice. Following a tragic nightclub fire in 2003, RI enacted stronger fire protection laws. Local fire marshals also have greater discretion in establishing guidelines for fire protection. This has resulted in issues related to locking doors in residences, particularly in sites converted from a previous use. The state is working with settings to identify ways to allow locking doors. For example, in some settings, residents will be allowed to provide their own locks. In the area of privacy, the state has identified a need for enhanced education to assure that staff in settings are more respectful of privacy and use practices, such as knocking before entering a room. Education is also identified as a key means to improve compliance in the area of consumer choice. Settings will receive training on person centered thinking and will be educated about providing consumers with full and complete information about options for residential settings and for activities. Training will allow staff in settings to learn to accommodate program participants who may choose not to engage in specific activities or may prefer a different type of residence.

Department of Justice Consent Decree and Transition Plan:

The U.S. Department of Justice (DOJ) issued specific requirements regarding how the State of Rhode Island must transition and transform its current system of day and employment supports for individuals with intellectual and developmental disabilities (I/DD). The Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH), the Rhode Island Department of Education, and the Office of Rehabilitation Services must ensure that all services are person-centered and fully integrated. These requirements and the current restructuring of the system will comply with the Consent Decree and additionally align the system with the HCBS Final Rule.

BHDDH has contracted with the Paul V. Sherlock Center on Disabilities, Rhode Island's University Center for Excellence on Developmental Disabilities, to provide technical assistance regarding the DOJ mandates. BHDDH is aware of the settings that are not compliant with the mandates of the DOJ and is working with the agencies within the system to achieve compliance.

Supported Employment and Community Based Day Services are provided in center-based settings in the community to groups of two or more individuals. Center-based settings for each type of service were assessed for compliance. Supported Employment is provided in enclaves and other group employment settings. Some have been found to be integrated despite a non-competitive hiring process. In addition, contract work, such as landscaping and janitorial work, continues to be an employment practice and can fill a gap in employment opportunities for individuals who may have significant barriers to competitive employment, such as forensic involvement.

Community locations—such as libraries, ESL classes, job clubs, R.I. Department of Labor & Training sites, art studios, retail locations, gyms, and yoga studios—are presumed to comply unless evidence that raises compliance questions is found. For example, one yoga studio created a segregated class for people with developmental disabilities that was advertised as closed to others and required pre-approval for individuals to attend. This was raised as a concern to the providers facilitating the program, and the State is working with agencies involved to address potential compliance issues with this class, which is partially grant-funded. In looking at community-based settings, the State does not want to diminish options for individuals to participate in their communities of choice and does not want to send a message to participants that their choice to socialize with others with I/DD is problematic. The State is expanding our commitment to person-centered planning that assists individuals with identifying integrated options for activities and with whom they choose to participate in activities. The State has issued Certification Standards for both Employment and Day Supports that addresses how services should be provided.

Heightened Scrutiny:

Heightened scrutiny is a process which requires the state to review settings with institutional qualities and provide evidence to CMS detailing why the state believes the setting is a home and community based setting, rather than an institutional setting. To identify settings that may have the qualities of an institution, the State evaluated the design and requirements of each HCBS setting type in Rhode Island. The State compared these settings to the federal criteria of presumptively institutional settings, such as:

- Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- Settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

There are four types of residential HCBS settings and four types of non-residential HCBS settings currently operating in Rhode Island. Assisted living residences and adult day care settings primarily serve elderly individuals and those with Alzheimer's disease or dementia. Individuals with I/DD receive services at group homes and community residences, semi-independent apartments, community-based day programs, center-based day programs, and sheltered workshops. Both populations may also receive residential services through shared living arrangements.

Residential Settings

- **Assisted Living:** A residence that provides personal care assistance to meet the needs and preferences of individuals. This setting type is not specific to Medicaid HCBS. There are other individuals who receive services in these settings who do not receive Medicaid HCBS, so this setting is not isolating. However, six facilities are in buildings that also provide inpatient institutional treatment, and these six facilities will be subject to heightened scrutiny. This reflects a decrease in the number of Assisted Living settings that have been identified since the original submission, resulting from closure of nursing homes that were co-located within the same buildings as assisted living settings.
- **Community Residence:** Group homes or fully supervised apartment programs in the community with 24-hour staff to support rehabilitative treatment, habilitation, psychological support, and/or social guidance for three or more persons with developmental or cognitive disabilities. The State reviewed provider self-assessment results with consumer survey results. While these settings are specific to individuals receiving Medicaid HCBS, they do not isolate individuals from the broader community. Rather, they allow individuals to live in the community amongst others not receiving Medicaid HCBS. The State mapped each of these residences to identify clusters that may have the effect of isolating individuals, with no clusters found.
- **Semi-Independent Apartment:** These apartments were developed in Rhode Island with U.S. Department of Housing and Urban Development (HUD) funding to enable individuals with I/DD to live independently in the community. These settings do not offer 24-hour staff support but provide support and assistance to individuals when needed. The units are one or two-bedroom apartments within the same apartment building. They do not have the effect of isolating individuals receiving Medicaid HCBS from the broader community since these apartments allow individuals to maintain their own schedule and engage in community life to the greatest extent possible.
- **Shared Living Arrangement:** A residence for an adult with I/DD or who is aged and/or has Alzheimer's disease or dementia where a caregiver (who may or may not be related to the individual) provides core residential support services. This setting type allows the individual to live in the community in a non-disability specific setting while still assuring that the individual is receiving necessary services.

Non-Residential Settings

- **Adult Day Care:** These settings provide frail and functionally challenged adults, including those with Alzheimer's or dementia, with care and supervision in a safe environment. These settings often serve individuals not receiving Medicaid HCBS, so they do not have the effect of isolating individuals receiving Medicaid HCBS from the broader community. Additionally, these settings were mapped to determine whether any are in buildings that provide inpatient institutional treatment, are on the grounds of a public institution, or are adjacent to a public institution. Through this review, the State determined that none of the adult day care settings will be subject to heightened scrutiny.
- **Center-Based Day:** This program is a facility-based program where individuals with I/DD receive services such as education, training, and opportunities to acquire the skills and experience needed to participate in the community. The program is being restructured because of the DOJ Consent Decree described above. Each program will include more integrated activities and will work with participants to identify opportunities to engage in the greater community. Since the focus of this

program is shifting to a more integrated model, the State does not believe these settings will isolate individuals receiving Medicaid HCBS from those who do not receive Medicaid HCBS. Therefore, these settings will not be subject to heightened scrutiny.

NOTE: One employment program, co-located with a center-based day program for individuals with developmental disabilities, was deemed noncompliant with the HCBS Final Rule following the provider self-assessment, reviews, and an on-site assessment by the Sherlock Center. This site and its employment program displayed institutional characteristics as defined by CMS. Specifically, the setting "has the effect of isolating individuals receiving Medicaid home and community-based services from the broader community." The workforce was not integrated. Additionally, the program was co-located in a building used solely for center-based day programs for individuals with developmental disabilities.

The provider submitted a transition plan to come into compliance. The provider agency worked with the Sherlock Center and the Conversion Institute to make the necessary changes to meet full compliance in 2019.

- **Community-Based Day:** This program allows individuals with I/DD to receive services and supports in the community at times, frequencies, and with persons of their choosing during hours when they are not receiving supported employment or residential services. This program is fully integrated into the greater community and services may be provided in multiple settings in the community. Therefore, this program is not subject to heightened scrutiny.
- **Sheltered Workshops:** These settings are facility-based and typically congregate many individuals with I/DD. Under the DOJ Consent Decree, Rhode Island is transitioning individuals out of these programs into more integrated settings, and the existing sheltered workshops in RI are closed. The State does not intend to demonstrate that these settings overcome the presumption of not being home and community-based, and will not invoke heightened scrutiny, because sheltered workshops are closed and no longer available for individuals to receive services.

Table 3. Settings Subject to Heightened Scrutiny

Setting Type	Number of Settings Subject to Heightened Scrutiny	Reason for Heightened Scrutiny
I/DD Residential	0	N/A
Assisted Living	6	Located in a building that provides inpatient institutional treatment
Adult Day Care	0	N/A
I/DD Day/Employment	0	N/A
Shared Living Arrangements	0	N/A

For each setting that is subject to heightened scrutiny, the State will conduct an on-site visit to observe the setting and interview participants and staff. During the visit, the state will also collect key information about the setting location and home and community-based characteristics. The State will then prepare a summary of findings, showing how the setting overcomes the presumption of not being home and community based.

To determine which settings are moved to CMS for heightened scrutiny review, the state will assess findings from its on-site visits and policy reviews and will utilize online tools and guidance from CMS. Attachments F through J outline heightened scrutiny questions and questions for participant and staff

interviews that will facilitate the decision whether to refer for heightened scrutiny review. CMS guidance on integration in the community, and especially about isolating individuals, will weigh heavily in the decision to move the review to CMS. The State is planning to close or has already closed settings that most isolate, in part as a follow up to the DOJ Consent Decree.

Prior to submitting the evidence summary package to CMS for heightened scrutiny, the State will notify affected individuals and advocacy groups and publish the package for a 30-day public comment period. Individuals residing in the setting, their guardians (if applicable), their families, and aging and disability rights advocacy organizations will be notified about the opportunity to provide public input. The State submitted the list of settings subject to heightened scrutiny in the third quarter of 2020.

Relocating Beneficiaries from Closed Settings:

The State identified two settings that were noncompliant and unable to achieve compliance with the HCBS Final Rule. The State worked with the two settings to relocate individuals. One setting closed in 2018 and the other in 2019. These settings were licensed as community residences but were like intermediate care facilities for individuals with intellectual disabilities. The individuals residing in the settings typically had more significant medical needs and the settings were more institutional. The settings were unable to meet the criteria outlined in the HCBS Final Rule due to the size, structure, day to day operations, and isolating nature of their design.

The following steps were taken to ensure that individuals were afforded choice in the relocation process:

- Established closure date with the setting;
- Notified individuals and case managers of the closure date and the need to choose a new residential setting, at least 60 days prior to the closure of the setting;
- Required case managers to coordinate individual person-centered planning meetings to identify alternative residential setting options; and
- Provided individuals an opportunity to visit setting options before choosing a new residential setting.

Out of State Placements:

The State of Rhode Island utilizes out of state placements for individuals who need specialized services that are not available in Rhode Island. The decision to use an out of state placement is determined with the individual and includes a review of options. Approximately four individuals are in out of state placements. Rhode Island expects to continue using out of state sites to provide specialized services to a limited number of individuals. To ensure that these sites meet criteria for the HCBS Final Rule, the State will coordinate with the host states. Additionally, if an out of state site is added as a new provider for Rhode Island, the State will require that the agency provide documentation of compliance from its home state and provide policies and procedures related to the setting as a condition of enrollment as a provider. The state will monitor the out of state placements though requests for updated policies and procedures on an annual basis and through a review of all care plans for individuals to verify individual involvement, the least restrictive methods of treatment, individual choice, and person-centered goals

Rhode Island will continue active person-centered planning for all individuals who are in out of state placements to encourage planning that safely meets the needs and wishes of the individual. Out-of-state sites will also be required to use person-centered practices and to ensure individuals make informed choices about settings and services. The annual, individualized service plan will document these choices.

Should the individual return to RI, the transition plan for the move and enrollment in services will also be included in the person-centered plan.

Transition Process:

The State proposes that relocation of individuals in settings that are subject to Heightened Scrutiny will begin following the CMS review of the evidence summary package. The State's goal is to identify and work with settings that do not meet HCBS Final Rule guidelines in order to support the settings in achieving compliance. If CMS concurs that a setting overcomes the presumption of not being home and community-based, the State will not relocate participants. If CMS determines that the setting is institutional and does not overcome the presumption, the State will work with CMS and the setting to determine whether remediation is possible. If remediation is not possible and CMS advises that the setting must close, the State and setting will determine a reasonable closure date following CMS notification. The State will follow the process described here to ensure that all individuals residing in the setting may choose a new setting in the most integrated environment of their choice.

In addition, the State proposes that the process of transitioning individuals from non-compliant settings (other than those subject to Heightened Scrutiny) begin 12 months prior to the full compliance date of March 17, 2023. This provides the State time to help individual providers address compliance issues. The additional effort and assistance provided to settings will minimize the number of individuals required to transition and the overall impact on consumers. As of this version of the State Transition Plan, the state estimates that approximately 65 consumers may be impacted. If an agency chooses not to maintain their Medicaid provider enrollment status, the agency's participants will be prioritized for transition.

Transition Process:

- The State will identify settings that are not in compliance and are unable to achieve compliance, and the number of individuals residing in or receiving services in each setting. The transition process for these individuals will begin in calendar year 2020. The State will identify individuals who are residing in non-compliant settings funded as Medicaid home and community-based services and will issue formal, written notification to the setting and individual.
- By June 30, 2020, the responsible agency will facilitate a person-centered planning meeting for each individual to develop a written plan. The plan will support a transition to an HCBS-compliant setting or fully integrated community setting with HCBS services. The person-centered planning process occurs at least annually and includes an assessment for preferences of integrated settings, including non-disability settings, housemates, staff, and location.
- The transition planning team will include people chosen by the consumer. This includes the individual, family members, a guardian, an identified representative, the provider's clinical and administrative staff, and staff from the responsible agency.
- The responsible agency will support the transition planning team through alternative setting assessments, trial experiences, and transition to an HCBS compliant setting.
- The non-compliant setting will be disenrolled as a Medicaid provider.

BHDDH is using the process described above to transition individuals from settings that do not meet the requirements set forth by the DOJ Consent Decree. The State has committed to closing sheltered workshops, defined as non HCBS compliant settings, by 2022. Additionally, two Special Care Facilities,

deemed unable to meet the Heightened Scrutiny guidelines, have transitioned participants to more integrated settings.

Vision for Training and Ongoing Monitoring of Settings:

To ensure that Rhode Island has the capacity to implement its Transition Plan, the State team developed an interdepartmental training, technical assistance, and compliance team. As the State team identifies areas of non-compliance that need to be addressed within the State agencies and with service providers, a team of State-led trainers and technical assistance staff will help. Depending on the need of each agency, more intensive technical assistance may be offered by the State team to bring programs, policies, and practices into compliance, and the training team will incorporate extensive technical support to providers.

Ongoing Monitoring of Settings

Several departments within Rhode Island EOHHS are responsible for licensing, certifying, and monitoring HCBS settings. Rhode Island is revising monitoring processes across EOHHS to enhance its oversight of the provision of quality services and experiences that are more focused on consumer interests, needs, and goals.

The State will review any new setting that seeks to provide HCBS services. A new setting will be required to be fully compliant with the HCBS Final Rule prior to the provision of services to Medicaid beneficiaries. This guideline includes private residences where a non-relative contracted party or individual is paid to provide Medicaid HCBS services. The State has reviewed such residential settings through both EOHHS and BHDDH Shared Living programs. Certification standards for the EOHHS Shared Living program reflect such changes, and BHDDH continues to work on regulatory reform and certification standards that will align with the HCBS requirements.

For out of state placements, Rhode Island will ensure that a setting in another state used by Medicaid meets the HCBS requirements. The procedure will include contact with the appropriate state office to determine if the setting has met the HCBS Final Rule. If a setting has not been approved in its home state, Rhode Island will require that the setting submit a self-survey and policies for review by Rhode Island, mirroring the review process for in-state settings. If a setting is not in compliance based on review by its home state and/or review by Rhode Island, Rhode Island will not use the setting and will seek an alternate placement.

The State presumes that a privately owned or rented home used for Shared Living complies with the regulatory criteria for a home and community-based setting. The State will provide training to providers and other agencies that work with individuals receiving services in their private homes to support the ability of staff to identify and report any compliance concerns.

Ongoing monitoring of compliance with HCBS requirements after the March 17, 2023, deadline will be achieved through a variety of methods:

- Certification standards will be updated for all HCBS programs. The new certification standards will reflect the HCBS requirements and will inform expectations of performance by providers.
- Quality review teams have developed enhanced review processes for each setting reviewed for heightened scrutiny as well as for individual, private homes. The review processes determine whether HCBS requirements have been incorporated and put into practice in each of the settings.

As part of the quality review process, individuals in community programs (in private non disability specific settings) will receive a survey regarding their home and community-based experience. This survey contains questions specific to consumer experiences, including choice and integration.

- Participants will be surveyed for their consumer experience through OHA oversight of the Assisted Living Program. A consumer experience survey will be offered to all participants to monitor the setting's compliance with the Final Rule on an annual basis. Please see Attachment H.
- OHA Staff/Case managers will be trained on the HCBS Final Rule and how to monitor the Assisted Living sites for compliance.
- EOHHS staff will also be trained and program standards will reflect HCBS Final Rule expectations.
- EOHHS staff will monitor Adult Day settings for compliance and assist in administration of consumer experience surveys.
- Gainwell Technologies, the State's contracted provider for the Medicaid payment system, has processes that inform all new providers (Assisted Living and Adult Day) that they must meet HCBS standards prior to Medicaid provider enrollment. Additionally, RIDOH, as the licensing agent for the State, also refers new providers to EOHHS for HCBS compliance.
- During their monthly unannounced visits, the State's Long-Term Care Ombudsman will administer HCBS survey questions to individuals residing in Assisted Living. The survey questions will be shared with the State team on a regular basis.
- Neighborhood Health Plan of RI (NHPRI), the State's MCO serving dual eligible individuals, will be required to provide HCBS reviews and monitoring as part of their credentialing system. In addition, NHPRI will amend contracts to incorporate the HCBS Final Rule guidelines into their oversight and monitoring.
- In the future, should HCBS services be provided by any other MCO, additional oversight will be incorporated in that MCO's credentialing and review process. The MCO will amend contracts to include the HCBS Final Rule into their oversight and monitoring.
- BHDDH staff and advocates will be provided ongoing training on the HCBS Final Rule and how to administer the surveys to participants receiving HCBS services.
- As part of the training on administering the survey, there will be topic specific information on the use of appropriate communication tools and advocates to ensure that individuals can fully express their experiences and feelings.
- A new BHDDH computerized case management system will have components of the HCBS Final Rule built into the system. This will allow BHDDH to enhance the tracking utilization and quality of services.

Non-Disability Specific Settings

Through an EOHHS led long term services and supports (LTSS) redesign, Rhode Island is strengthening its system of person-centered options counseling and its network of HCBS. The HCBS Final Rule has been identified as a key component in redesign efforts. State staff and contracted agencies will receive enhanced training about currently available, non-institutional, community-based settings for services that individuals may access based on their preferences and needs. Rhode Island continues to work to develop housing and supportive services that are not focused on an individual's disability and fully integrate individuals into the community. The LTSS redesign team will also receive training to improve understanding of the need for development of non-disability specific options as part of the expansion of HCBS in the State.

Approval of 811 project rental assistance housing vouchers and 811 Mainstream Housing Choice vouchers for use by Nursing Home Transition Program participants is an example of attempts to make non-disability

settings available to individuals transitioning from institutional settings. The State is educating providers and individuals about accessing services and supports that focus on individual needs. Some services are now state funded to encourage the use of community, non-disability specific services for many individuals. The State recently funded community projects with grants through the Money Follows the Person program. The grant projects promote community-based, integrated solutions and supports for individuals who need support.

In 2017, BHDDH began its Residential Rebalancing initiative, which includes diversion efforts away from group homes towards less restrictive residential settings such as Shared Living and Independent Living. Since July 2017, utilization of group homes has been reduced by 7.5%. Previously, Rhode Island over-relied on group home settings, with 32% of participants in group homes, significantly higher than the national average of 25%.

The State is encouraging provider agencies to support group home residents in exploring other options such as Shared Living or Independent Living with wraparound community supports. Shared Living arrangements offer participants the option to live with a non-relative, a friend, or a non-custodial family member other than a parent. Options are reviewed when an individual enters the DD system and at least annually, at an individual's person-centered planning meeting or whenever an individual expresses intertest in other options. BHDDH has been successful in diverting individuals entering the DD system who request and meet the criteria for residential supports away from group home settings (46%).

BHDDH continues outreach with families and individuals about alternative living arrangements and use of technology. With the renewal of the 1115 Waiver in 2019, BHDDH added the use of Assistive Technology and strengthened eligibility criteria for group home services for the DD population receiving HCBS. These changes ensure that the services provided are in the most integrated and least restrictive setting, are appropriate for the needs of the population, and reduce an over reliance on restrictive living options.

In addition, BHDDH is working with providers to identify individuals who have independently expressed an interest in moving to another setting. Individuals who want to move receive individualized planning with a transition period that provides an opportunity to explore their new setting prior to an official move.

The State has revised its licensing regulations to allow for greater flexibility in living options for individuals. People can creatively use their funding allocations to blend natural supports and allow more community settings, such as apartments, in-law suites, and shared homes.

The State assures that individuals have access to the non-residential services they want through the person-centered planning process, their annual goals, and the ongoing monitoring of the plans by the provider agencies. Ongoing technical assistance is provided to the agencies on the use of community resources. The State is working with agencies on a statewide system transformation to move to a system that provides supports in the greater community. This will also entail working with services for the general public to determine how they can incorporate accommodations for individuals with I/DD.

As part of the 1115 Waiver renewal in 2019, BHDDH added Level of Care criteria so that individuals entering or already in the Adult DD system who are seeking residential placement will be able to choose from residential supports/settings that best fit their needs and are not overly restrictive.

Table 4. DD/ID Needs-Based Service Tier Classifications and Options

Tier	Service Options	Available Supports
Tier D and E (Highest): *Extraordinary Needs*	• Living with family/caregiver • Independent Living • Shared Living • Community Support Residence • Group Home/Specialized Group Home	• Community Residential Support and/or access to overnight support services • Integrated Employment Supports • Integrated Community and/or Day supports • Transportation
Tier C (Highest): *Significant Needs*	• Living with family/caregiver • Independent Living • Shared Living • Community Support Residence • Group Home	• Community Residential Support and/or access to overnight support services • Integrated Employment Supports • Integrated Community and/or Day supports • Transportation
Tier B (High): *Moderate Needs*	• Living with family/ caregiver • Independent Living • Community Support Residence • Shared Living • Group Home	• Community Residential Support and/or access to overnight support services • Integrated Employment supports • Integrated Community and/or Day supports • Transportation
Tier A (High): *Mild Needs*	• Living with family/caregiver • Independent Living • Community Support Residence • Shared Living • Group Home	• Community Residential Support and/or Access to overnight support services • Integrated Employment supports • Integrated Community and/or Day Supports • Transportation

Statements of Public Notice:

EOHHS hosted two public meetings providing opportunity for comment on the transition plan. Meetings were held on Thursday, April 30, 2015, and Tuesday, May 5, 2015, and attendees received the Transition Plan. Prior to the meetings, the following Public Notice was advertised statewide in the *Providence Journal* on April 15, 2015. This notice enabled the public to provide electronic and non-electronic comment about the transition plan through May 30, 2015.

Public notice was also made available through the EOHHS Website (www.eohhs.ri.gov) and the EOHHS task force was notified on April 15, 2015. Public comment was available until May 30, 2015. Additionally, on April 14, 2015, the public was notified via the EOHHS "interested parties" e-mail list, comprised of colleagues and community members who have self-identified as interested in EOHHS matters. This notice contained the date, time, and place of both public meetings.

Finally, public notice of the May 5, 2015, public hearing was posted on the Rhode Island Secretary of State's website (www.sos.ri.gov) on April 30, 2015, in accordance with the requirements of the State's Open Meetings Act (Chapter 42-46 of the Rhode Island General Laws, as amended).

Below is the notification that was placed in the Providence Journal on April 15, 2015, followed by a summary of public comment and list of providers.

Official transcripts of both public meetings are found in Attachment B.

Following public comment in 2015, the transition plan was updated and posted for public comment again in 2018 and 2020. In 2018, the updated transition plan was posted in the Providence Journal, submitted to the interested parties email list, and posted to the EOHHS website. The public comment period was open July 13, 2018, through August 11, 2018. In 2020, the updated transition plan was submitted to the interested parties email list and posted to the EOHHS website. The public comment period was open January 21, 2020, through February 21, 2020. A summary of public comment received in 2018 and 2020 are provided in Attachments K and L. The updated transition plan will be sent to interested parties again and posted to the EOHHS website in December 2022.

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVCES

NOTICE OF PUBLIC COMMENT

Public Input into Transition Plan for Home and Community Based Services (HCBS) for the Center of Medicare and Medicaid Services (CMS) Final Rule of January 2014

The Executive Office of Health and Human Services is advertising for public comment on the proposed Transition Plan that will be submitted to the Center for Medicaid and Medicare Services no later than June 30, 2015.

In January 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule regarding Medicaid-funded home and community based long-term services (HCBS). The rule requires that each state develop a Transition Plan for compliance with the new rule. Rhode Island is planning to submit their Transition Plan on **June 30, 2015.** That plan will propose **June 30, 2019** as the date by which we will be compliant with the new requirements.

The summary of the intent of the Final Rule of January 2014 was to ensure that Medicaid HCBS services are provided to individuals in a setting that is **integrated** and supports full access to the community; is selected by the beneficiary; ensures an **individual's rights** of privacy, dignity and respect, and freedom from coercion and restraint, optimizes autonomy and independence in making **life choices**; **facilitates individual choice** regarding services and supports, and who provides them; and, where possible, the person leads the process of developing his or her service plan.

A public hearing will be held to consider the proposed Transition Plan on **Thursday, April 30, 2015 at 9:00 am at the Hewlett Packard 203 Conference room, 301 Metro Center Blvd., Warwick, RI 02886.** Persons wishing to testify and provide comments at the meeting may do so by signing up at the meeting or by submitting written comment by May 30, 2015, to Thomas G. Martin, Implementation Director, Executive Office of Health and Human Services, Louis Pasteur Building # 57, 57 Howard Avenue, Cranston, RI 02920, or via email Tom.martin@ohhs.ri.gov.

A copy of the Transition Plan can be obtained through the following means:

1) EOHHS website for Home and Community Based Services.

http://www.eohhs.ri.gov/ReferenceCenter/HomeandCommunityBasedServices.aspx

Scroll over to the Reference Center there is a clickable headline "Home and Community Based Services". A final version of the Transition Plan will be on the website.

2) Request a version by contacting:
   Thomas G. Martin
   Implementation Director
   Executive Office of Health and Human Services
   Louis Pasteur Bldg. #57, 57 Howard Avenue
   Cranston, RI 02920
   401-462-2596 **Fax:** 401-462-3677
   E-mail: Tom.Martin@ohhs.ri.gov

The public hearing will begin at 9:00 am and will conclude when the last speaker finishes. The seating capacity of Hewlett Packard Conference room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The Hewlett Packard building is accessible to individuals with disabilities. Individuals with hearing impairments may request an interpreter's presence by calling 711 or Relay RI 1-800-745-6575 (Voice) and 1-800-745-555 (TDD). Requests for this service must be made at least 72 hours in advance of the meeting date. Please refrain from wearing scented products to the meeting. What may seem to be a mild fragrance can constitute a toxic exposure for a person with an environmental illness. The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap.

Elizabeth H. Roberts, Secretary
Signed this 31 day of March 2015

Summary of Public Comment

Home and Community Based Service CMS Final Rule 2014

June 19, 2015

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Maureen Maigret, Policy Consultant	Senior Agenda Coalition of RI	Sent by e-mail 4/15/15 I reviewed the draft. As persons age 65 and over are significant users of assisted living and adult day programs, I would like to see it amended to specifically include the Senior Agenda Coalition of RI or another group working on aging policy, particularly as it relates to HCBS in the list of advocacy entities on pages 4-5.	4/15/15 by email: Thanks for review of the Transition Plan. The plan cites those that are currently part of the State Team. If you would like one of these agencies to be part of the State Team, please let me know. We have been meeting twice a month on Mondays at 9am at Barry Hall in room 226. Our next meeting is 4/27/15.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Joanne Malise, Director	Living Innovations/DD Shared Living Provider	Sent by e-mail 4/17/15 I am writing about my concerns regarding Shared Living Arrangements (SLA) and having a "legally enforceable agreement." While I completely understand the need for such a protection for the people we serve, when it comes to SLA there is a special challenge. I will bullet the concerns • SLA is in the home of "another." This means in the home of a person approved and qualified to be home provider (HP). • If a participant were to have a lease, one could argue that the Shared Living residence is their legal home while they are in residence. • If the residence is legally theirs, the SLA might no longer fall under Federal Internal Revenue Code: Sec. 131. Certain Foster Care Payments, making all stipends ineligible for tax free status If the intent of the HCBS "legally enforceable agreement" is protection from eviction there are safeguards in place to address this potential vulnerability. Some of these safeguards are in BHDDH regulation and some are the best practice of this agency • The Contract signed with independent contractors who are home providers (HP) states that a thirty (30) day notice must be given it they wish to end the SLA. In practice, most SLA's continue until a new match is made with the participant. • BHDDH Regulation 42.29 states that a Thirty (30) day notice must be given if the home provider wishes to move to a new residence. In most cases the participant chooses to remain with their HP and moves to the new home • Each SLA participant in this agency signs an Adult Service Agreement that indicates their choice of this agency and their choice to live in this particular SLA. It also states that they can terminate the agreement with 24-hour notice but preferably give a thirty (30) day notice if they wish to move. In practice, anytime a person states that they feel unsafe they are immediately offered a respite home until such issue is resolved or a new match is made. • BHDDH Regulation 42.15 states that a participant may be removed immediately if there is a threat to health or safety. How would a "lease" impact their ability to move freely? • SLA HP's are independent contractors and the contract can be terminated at any time, with or without cause. This is another safeguard measure. Thank you for your time in reading this response. I am confident we can come up with a protection that is not a "lease." I look forward to working with you	4/27/15 EOHHS submitted by email: We will review our policies and regulations on this issue. We will also seek technical assistance. We may ask to meet with you and other Shared Living Providers to vet the issue.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Jennifer Crosbie, Director of Government Relations	Senior Link Caregiver Homes	Submitted Public Document on May 5, 2015. (**summary of comments and document**) RIte @ Home model is inaccessible to Rhode Islanders who it should be accessible to. Current process, timeliness and requirements in Rhode Island place unnecessary burden on consumers and caregivers, delaying access to critical and cost-effective services and duplicating efforts of paid professional staff. Urge EOHHS to consider and recommend immediate solutions that take advantage of quality providers in the provider network to expedite access to, high quality, cost-effective- community based care.	After review with State staff associated with the Caregiver Homes Program, EOHHS response submitted by email: As part of the HCBS Transition Plan, the State is reviewing all rules and regulations for each program. We will review our current processes, timeliness and requirements in Rhode Island to assure access to critical services such as Caregiver Homes. Thank you for your comments.
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #1: Ongoing Participant and Advocacy Group Input:** a) Issue of finding existing self-advocacy groups for some participant populations (e.g., elders and people with physical disabilities), so the State may need to find ways to involve individual participants in their feedback process. b) Participants may also need some training regarding the HCBS rules requirements for them to effectively provide feedback.	**Item #1 Response:** The State has involved all relevant stakeholders in the areas mentioned above. The State has begun to initiate a consumer survey process and group meetings among stakeholders. We had an initial meeting on May 1, 2015. We will incorporate your suggestions on training on HCBS rules requirements to facilitate an effective feedback process. RIDL is also welcome to attend these meetings.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #2: Settings Compliance Findings:** a) It is not clear whether these findings will be made public. b) If the providers of non-compliant setting will have an opportunity to appeal the finding, the process similarly needs to be transparent and involve feedback from the impacted participants c) Urge the State to utilize CMS Exploratory Questions for residential settings to gain participant perspectives on whether there is strong evidence that the setting is community based.	**Item #2 Response:** All findings will be made public by updating the Transition Plan. We will post the findings on our EOHHS website and can provide updates at the EOHHS task force meeting. In addition, providers will have an opportunity to review and appeal the findings. Our approach will be that of working collaboratively with providers to remediate findings with their input. This process will also be transparent. As part of the assessment process, we have identified participants/consumers as part of the process, therefore their feedback will be important to the remediation of any finding. In regard to utilizing the CMS exploratory questions for residential settings, at our meeting on May 1,2015 a tool was handed out to advocacy groups that cross walked those CMS questions. We are awaiting feedback on the tool. We can send you what was proposed at that meeting.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #3: Regulation Changes:** a) Urge the State prioritize making regulatory changes sooner than January 2019.	**Item #3 Response:** The State's plan is not to wait until January 2019 to implement regulatory changes. Our plan is to identify regulation changes by January 1, 2016 and then begin to move issues forward with changes. This issue has been noted in the minutes of our State team meetings for the Transition Plan.
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #4 Consumer Transition to Compliant Settings:** a) State to ensure that participants have sufficient and timely notice of the need to relocate and time for planning (using person-centered planning process) to transition to compliant services without a break in services. b) Urge State to prioritize person-centered planning implementation, so that the State will be better able to assess the desires of participants and the system's capacity to provided HCBS settings that meet those needs and desires.	**Item #4 Response:** The State will ensure timely notice of the need to relocate and plan for transition without any break in services. The end date for compliance is March 2019, but the State will not use this as the benchmark to implement major life changes such as relocation and a break in service. The State has developed a Person-Centered Group that consists of advocates and stakeholders to move forward on person-centered planning. Our next meeting is June 18, 2015. RIDL is welcome to attend this meeting.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #5 Legally Enforceable Tenancy Agreements:** a) RIDL believes that most existing HCBS residential options (residential, assisted living) are not specifically exempt from state landlord/tenant laws, and so must comply with that law both with respect to tenancy agreements and termination of tenancies. b) Depending on the nature of the financial agreements, shared living arrangement may not be covered under the landlord/tenant laws, so the State may need to provide models of agreements and offer processes of eviction and appeals that are "comparable" to those under state and landlord/tenant laws.	**Item #5 Response:** This is an area that the State will need to review regulations and current agreements to review for compliance. We may be seeking out Technical Assistance from CMS on this issue to see how other states have reviewed for this issue. Model agreements with processes of eviction and appeals consistent with state and landlord/tenant laws will be sought by the State. We anticipate seeking your input as we move closer to discussing this issue.
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #6: Choice of Non-Disability Specific Settings and Private Units in Residential Settings:** a) It is not clear from the state transition plan how the State will assess the capacity within the current system to provide these options. b) Urge the State to collect information about individual choice of settings, including non-disability settings as soon as possible.	**Item #6 Response:** As part of remediation strategy, the State will need to review the issue of capacity with all stakeholders to explore facilitating choice for settings. We will have to obtain some baseline data, especially regarding non-disability settings to move this issue forward.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Anne M. Mulready, Supervising Attorney	Rhode Island Disability Law Center	**Item #7: Planning for the needs of Behavioral Health participants:** a) We urge the inclusion of the population with behavioral health needs in transition planning, both because behavioral health services are included within our 1115 waiver and because individuals with behavioral health needs often receive services in the same settings as HCBS participants. b) EOHHS is in the process of moving forward with obtaining final state and federal approval of housing stabilization and employment supports. c) The rules for person-centered planning process for individuals with behavioral health needs form the state rules for behavioral health organizations. These rules could be updated to meet the HCBS rule's person-centered planning requirements and the process could then be used to document participant preferences and desires for integrated settings.	**Item #7 Response:** Persons with behavioral health needs are currently in some of the settings and HCBS services we are surveying. The State will more concretely involve behavioral health providers as we continue to meet regarding person-centered planning. As noted in your comments, EOHHS is in the process of moving towards authority for housing stabilization and employment supports. We will update the public through the EOHHS task force (and the EOHHS website: www.eohhs.ri.gov) on that process as we move forward.
James Nyberg, Chief Executive	Leading Age RI	**Item #1:** In the 7- step remedial action process, suggest including providers and other stakeholder in these processes to support the State team.	**Item #1 Response:** In the Transition Matrix of the Transition Plan, updates were made to items #4, 5, and 6, each adding the wording "providers, advocacy groups and identified key stakeholders" under the section key stakeholders. Under the 7 step-remedial action processes for assisted living and adult day care, updates were made to items #1 and 4 each adding the wording "providers, advocacy groups and identified key stakeholders"

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
James Nyberg, Chief Executive	Leading Age RI	**Item #2:** Suggest that EOHHS coordinate with the Health Department and any other relevant entities to ensure that new providers are aware of these requirements at the earliest possible time, preferably before and construction is undertaken.	**Item #2 Response:** We agree that coordination with the Department of Health, EOHHS and any other relevant entities is necessary to ensure a prospective new provider is aware of the HCBS rules and requirements. Presently with the Department of Health on the State team and the inclusion of provider and advocacy groups, this issue will can be raised at State team meetings and be proactively planned for prior to any construction being undertaken. We have added to the Transition Plan under item #7 for assisted living sites and adult day programs, "Coordination between the Executive Office of Health and Human Services, the Department of Health and any other relevant entity, are to ensure that new providers are made aware of HCBS Final Rule prior to enrollment".

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
James Nyberg, Chief Executive	Leading Age RI	**Item #3:** Request that Leading Age RI be included in Section F) List of Providers	**Item #3 Response:** We have added Leading Age RI to Section F) List of Providers. We apologize for the oversight. We also appreciate your advocacy, comments to the assessment tool process, and initiating an early discussion with the Executive Office of Health and Human Services on the HCBS Final Rule.
Kathy Kuiper		**Item #1: Choice in Residential Programs** a) Limited information available to look for a Day or Residential agency. b) Impossible to tell from information provided to consumer and families about residential programs, the types of living arrangements, % of clients that work in paid employment in the community and if there are any safety issuer or complaints. c) Agency that does a great job is paid same as an agency that does a poor job.	**Item #1 Response:** The issue of choice regarding available options of where to live/receive services is identified as vulnerability in our initial assessment of residential settings of the Transition Plan. Advocacy groups are part of the State team and should provide this perspective when planning remedial action. The following was added to the Transition Plan under remedial actions item #1 for Residential/Shared Living, Assisted Living and Adult Day Program: Providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy. The issue of payment amongst providers by performance is outside the scope of the Transition Plan, but from our assessment process and implementation of HCBS rules, this may help provide some guidance that may improve quality amongst all providers.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Kathy Kuiper		**Item #2: Consumer Survey:** a) Who will help the consumer take the survey? b) Will those results be made public?	**Item #2 Response:** We currently have groups working on developing a Consumer Assessment Tool/Survey that will be part of the overall assessment process of the settings and the individual/consumer's experience. The group is currently working on the process of the administration of the tool and the assistance needed to complete it. The results of the assessment process will be transparent, and the Transition Plan will be reflected to update the public on that process.
Kathy Kuiper		**Item # 3: Leases** a) Safeguards in place for individuals relying on housing made available to them through DD residential services.	**Item # 3 Response:** The lease issue has also been identified as vulnerability in the Transition Plan and through the public comment process as an area of concern. Many issues have been raised and we will need to move this issue forward with legal and technical assistance to remediate the issue.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Kathy Kuiper		**Item #4: Costs to Client:** a) Clear and in writing the cost out of pocket to live at a location. b) Will the agency be required to become Rep Payee? c) Paying of staff to come along to events? d) Required Paperwork that is updated with an understanding of who is responsible for completion of the paperwork.	**Item #4 Response:** As part of the process of choice of setting, providing adequate information and communication to individuals and families on all the above issues is essential. As noted earlier, we have updated the Transition Plan to state providing information and communication to individuals and families to facilitate choice will be an integral part of this remediation strategy. The issues you have raised will need to be part of the remedial action to include clear and in writing information on out-of-pocket costs, representative payee, the paying of staff to attend events and the point person in charge of completing required paperwork and available to the individual upon request.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Kathy Kuiper		**Item #5: Dignity and Privacy:** a) All adults that qualify for services under HCBS should have a private room. b) Client's apartment should not be used as an office.	**Item #5 Response:** The intent of the Final Rule is to facilitate choice in such areas as having a private room. We know choices are made based on resources and availability. The Final Rule assures that the issue is pushed to the extent possible to honor that choice. The assessment tool for residential settings does ask these questions to assure that issue is raised. Does the setting facilitate choices regarding services and supports and who provides them? Was the individual given a choice of available options regarding where to live/receive services? Was the individual given opportunities to visit other settings?
Kathy Kuiper		**Item # 6: Complaint Process** a) Independent complaint and investigation process. b) New entity that is funded and knowledgeable of person with disabilities. c) Report should be a public record.	**Item # 6 Response:** The issue of a newly funded independent complaint and investigative process, with a report of public record, may require legislative and regulation change. If in our review process (assessment and regulation review) we find issues with our current complaint and investigative process, we would move to review our system and discuss all options to improve these processes.

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Kathy Kuiper		**Items #7: Self-Assessment Planning Tools:** a) Potential to be "pencil whipped" and not provide any real insight as to choices made available to clients unless the comments section is filled out	**Item #7 Response:** The assessment tools in our Transition Plan do ask very specific questions about choice and person-centered planning. The responses to the following questions connect to compliance with the Final Rule. In addition, the implementation of the Consumer Survey process should help provide us a further assessment facilitating client choice. • Does the individual have an active role in the development and update of the individual's person-centered plan? • Is the individual aware of how to schedule Person-Centered Planning meetings? • Can individuals explain the process to develop and update their plan? • Were individuals present during their last planning meeting? • Does the planning meeting occur at a convenient time and place? • Does the setting facilitate choice of services and supports and who provides them? • Are individuals given a choice of available options for where to live/receive services? • Were individuals given opportunities to visit other settings? • Does staff ask individuals about their needs and preferences? • Are individuals aware of how to make a service request? • Can individuals choose the provider or staff who render the services they receive? • Does the setting optimize interaction, autonomy and independence in making life choices? • Are individuals given information to assist them to make informed decisions? • Are individuals learning skills to enable them to maximize independence?

Name of Respondent	Organization (if any)	Nature of the Comment	EOHHS' Response to Comment
Kathy Kuiper		**Item #8: Outcome based assessments:** a) Include how many clients are working day/night, # of hours per week. b) Skills gained. c) How were clients given choices, frequency of # of times in the community and not as a pack? If client chose not to participate, what options were put in place, or did they just sit at the house?	**Item #8 Response:** Mentioned in the Transition Plan under the remedial actions for Day/Employment programs, is a survey to be done by the Paul V. Sherlock Center on Disabilities. The survey will focus on Employment and Day Programs and focus on obtaining data on integrated paid employment, facility based paid work, community based non-work activities and facility based non-work activities. This survey will be integrated into the remedial design strategy for 6/30/2016. In addition, the assessment process on the settings may also help us answer some of the questions of client participation and if clients were allowed to just sit in the house.

List of Advocates:

- Executive Office of Health and Human Services
- Rhode Island Assisted Living Association (RIALA)
- Advocates in Action
- Rhode Island Council of Developmental Disabilities
- Paul V. Sherlock Center on Disabilities
- Community Provider Network of Rhode Island (CPNRI)
- Rhode Island Parent Information Network
- Executive Office of Health and Human Services Task Force
- Leading Age of Rhode Island
- Long Term Care Coordinating Council
- Integrated Care Initiative Consumer Advisory Committee
- Alliance for Better Long-Term Care (State LTC Ombudsman)

Provider Self-Assessment Tools for Residential and Non-Residential Settings

Provider self-assessment tools for residential settings and for non-residential settings are included below.

CMS HCBS Community Rule: Assessment and Planning Tool for Settings

Residential Settings

In March, CMS finalized its HCBS Community Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services Waiver Program (HCBS). The intent of the rule is to assure that individuals receiving long-term services and supports through HCBS programs have full access to the benefits of community living and the opportunity to receive services in integrated settings. The accompanying summary of the CMS Community Rule that provides more information and further context for the Community Rule may be found here: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Rhode Island provides Medicaid-funded HCBS under the authority of an 1115 Waiver. While the final rule does not apply to states operating their HCBS under an 1115 Waiver, we support the intent of the rule and therefore will seek to comply with the requirements.

In order to meet the requirements of the new rule, states will need to develop a Transition Plan, "detailing any actions necessary to achieve or document compliance with setting requirements." States will have up to 5 years to implement their stated plan.

An integral component of the transition plan is a self-assessment/plan of existing settings to determine how closely they currently comply or don't comply with the Community Rule and if they don't comply, what is needed in terms of a plan, over the next 5 years, to come into compliance.

Attached is a tool to assist you in conducting the residential setting self-assessment. Please answer each question (bold or bullet) with either "Yes" or "No" by checking the appropriate box. To help you answer the bold question, we have provided sub-questions (in a bulleted list) underneath each bold question. These bulleted questions are additional questions for you to answer and will help guide you to answer "Yes" or "No" to the bold question. Answer each question with a "Yes" or "No."

Given the nature of your specific setting and given CMS guidance around settings that may not immediately comply with all aspects of the Community Rule, it may be more challenging to meet these requirements and be able to answer "Yes" to all bold and all bulleted questions. We assume, however, that you do aspire to achieve the outcomes articulated in the HCBS Community Rule over the next 5 years. So please be critical in your answers. We are not expecting you to answer "Yes" to every question.

Please complete and return then enclosed assessment by March 18, 2015.

Thank you for assistance!

To ensure that all community settings in which individuals receive a Medicaid Home and Community Based Service (HCBS) meet the spirit of the new CMS regulatory requirements, providers have been asked to assess their current settings and practices against the new requirements. CMS exploratory questions have been provided below to guide this assessment.

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
1. **Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?**	Yes	No	Comments:
• Is the setting in a public or privately-owned facility that provides inpatient treatment?			
• Is the setting on the grounds of, or immediately adjacent to a publicly funded healthcare institution?			
• Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as they choose?			
• Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?			
• Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?			
• Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer "No" to this question.)			
• Is the setting in the community among other private residences, retail businesses?			
2. **Does the setting provide opportunities to engage in community life?**	Yes	No	Comments:
• Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?			
• Are individuals aware of or have access to materials to become aware of activities occurring outside of the setting?			
3. **Is the individual employed or does the individual attend day services outside of the setting?**	Yes	No	Comments:
• Do individuals work in an integrated community setting?			

• If an individual is of working age, are there activities with the individual to pursue work as an option?			
• If work is not a goal, do individuals participate in meaningful day activities outside the setting?			
4. **Does the setting provide opportunities to control personal resources?**	**Yes**	**No**	**Comments:**
• Do individuals have a checking or savings account or other means to control funds?			
• Do individuals have access to their funds?			
5. **Does the setting ensure freedom from coercion and restraint?**	**Yes**	**No**	**Comments:**
• Is information about filing a complaint posted in an obvious location and in an understandable format?			
• Are individual's comfortable discussing concerns?			
• Do individuals know how to make a complaint?			
6. **Does the setting ensure dignity, and respect?**	**Yes**	**No**	**Comments:**
• Are individuals, who need assistance with grooming, groomed as they desire?			
• Are individuals dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?			
• Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie?'			
• Is informal (written and oral) communication conducted in a language that individuals understand?			
• Does staff talk to other staff about individual(s) with dignity and respect?			
• Does staff ensure that conversations about individuals occur privately and not within earshot of other persons living in the setting?			
7. **Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?**	**Yes**	**No**	**Comments:**
• Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?			

• Can individuals and chosen representatives explain the process to develop and update their plan?			
• Were individuals present during their last planning meeting?			
• Did/does the planning meeting occur at a time and place convenient individuals to attend?			
8. **Does the setting facilitate choices regarding services and supports and who provides them?**	Yes	No	Comments:
• Are individuals given a choice of available options regarding where to live/receive services?			
• Were individuals given opportunities to visit other settings?			
• Does staff ask individuals about their needs and preferences?			
• Are individuals aware of how to make a service request?			
• Can individuals choose the provider or staff who render the services they receive?			
9. **Does the setting optimize interaction, autonomy and independence in making life choices?**	Yes	No	Comments:
• Are individuals given information to assist them to make informed decisions?			
• Are individuals learning skills to enable them to maximize independence?			
10. **Is there a legally enforceable agreement comparable to a lease?**	Yes	No	Comments:
• Do individuals know their rights regarding housing and when they could be required to relocate?			
• Does the written agreement include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?			
11. **Are there opportunities for individuals to have privacy?**	Yes	No	Comments:
• Do staff or other residents always knock and receive permission prior to entering an individual's living space?			
• Can an individual have private visits with family and friends?			
• Is health information about individuals kept private?			

• Do individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time?			
12. **Do individuals have choice of roommates?**	Yes	No	Comments:
• Do individuals have their own bedroom?			
• If not, are individuals given a choice of a roommate? (Note: For individuals who room-share)			
• Do individuals know how to request a roommate change?			
13. **Do individuals have freedom to furnish their sleeping units?**	Yes	No	Comments:
• Are individual's personal items, such as pictures, books, and memorabilia are present and arranged as they desire?			
• Do the furniture, linens, and other household items reflect the individual's personal choices?			
14. **Do individuals have control over their schedules?**	Yes	No	Comments:
• Do individual's schedules vary from others in the same setting?			
• Do individuals have access to such things as a television, radio, and leisure activities that interest them and can they schedule such activities at their convenience?			
• Are individuals able to follow their own flexible (i.e., not set) schedule for waking, bathing, eating, exercising, activities, etc.?			
15. **Are individuals able to have visitors at any time?**	Yes	No	Comments:
• Are visitors welcomed and encouraged?			
• Is the furniture arranged as an individual prefers and does the arrangement encourage the comfort and conversation with visitors?			
16. **Do individuals have access to food at any time?**	Yes	No	Comments:
• Do individuals have a meal at the time and place of his/her choosing?			

• Can individuals request an alternative meal if desired?			
• Are snacks accessible and available anytime?			
• Can individuals sit in any seat in a dining area? (no assigned seats)			
• If an individual desires to eat privately, can s/he do so?			
17. **Do the rooms have lockable entrance doors, with individuals and staff having keys as needed?**	**Yes**	**No**	**Comments:**
• Can individuals close and lock the bedroom door?			
• Can individuals close and lock the bathroom door?			
18. **Is the setting physically accessible to the individual?**	**Yes**	**No**	**Comments:**
• Do individuals have full access to typical facilities in a home such as a kitchen, cooking facilities, dining area, laundry, and comfortable seating in the shared areas?			
• For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheelchairs, viable exits for emergencies, etc.?			
• Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?			
• Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are their environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?			
• Are appliances accessible to individuals (e.g., the washer/dryer are front loading for individuals in wheelchairs)?			
• Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?			
19. **Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?**	**Yes**	**No**	**Comments:**
• Does documentation note if positive interventions and supports were used prior to any plan modifications?			

• Are less intrusive methods of meeting the need that were tried initially documented?			
• Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?			

CMS HCBS Community Rule: Assessment and Planning Tool for Settings

Non-Residential Settings

In March, CMS finalized its HCBS Community Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services Waiver Program (HCBS). The intent of the rule is to assure that individuals receiving long-term services and supports through HCBS programs have full access to the benefits of community living and the opportunity to receive services in integrated settings. The accompanying summary of the CMS Community Rule provides more information and further context for the Community Rule.

http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Rhode Island provides Medicaid-funded HCBS under the authority of an 1115 Waiver. While the final rule does not apply to states operating their HCBS under an 1115 Waiver, we support the intent of the rule and therefore will seek to comply with the requirements.

In order to meet the requirements of the new rule, states will need to develop a Transition Plan, "detailing any actions necessary to achieve or document compliance with setting requirements." States will have up to 5 years to implement their stated plan.

An integral component of the transition plan is a self-assessment/plan of existing settings to determine how closely they currently comply or don't comply with the Community Rule and if they don't comply, what is needed in terms of a plan, over the next 5 years, to come into compliance.

Attached is a tool to assist you in conducting the non-residential setting self-assessment. Please answer each question (bold or bullet) with either "Yes" or "No" by checking the appropriate box. To help you answer the bold question, we have provided sub-questions (in a bulleted list) underneath each bold question. These bulleted questions are additional questions for you to answer and will help guide you to answer "Yes" or "No" to the bold question. Answer each question with a "Yes" or "No."

Given the nature of your specific setting and given CMS guidance around settings that may not immediately comply with all aspects of the Community Rule, it may be more challenging to meet these requirements and be able to answer "Yes" to all bold and all bulleted questions. We assume, however, that you do aspire to achieve the outcomes articulated in the HCBS Community Rule over the next 5 years. So please be critical in your answers. We are not expecting you to answer "Yes" to every question.

Please complete and return then enclosed assessment by March 18, 2015.

Thank you for assistance!

To ensure that all community settings in which individuals receive a Medicaid Home and Community Based Service (HCBS) meet the new CMS regulatory requirements, providers have been asked to assess their current settings and practices against the new requirements. CMS exploratory questions have been provided below to guide this assessment.

All questions must be answered. Note: The answers to bulleted questions may help you answer the bold question leading each section.			
1. Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?	**Yes**	**No**	**Comments:**
Is the setting in a public or privately-owned facility that provides inpatient treatment?			
Is the setting on the grounds of, or immediately adjacent to a publicly funded healthcare institution?			
Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as the individual chooses?			
Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?			
Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?			
Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer "No" to this question.)			
Is the setting in the community among other private residences, retail businesses?			
2. Does the setting provide opportunities to engage in community life?	**Yes**	**No**	**Comments:**
Do individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?			
Are individuals aware of or do they have access to materials to become aware of activities occurring outside of the setting?			

3. Is the individual employed or does the individual attend day services outside of the setting?	Yes	No	Comments:
Do individuals work in an integrated community setting?			
If individuals are of working age, is there activity with the individual to pursue work as an option?			
If work is not a goal, do individuals participate in meaningful day activities outside the setting?			
4. Does the setting provide opportunities to control personal resources?	**Yes**	**No**	**Comments:**
Do individuals have a checking or savings account or other means to control funds?			
Do individuals have access to their funds?			
5. Does the setting ensure freedom from coercion and restraint?	**Yes**	**No**	**Comments:**
Is information about filing a complaint posted in an obvious location and in an understandable format?			
Are individual's comfortable discussing concerns?			
Do individuals know how to make a complaint?			
6. Does the setting ensure dignity, and respect?	**Yes**	**No**	**Comments:**
Are individuals who need assistance with grooming, groomed as they desire?			
Are individuals dressed in clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences?			
Does staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'?			
Is informal (written and oral) communication conducted in a language an individual understands?			
Does staff talk to other staff about individual(s) with dignity and respect?			
Does staff ensure that conversations about individuals occur privately and not within earshot of other persons in the setting?			

7. Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?	**Yes**	**No**	**Comments:**
Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?			
Can individuals and chosen representatives explain the process to develop and update their plan?			
Were individuals present during their last planning meeting?			
Did/does the planning meeting occur at a time and place convenient for individuals to attend?			
8. Does the setting facilitate choices regarding services and supports and who provides them?	**Yes**	**No**	
Are individuals given a choice of available options regarding where to receive services?			
Are individuals given opportunities to visit other settings?			
Does staff ask individuals about their needs and preferences?			
Are individuals aware of how to make a service request?			
Can an individual choose the provider or staff who render the services s/he receives?			
9. Does the setting optimize interaction, autonomy and independence in making life choices?	**Yes**	**No**	**Comments:**
Are individuals given information to assist them to make informed decisions?			
Are individuals learning skills to enable them to maximize independence?			
10. Is health information about individuals kept private?	**Yes**	**No**	**Comments:**
11. Is the setting physically accessible to individuals?	**Yes**	**No**	**Comments:**
For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheelchairs, viable exits for emergencies, etc.?			
Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the settings?			

Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are their environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?			
Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?			
Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?			
Does documentation note if positive interventions and supports were used prior to any plan modifications?			
Are less intrusive methods of meeting the need that were tried initially documented?			
12. Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?	Yes	No	Comments:

Attachment A: Core and Preventive Home and Community-Based Service Definitions

CORE SERVICES:

Homemaker: Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him or herself or others in the home. Homemakers shall meet such standards of education and training as are established by the State for the provision of these activities.

Environmental Modifications (Home Accessibility Adaptations): Those physical adaptations to the home of the member or the member's family as required by the member's service plan, that are necessary to ensure the health, welfare, and safety of the member or that enable the member to attain or retain capability for independence or self-care in the home and to avoid institutionalization and are not covered or available under any other funding source. A completed home assessment by a specially trained and certified rehabilitation professional is also required. Such adaptations may include the installation of modular ramps, grab-bars, vertical platform lifts and interior stair lifts. Excluded are those adaptations that are of general utility and are not of direct medical or remedial benefit to the member. Excluded are any re-modeling, construction, or structural changes to the home, i.e. (changes in load bearing walls or structures) that would require a structural engineer, architect and/or certification by a building inspector. Adaptations that add to the total square footage of the home are excluded from this benefit. All adaptations shall be provided in accordance with applicable state or local building codes and prior approved on an individual basis by the EOHHS Office of Long-Term Services and Supports is required. Items should be of a nature that they are transferable if a member moves from his/her place of residence.

Special Medical Equipment: Specialized Medical Equipment and supplies to include Ceiling or Wall Mounted Patient Lift, Track System, tub slider system, rolling shower chair and/or Automatic Door Opener, which enable a member to increase his/her ability to perform activities of daily living, including such other durable and non-durable medical equipment not available under the Medicaid-funded primary and acute care system that is necessary to address participant functional limitations. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the Medicaid-funded primary and acute care system and exclude those items that are not of direct medical or remedial benefit to the member. Medical equipment funded under the primary and acute care system includes items such as wheelchairs, prosthetics, and orthotics. These services that were provided under the authority of the Rhode Island State Plan prior to the 1115 Waiver approval. These items are still available under the 1115 Waiver and are described on the EOHHS website. All items shall meet applicable standards of manufacture, design, and installation. Provision of Special Medical Equipment requires prior approval on an individual basis by the EOHHS, Office of Long-Term Services and Supports and a home assessment completed by a specially trained and certified rehabilitation professional. Items should be of a nature that they are transferable if a member moves from his/her place of residence. Excluded are any re-modeling, construction, or structural changes to

the home, (i.e., changes in load bearing walls or structures) that would require a structural engineer, architect and/or certification by a building inspector.

Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances, such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g., reachers), and standing poles to improve home accessibility adaption, health, or safety.

Meals on Wheels (Home Delivered Meals): The delivery of hot meals and shelf staples to the waiver recipient's residence. Meals are available to an individual who is unable to care for his/her nutritional needs because of a functional dependency/disability and who requires this assistance to live in the community. Meals provided under this service will not constitute a full daily nutritional requirement. Meals must provide a minimum of one-third of the current recommended dietary allowance. Provision of home delivered meals will result in less assistance being authorized for meal preparation for individual participants, if applicable.

Personal Emergency Response (PERS): PERS is an electronic device that enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the individual's phone and programmed to signal a response center once a "help" button is activated. Trained professionals staff the response center, as specified by Center for Adult Health contract standards. This service includes coverage for installation and a monthly service fee. Providers are responsible to insure the upkeep and maintenance of the devices/systems.

LPN Services (Skilled Nursing): Licensed Practical Nurse services provided under the supervision of a Registered Nurse. Licensed Practical Nurse Services are available to participants who require interventions beyond the scope of Certified Nursing Assistant (C.N.A.) duties. LPN services are provided in accordance with the Nurse Practice Act under the supervision of a registered nurse. This service is aimed at individuals who have achieved a measure of medical stability despite the need for chronic care nursing interventions. Individuals are assessed by a Registered Nurse (RN) in the EOHHS, Office of Community Programs.

Community Transition Services: Community Transition Services are non-recurring set-up expenses for individuals who are transitioning from an institutional or another provider-operated living arrangement to a living arrangement in a private residence where the individual is directly responsible for his or her own living expenses. Allowable expenses are those necessary to enable an individual to establish a basic household; these expenses do not constitute room and board and may include security deposits that are required to obtain a lease on an apartment or home, essential household furnishings, and moving expense, set-up fees or deposits for utility or service access, services necessary for the individual's health and safety and activities to assess need, arrange for, and procure needed resources. Community Transition Services are furnished only to the extent that the services are reasonable and necessary as determined through the service plan development process, the services are clearly identified in the service plan, and the individual is unable to meet such expense, or the services cannot be obtained from other sources.

The services do not include ongoing shelter expenses, food, regular utility charges, household appliances or items intended for recreational purposes.

Residential Supports: Assistance with acquisition, retention, or improvement in skills related to activities of daily living, such as personal grooming and cleanliness, bed making and household chores, eating and the preparation of food, and the social and adaptive skills necessary to enable the individual to reside in his/her own home and a non-institutional setting. Payments for residential habilitation are not made for room and board, the cost of facility maintenance (where applicable), or upkeep and improvement.

Day Supports: Assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills. Day supports focus on enabling the individual to attain or maintain his/her maximum functioning level and are coordinated with any other services identified in the person's individual plan.

Supported Employment: Includes activities needed to sustain paid work by individuals receiving waiver services, including supervision, transportation and training. When supported employment services are provided at a work site in which persons without disabilities are employed, payment will be made only for the adaptations, supervision, and training required by an individual receiving waiver services as a result of his/her disabilities and will not include payment for the supervisory activities rendered as a normal part of the business setting.

Supported Living Arrangements: Personal care and services, homemaker, chore, attendant care, companion services, and medication oversight (to the extent permitted under state law) provided in a private home by a principal care provider who lives in the home. Supported Living Arrangements are furnished to adults who receive these services in conjunction with residing in the home. Separate payment will not be made for homemaker or chore services furnished to an individual receiving Supported Living Arrangements, since these services are integral to and inherent in the provision of adult foster care services.

Private Duty Nursing: Individual and continuous care (in contrast to part time or intermittent care) provided by licensed nurses within the scope of state law and as identified in the Individual Service Plan (ISP). These services are provided to an individual at home and require an assessment to be completed by a Registered Nurse (RN) from the Office of Community Programs.

Supports for Consumer Direction (Supports Facilitation): Focuses on empowering participants to define and direct their own personal assistance needs and services; guides and supports, rather than directs and manages, the participant through the service planning and delivery process. The Facilitator counsels, facilitates, and assists in development of an ISP which includes both paid and unpaid services and supports designed to allow the participant to live in the home and participate in the community. A back-up plan is also developed to assure that the needed assistance will be provided in the event that regular services identified in the Individual Service Plan are temporarily unavailable.

Participant Directed Goods and Services: Participant Directed Goods and Services are services, equipment, or supplies not otherwise provided through this waiver or through the Medicaid state plan that address an identified need, that are in the approved ISP (including improving and maintaining the individual's opportunities for full membership in the community), and that meet the following requirements: the item or service would decrease the need for other Medicaid services; AND/OR the item or service would promote inclusion in the community; AND/OR the item or service would increase the individual's ability to perform ADLs or IADLs; AND/OR the item or service would increase the person's safety in the home environment; AND alternative funding sources are not available. Individual Goods and Services are purchased from the individual's self-directed budget through the fiscal intermediary when approved as part of the ISP. Examples include a laundry service for a person unable to launder and fold clothes or a microwave for a person unable to use a stove due to his/her disability. This will not include any good/service that would be restrictive to the individual or strictly experimental in nature.

Case Management: Services that assist participants in gaining access to needed waiver and other state plan services, as well as needed medical, social, educational, and other services, regardless of the funding source for the services to which access is gained. Case managers are responsible for ongoing monitoring of the provision of services included in the individual's plan of care. Case managers initiate and oversee the process of assessment and reassessment of the individual's level of care and review of plans of care on an annual basis and when there are significant changes in client circumstances.

Senior Companion (Adult Companion Services): Non-medical care, supervision, and socialization provided to a functionally impaired adult. Companions may assist or supervise the participant with such tasks as meal preparation, laundry, and shopping. The provision of companion services does not entail hands-on nursing care. Providers may also perform light housekeeping tasks, which are incidental to the care and supervision of the participant. This service is provided in accordance with a therapeutic goal in the service plan of care.

Assisted Living: Personal care and services, homemaker, chore, attendant care, companion services, medication oversight (to the extent permitted under state law), therapeutic social and recreational programming, provided in a home-like environment in a licensed community care facility in conjunction with residing in the facility. This service includes 24-hour on-site response staff to meet scheduled or unpredictable needs in a way that promotes maximum dignity and independence, and to provide supervision, safety and security. Other individuals or agencies may also furnish care directly, or under arrangement with the community care facility; but the care provided by these other entities supplements that provided by the community care facility and does not supplant it.

Personalized care is furnished to an individual who resides in his/her own living units (which may include dually occupied units when both occupants consent to the arrangement) which may or may not include kitchenette and/or living rooms, and which contain bedrooms and toilet facilities. The consumer has a right to privacy. Living units may be locked at the discretion of the consumer, except when a physician or mental health professional has certified in writing that the consumer is sufficiently cognitively impaired as to be a danger to self or others if given the

opportunity to lock the door. (This requirement does not apply where it conflicts with fire code.) Each living unit is separate and distinct from each other unit. The facility must have a central dining room, living room, or parlor, and common activity center(s) (which may also serve as living room or dining room). The consumer retains the right to assume risk, tempered only by the individual's ability to assume responsibility for that risk. Care must be furnished in a way which fosters the independence of each individual to facilitate aging in place. Routines of care provision and service delivery must be consumer-driven to the maximum extent possible and must treat each person with dignity and respect. Costs of room and board are excluded from payments for assisted living services.

Personal Care Services: Personal Care Services provide direct support in the home or community to an individual in performing Activities of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to disability. Personal Care Services may be provided by:

1. A Certified Nursing Assistant which is employed under a State licensed home care/home health agency and meets such standards of education and training as are established by the State for the provision of these activities.

2. A Personal Care Attendant via Employer Authority under the Self Direction option.

Respite: Respite can be defined as a service provided to a participant unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons who normally provide care for the participant. Respite services will be recommended and approved by EOHHS, Office of Long-Term Services and Supports.

PREVENTIVE SERVICES:

Homemaker: Services that consist of the performance of general household tasks (e.g., meal preparation and routine household care) provided by a qualified homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage the home and care for him/herself or others in the home. Homemakers shall meet such standards of education and training as are established by the State for the provision of these activities.

Minor Environmental Modifications: Minor modifications to the home may include grab bars, versa frame (toilet safety frame), handheld shower and/or diverter valve, raised toilet seats, and other simple devices or appliances, such as eating utensils, transfer bath bench, shower chair, aids for personal care (e.g., reachers), and standing poles to improve home accessibility adaption, health, or safety.

Physical Therapy Evaluation and Services: Physical therapy evaluation for home accessibility appliances or devices by an individual with a state-approved licensing or certification. Preventive physical therapy services are available prior to surgery if evidence-based practice has demonstrated that the therapy will enhance recovery or reduce rehabilitation time.

Respite Services: Temporary caregiving services given to an individual unable to care for himself/herself that is furnished on a short-term basis because of the absence or need for relief of those persons normally providing the care for the participant. Respite services will be recommended and approved by EOHHS, Office of Long-Term Services and Supports.

Personal Care Services: Personal Care Services provide direct hands-on support in the home or community to an individual in performing Activity of Daily Living (ADL) tasks that he/she is functionally unable to complete independently due to disability. Personal Care Services may be provided to an individual by:

1. A Certified Nursing Assistant which is employed under a State licensed home care agency and meets such standards of education and training as are established by the State for the provision of these activities.

HABILITATIVE SERVICES:

Residential habilitation is individually tailored supports that assist with the acquisition, retention, or improvement in skills related to living in the community. These supports include adaptive skill development, assistance with activities of daily living, community inclusion, transportation, adult educational supports, and social and leisure skill development, that assist the participant to reside in the most integrated setting appropriate to his/her needs. Residential habilitation also includes personal care and protective oversight and supervision.

Payment is not to be made for the cost of room and board, including the cost of building maintenance, upkeep, and improvement.

Day habilitation is provision of regularly scheduled activities in a non-residential setting, separate from the participant's private residence or other residential living arrangement, such as assistance with acquisition, retention, or improvement in self-help, socialization and adaptive skills that enhance social development and develop skills in performing activities of daily living and community living.

Activities and environments are designed to foster the acquisition of skills, building positive social behavior and interpersonal competence, greater independence, and personal choice. Services are furnished consistent with the participant's person-centered plan. Meals provided as part of these services shall not constitute a "full nutritional regimen" (3 meals per day).

Day habilitation services focus on enabling the participant to attain or maintain his or her maximum potential and shall be coordinated with any needed therapies in the individual's person-centered services and supports plan, such as physical, occupational, or speech therapy.

Attachment B: Official Transcripts of Public Meetings

Official Transcripts of Public Meetings

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

* * * * * * * * * * * * * * * * * PUBLIC HEARING IN RE:

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TRANSITION PLAN TO IMPLEMENT THE
SETTINGS REQUIREMENT FOR HOME
AND COMMUNITY-BASED SERVICES CMS
FINAL RULE JANUARY, 2014

ORIGINAL

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METRO CENTER BOULEVARD
SUITE 203
WARWICK, RI 02888
APRIL 30, 2015
9:00 A.M.

BEFORE: THOMAS MARTIN, HEARING OFFICER

M.E. HALL COURT REPORTING

108 WALNUT STREET

WARWICK, RI 02888

(401) 461-3331

E X H I B I T S

(COMMENCED AT 9:06 A.M.)

THE HEARING OFFICER:
So, welcome. We are here today regarding a public hearing concerning Rhode Island's Transition Plan related to the Centers for Medicare and Medicaid Services, Home and Community-based Services Rule.

This hearing is being conducted under the provisions of Chapter 40-6, 40-8, 42-7.2 and 42-35 of the Rhode Island General Laws, as amended. Today is Thursday, April 30, 2015. My name is Thomas Martin, and I will be the Hearing Officer for today's proceeding.

Before we start, and so as not to interrupt the proceedings, I would like to ask that those of you with cell phones, pagers and watch alarms to turn them off at this time.

The purpose of the hearing today to comment on the proposed Transition Plan. This hearing is intended for your participation only and is not intended as a means of providing a forum for discussing, debating, arguing, or otherwise having any dialogue on the record with the Members of The Executive Office of Health and Human Services.

If you care to speak, the procedure we will use is as follows:

One, register at the side of the room.

Two, speakers will be taken in order of registration.

Three, five minutes will be allowed for your presentation, unless the lack of speakers allows for additional time.

Four, when you are called:

A) come to the podium, to the front of room.

B) identify yourself by name and affiliation, if there is any.

C) make your presentation.

D) if you have a written copy of your statement, we would appreciate having that for the record.

After the time has elapsed for submission of written commentary, the Executive Office of Health and Human Services has three options under State

law.

The first option is to file as is with the Federal Centers for Medicare and Medicaid Services, known as CMS.

The second option is to file with minor changes, examples, spelling and punctuation. The third option, make major changes in what you see before you today, which would necessitate a new public hearing.

If there aren't any questions about how the public hearing will be conducted, at this time, for the record, we will have a presentation of the exhibits that will go into the record.

Exhibit 1 is a Notice of Public Comment signed by Elizabeth H. Roberts, Secretary of the Executive Office of Health and Human Services on March 31, 2015.

(EXHIBIT 1, NOTICE OF PUBLIC COMMENT, MARKED)
THE HEARING OFFICER:

The second exhibit is the confirmation of placement as a legal notice in the Providence Journal on April 1, 2015, from Mary Beth Garlick of the Providence Journal.

That's Exhibit 2. (EXHIBIT 2, LEGAL NOTICE, MARKED)
THE HEARING OFFICER:

Exhibit 3 is advanced Notice of Public Hearing sent via electronic mail to the Rhode Island Executive Office of Health and Human services, interested parties list, on April 14, 2015.

(EXHIBIT 3, NOTICE OF PUBLIC HEARING TO INTERESTED PARTIES, MARKED)

THE HEARING OFFICER:

Exhibit 4 is a copy of Chapters 40-6, 40-8 and 42-7.2 Of the Rhode Island General Laws, as amended.

(EXHIBIT 4, CHAPTERS 40-6, 40-8 AND 42-7.2, MARKED)
THE HEARING OFFICER:

Exhibit 5 is a copy of the proposed Transition Plan to Implement the Settings Requirements for Home and Community-based Services CMS Final Rule, January 2014.

(EXHIBIT 5, PROPOSED TRANSITION PLAN, MARKED)
THE HEARING OFFICER:

According to the sign-in sheet, we don't have anybody who would like to speak. I'm asking if anybody does want to speak at this time; the opportunity does present itself?

(PAUSE)

THE HEARING OFFICER:
Is there any person here present who would like to make a statement concerning the proposed Transition Plan?

(PAUSE)

THE HEARING OFFICER:
The submission of any written commentary on the proposed Transition Plan will be accepted until the close of business on Friday, March 29, 2015 – May 29, 2015.

If there are no other comments, thank you for your attendance, and the hearing is now closed.

(HEARING CLOSED AT 9:12 A.M.)

C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript of my notes taken at the above-entitled public hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May 2015.

Mary Ellen Hall

_____
MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

DATE: April 30, 2015

IN RE: Public hearing in re: Transition Plan

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

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PUBLIC HEARING IN RE:

TRANSITION PLAN FOR HOME AND
COMMUNITY BASED SERVICES FOR
THE CENTER OF MEDICARE AND MEDICAID
SERVICES, CMS, FINAL
RULE JANUARY, 2014

ORIGINAL

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DAVINCI CENTER
470 CHARLES STREET
PROVIDENCE, RHODE ISLAND
MAY 5, 2015
4:00 P.M.

BEFORE: THOMAS MARTIN, HEARING OFFICER

M.E. HALL COURT REPORTING
108 WALNUT STREET
WARWICK, RI 02888

(401) 461-3331

E X H I B I T S

(COMMENCED AT 4:16 P.M.)

THE HEARING OFFICER: Welcome.

We are here today regarding a public hearing concerning Rhode Island's Transition Plan related to the Centers for Medicare and Medicaid Services, Home Community-based Services Rule. The hearing is being conducted under the provisions of Chapters 40-6, 40-8, 42-7.2, 42-35 and of the Rhode Island General Laws, as amended.

THE HEARING OFFICER:

Today is Tuesday, May 5, 2015. My name is Thomas Martin, and I will be the Hearing Officer for today's proceeding.

Before we start, and so as not to interrupt the proceedings, I would like to ask that those of you with cell phones, pagers, and watch alarms to turn them off at this time. The purpose of the hearing today is to afford interested parties an opportunity to comment on the proposed Transition Plan.

This hearing is intended for your participation only. It is not intended as a means of providing a forum for discussing, debating, arguing or otherwise having any dialogue on the record with Members of the Executive Office of Health and Human Services. If you care to speak, the procedure we will use is as follows:

One, register at the side of the room.

Two, speakers will be taken in order of registration.

Three, five minutes will be allowed for your presentation, unless the lack of speakers allows for additional time.

Four, when you are called, come to the desk at the front of the room. B, identify yourself by name and affiliation, if any. C, make your presentation. D, if you have a written copy of your statement, we would appreciate having that for the record.

After the time has elapsed for submission of written commentary, the Executive Office of Health and Human Services has three options under State law. First option, file as is with the Federal Centers for Medicare and Medicaid Services, CMS.

Second option, file with minor changes. Example, spelling, punctuation. Third option, make major changes in what you see before you today, which would necessitate a new public hearing.

Are there any questions on how the public hearing will be conducted today?

(PAUSE)

THE HEARING OFFICER:

If not, at this time, for the record, we will have a presentation of the exhibits.

Exhibit 1 is a Notice of Public Comment posted on the Executive Office of Health and Human Services web site on April 15, 16 2015.

(EXHIBIT 1, NOTICE OF PUBLIC COMMENT, MARKED)

THE HEARING OFFICER:

Exhibit 2 is an electronic confirmation of posting on The Rhode Island Secretary of State's web site on April 30, 2015, under the provisions of Rhode Island General Laws 42-46.

(EXHIBIT 2, ELECTRONIC AD, MARKED)

THE HEARING OFFICER:

Exhibit 3, advanced notice of public hearing sent via electronic mail from the Rhode Island Executive Office of Health and Human Services, Interested Parties List, on April 14, 2015.

EXHIBIT 3, NOTICE OF PUBLIC HEARING SENT TO INTERESTED PARTIES LIST, MARKED)

THE HEARING OFFICER:
A copy of Chapters -- Exhibit 4, a copy of Chapters 40-6, 40-8 and 42-72 of the Rhode Island General Laws, as amended.

(EXHIBIT 4, CHAPTERS 40-6, 40-8 AND 42-72 OF THE R.I. GENERAL LAWS, AS AMENDED, MARKED)

THE HEARING OFFICER:
Exhibit 5, a copy of the proposed Transition Plan to Implement the Settings Requirement for Home Community-based Services, CMS, Final Rule, January, 2014.

(EXHIBIT 5, PROPOSED TRANSITION PLAN)

THE HEARING OFFICER: At this time, I would like to call the first speaker. Jennifer Crosby. MS. CROSBY: I'm not going – my name is Jennifer Crosby. I work with Senior Link, the parent organization of Care Givers Homes, which is a supportive living arrangement provider here in Rhode Island. I work in government relations for Senior Link and address and access other states that are also providing this service.

Care Givers Homes, we operate supportive living-like arrangement services in five other states, Massachusetts Connecticut, Ohio, Indiana, and newest Louisiana and we will be operating in Texas by the end of calendar year 2015. My comments today have been submitted for the record.

My speaking comments are in regard to the five states, the five other states in which we operate, excluding Rhode Island. We have been, supportive living services have been deemed compliant with the HCBS Final Rule, and Rhode Island is the one state thus far to require providers' self-assessments of shared living or supportive living arrangement-like services. While the service here in Rhode Island is fully implemented and operational and has been since 2010, it still remains largely inaccessible to many Rhode Islanders. Some of that is due to the lengthy enrollment process. Consumers on average take about three to nine months to enroll in the program or some withdraw their application based on

the length of time it requires to enroll. Other states that we operate in -- Rhode

Island also has the most restrictive requirements allowing only one consumer to be served at a time. So, families where daughters and sons are caring for both mom and dad are disallowed to participate in the program and receive care-giver support through care teams,

RN's and managers. So, as a fully compliant home and community-based service

through this HGBS Final Rule, supportive living arrangements provide a 24-hour benefit at roughly half the cost of a nursing facility stay and is a useful tool in all the states in which we operate to rebalance their long-term care expenditures. My comments, my spoken comments here today are to urge the State to identify efficiencies and programmatic changes to allow more Rhode Islanders to access right at home services which are the supportive living arrangement services authorized under the 1115 waiver. Thank you.

THE HEARING OFFICER: Thank you.

Are there any other persons here present who would like to make a statement concerning the proposed Transition Plan?

(PAUSE)

THE HEARING OFFICER: If not, this submission of any written commentary and proposed Transition Plan will be accepted until the close of business on Friday, May 29, 2015.

If there's not any other comments, we thank you for your attendance. We will still stay around a little bit longer for anybody else that comes in for comments. Thank you.

(OFF THE RECORD FROM 4:26 to 5:58 P.M.)

THE HEARING OFFICER: This hearing is officially closed. Thank you.

(HEARING CLOSED AT 5:58 P.M.)

* * * * * * * * * * * * * *

C E R T I F I C A T E

I, Mary Ellen Hall, hereby certify that the foregoing is a true, accurate and complete transcript of my notes taken at the above-entitled public hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May, 2015.

Mary Ellen Hall

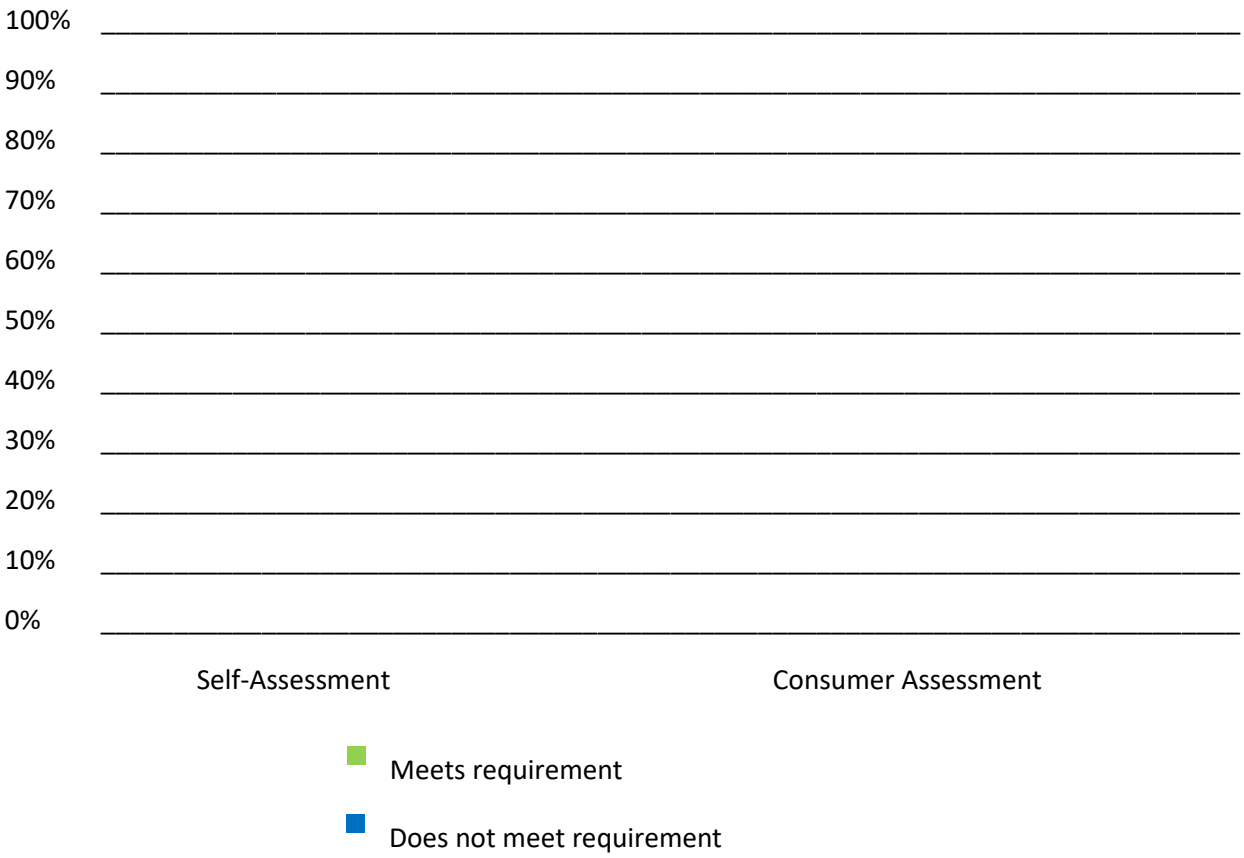
_____
MARY ELLEN HALL, NOTARY PUBLIC/
CERTIFIED COURT REPORTER

DATE: MAY 3, 2015

IN RE: PUBLIC HEARING IN RE: TRANSITION PLAN

Attachment C: Sample Provider Compliance Chart

Accessibility



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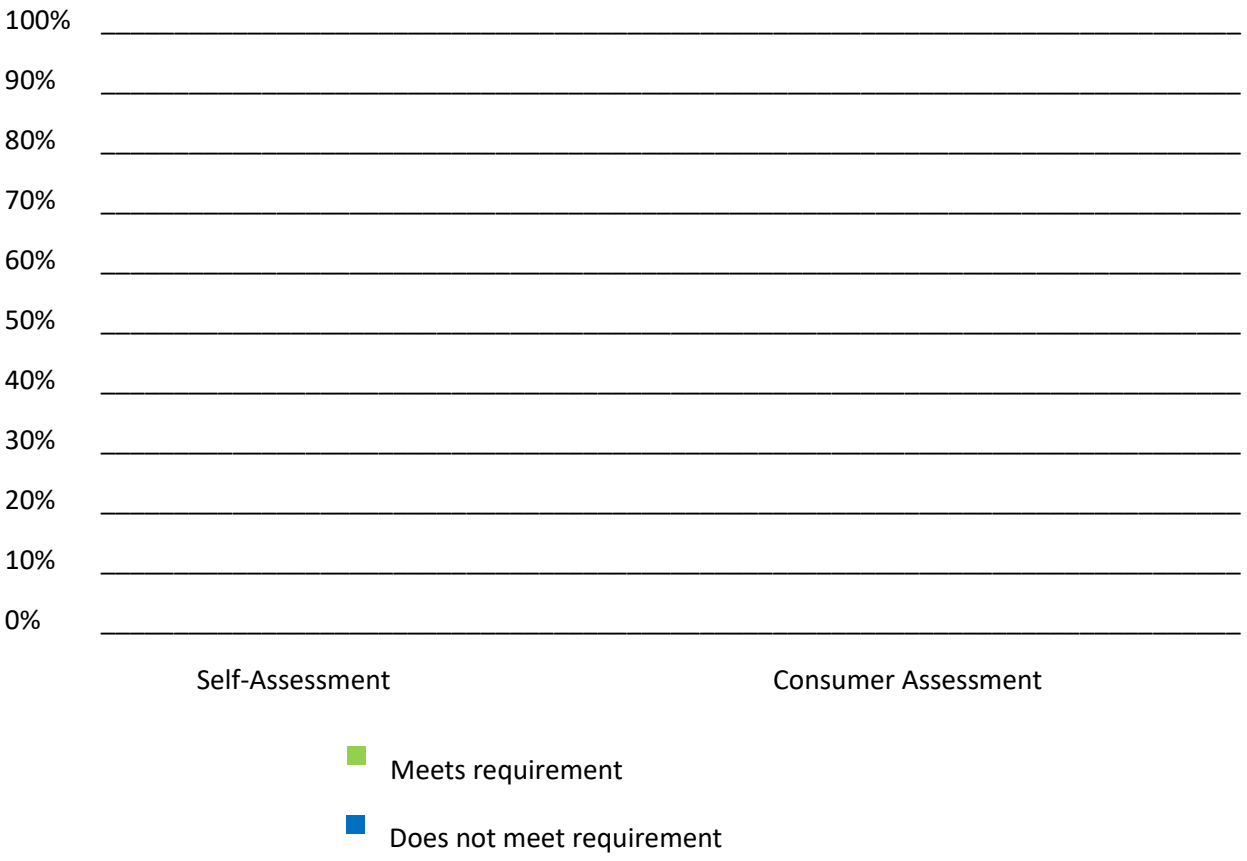
Total Consumer Surveys: 0

All settings compliant

Autonomy



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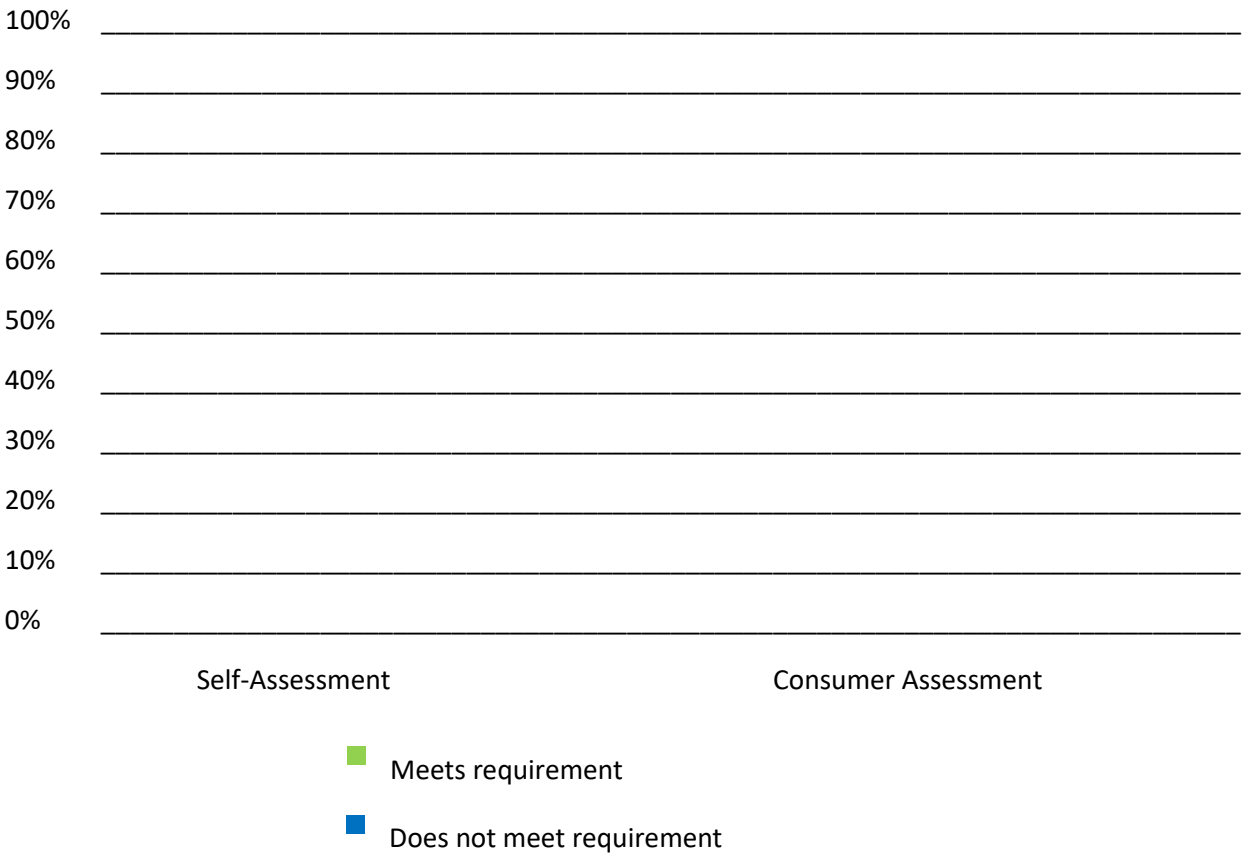
All settings compliant

Choices



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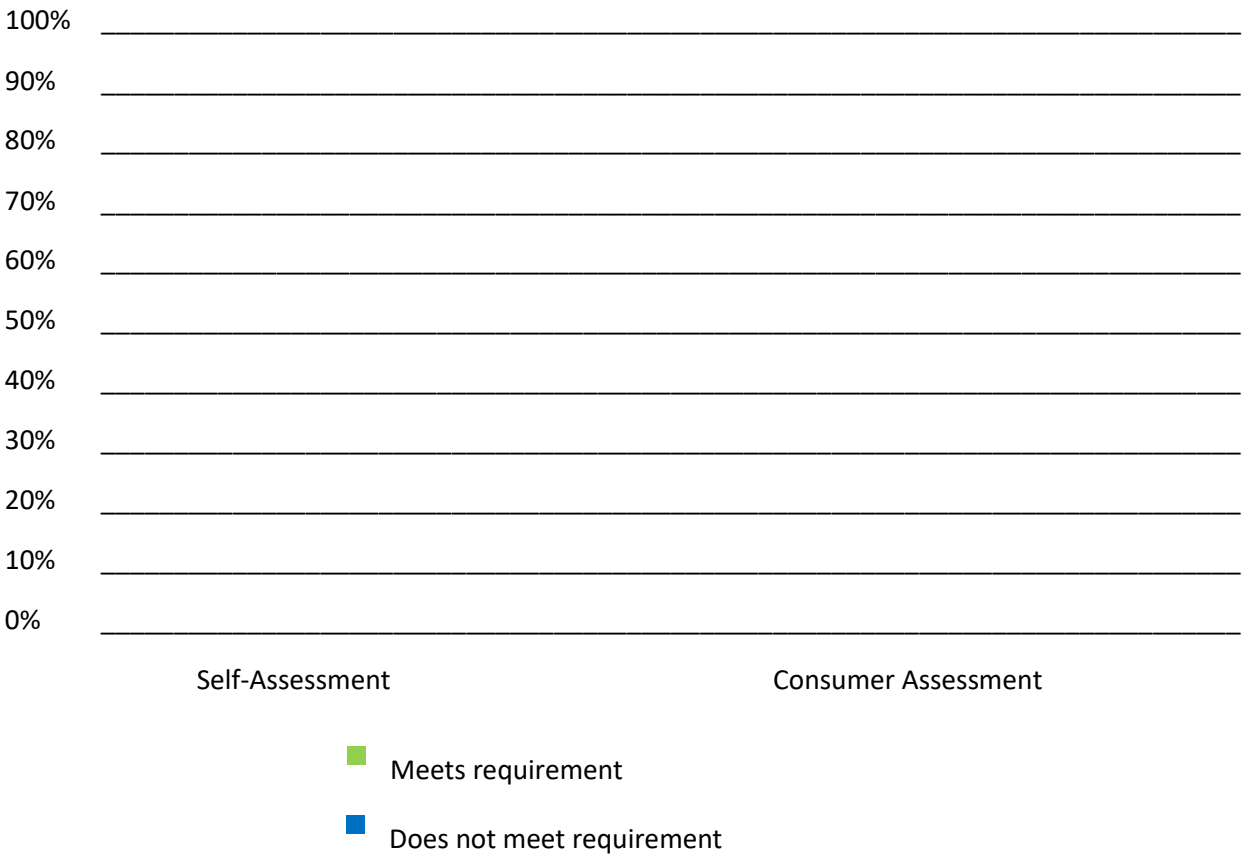
Total Consumer Surveys: 0

All settings compliant

Integration



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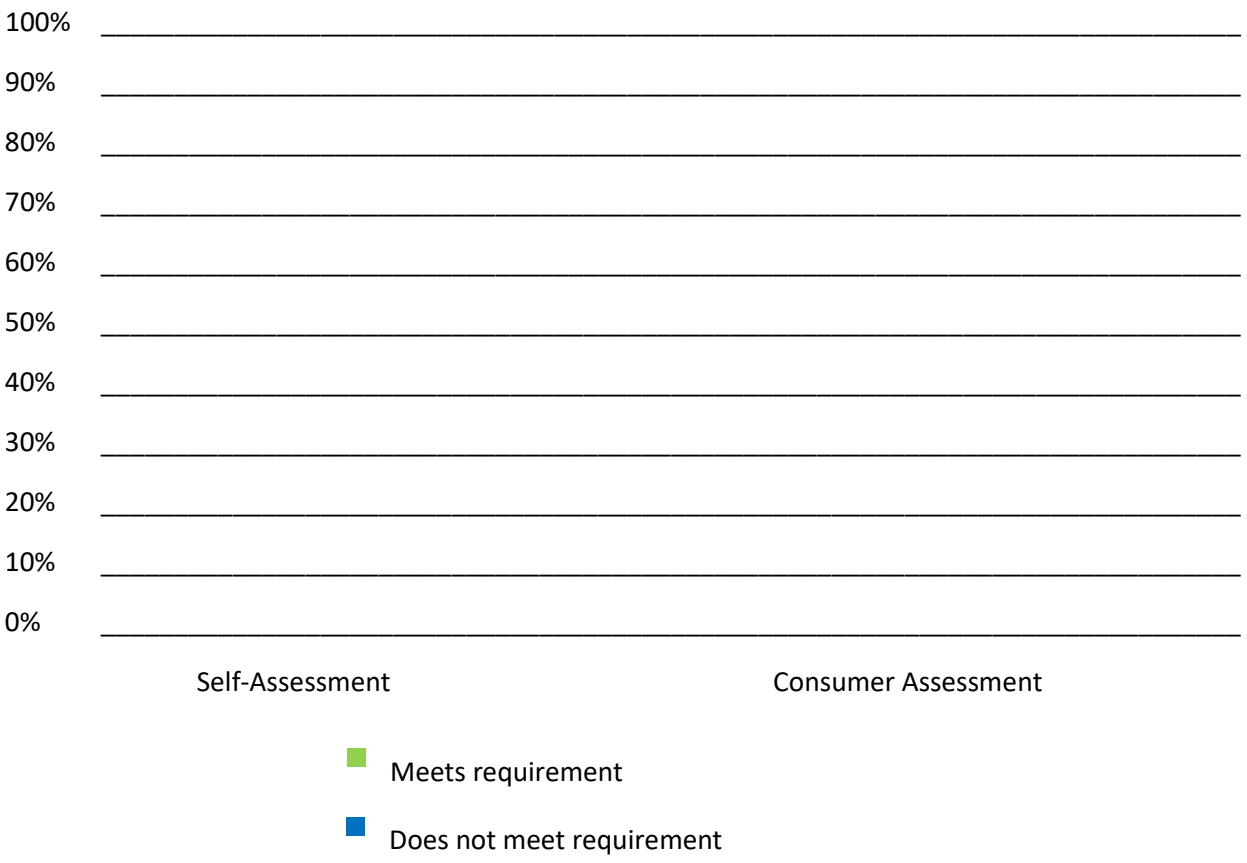
Total Consumer Surveys: 0

All settings compliant

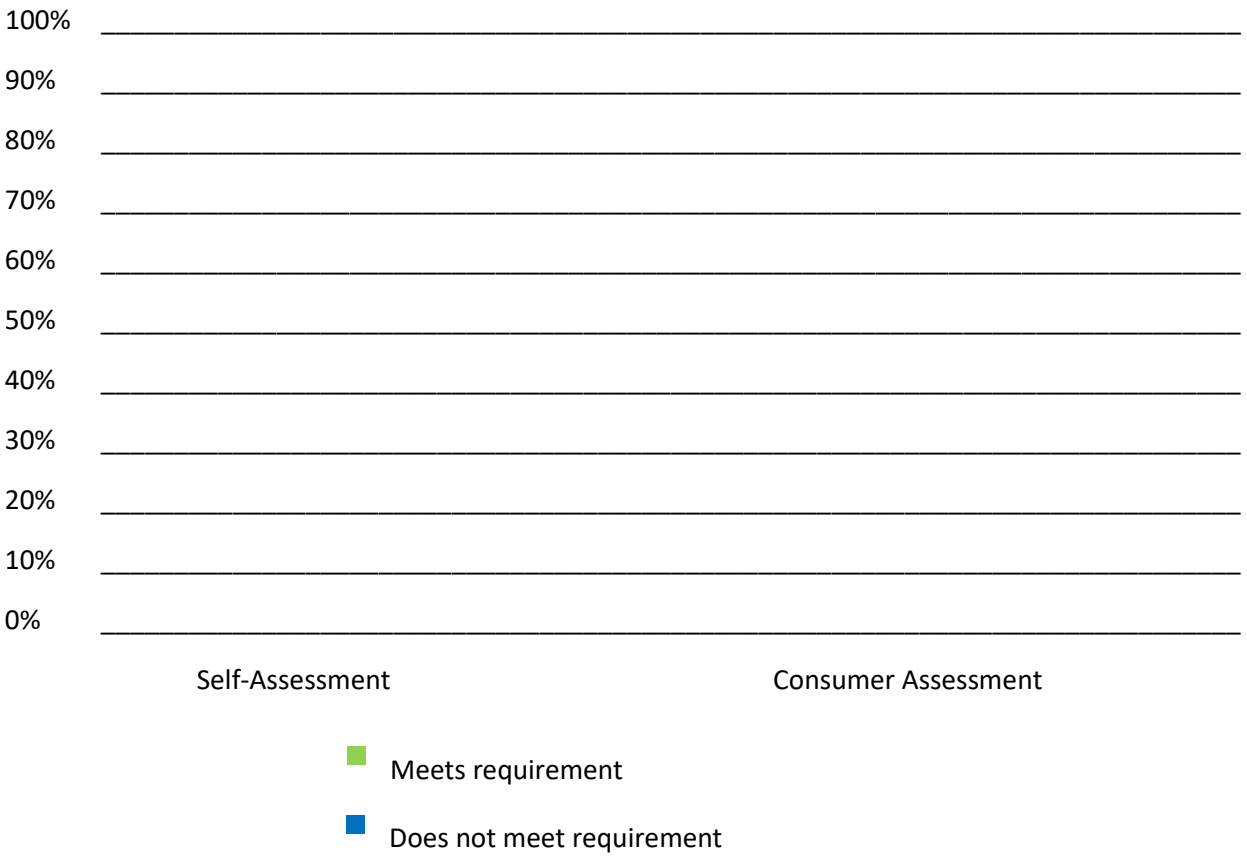
Lease



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

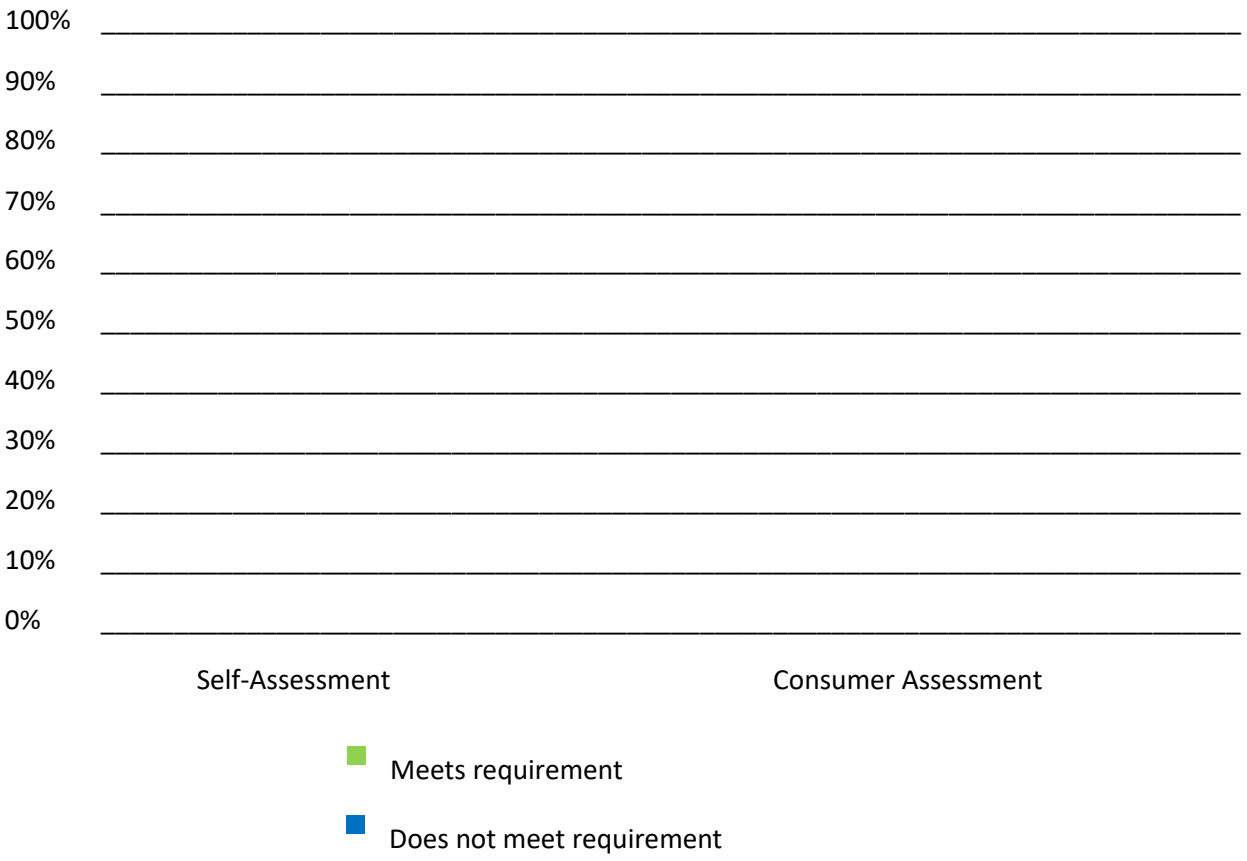
Location



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

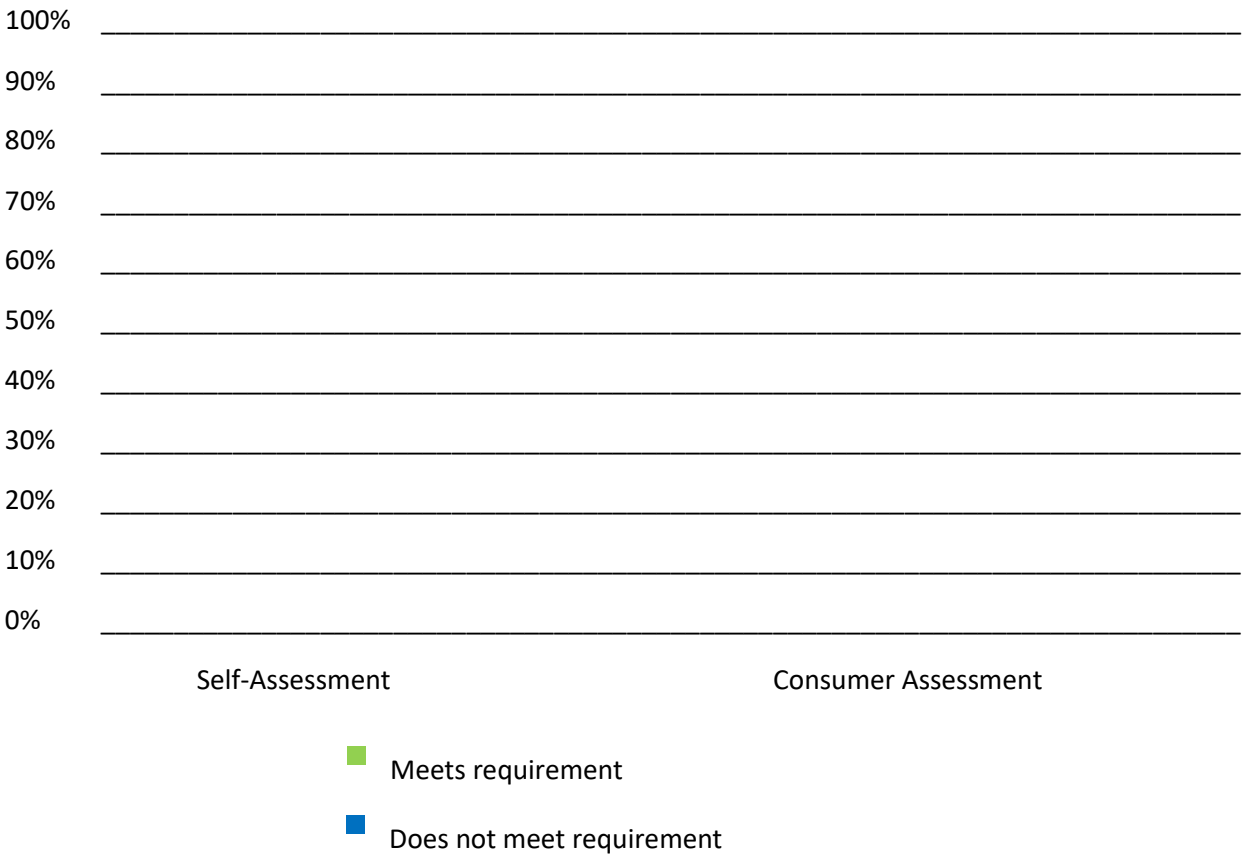
Locks



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

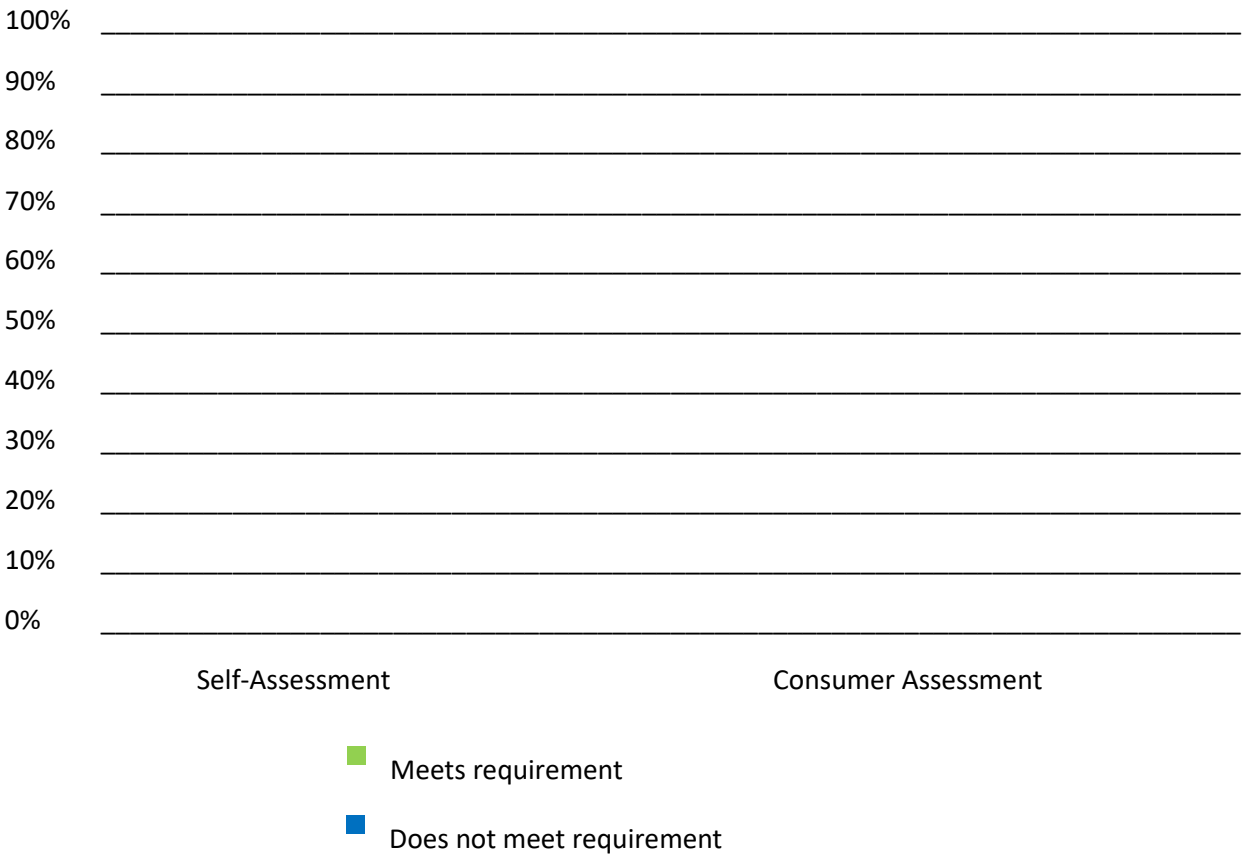
Modifications



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

Personalization



Total Settings Assessed: 0
Total Consumer Surveys: 0

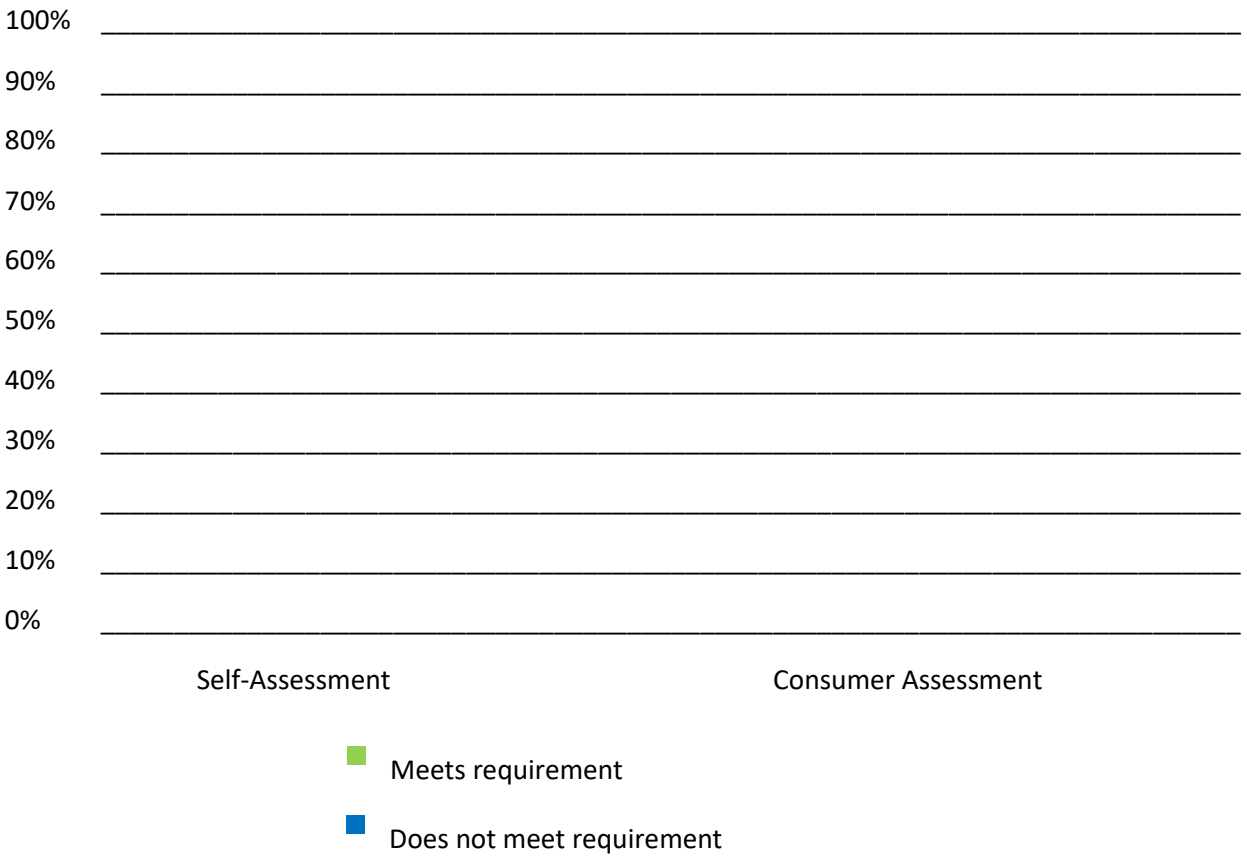
All settings compliant

Person-Centered Planning

Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

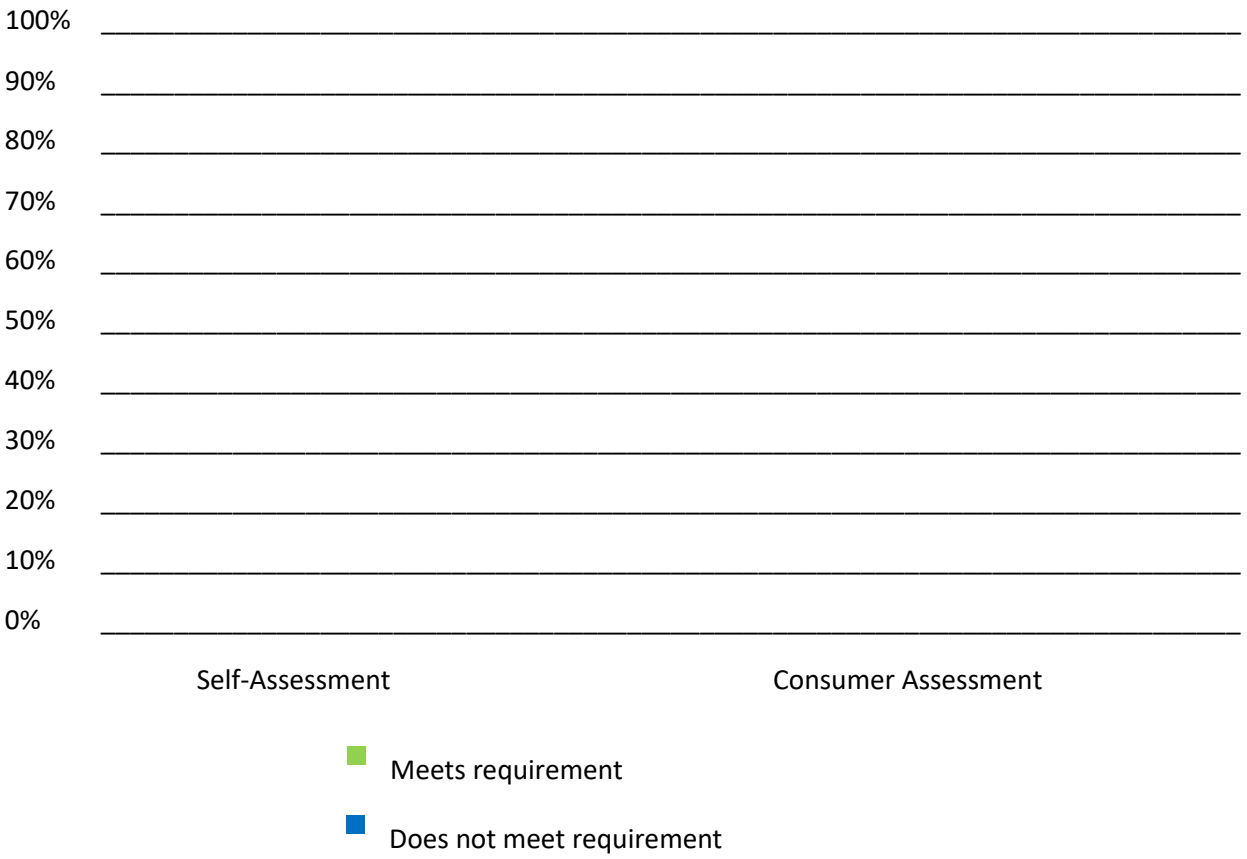
Privacy



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

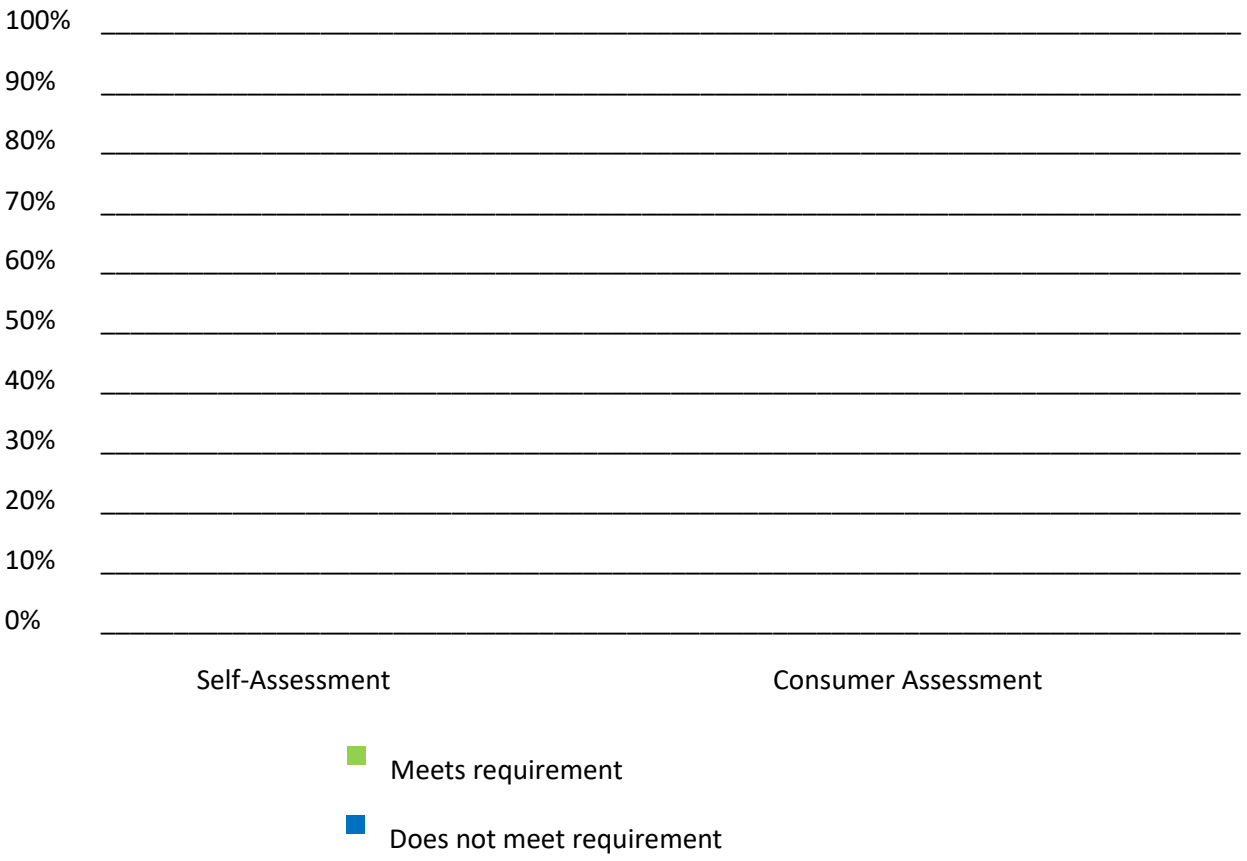
Rights



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

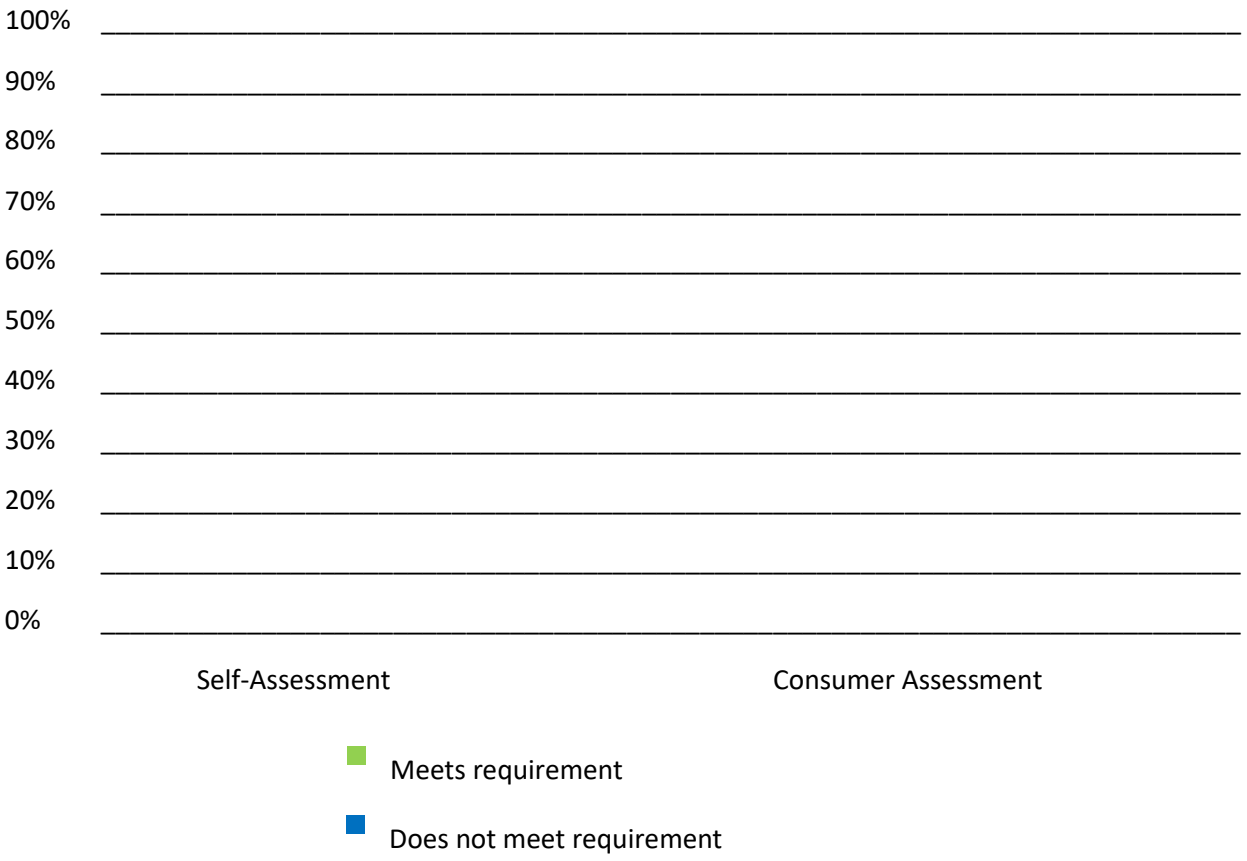
Roommate



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

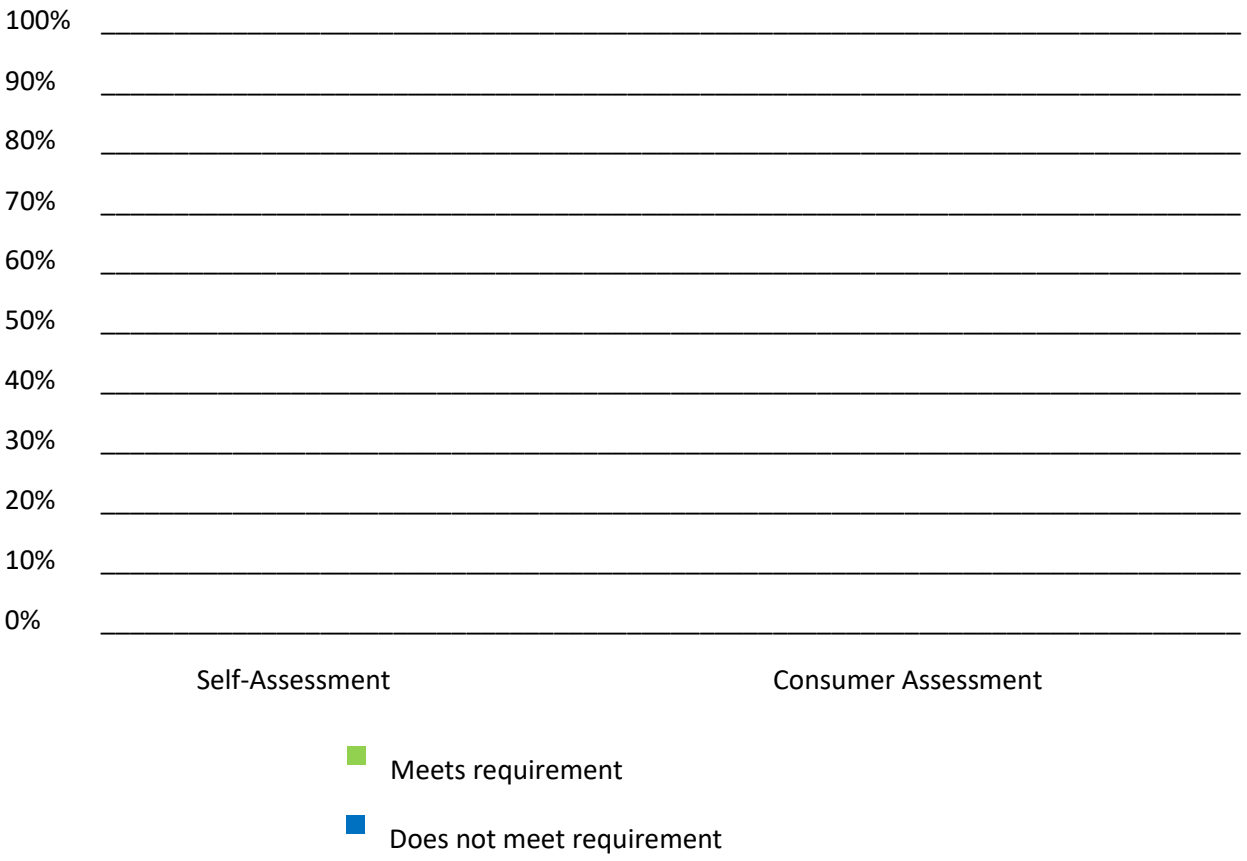
Schedule Control



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

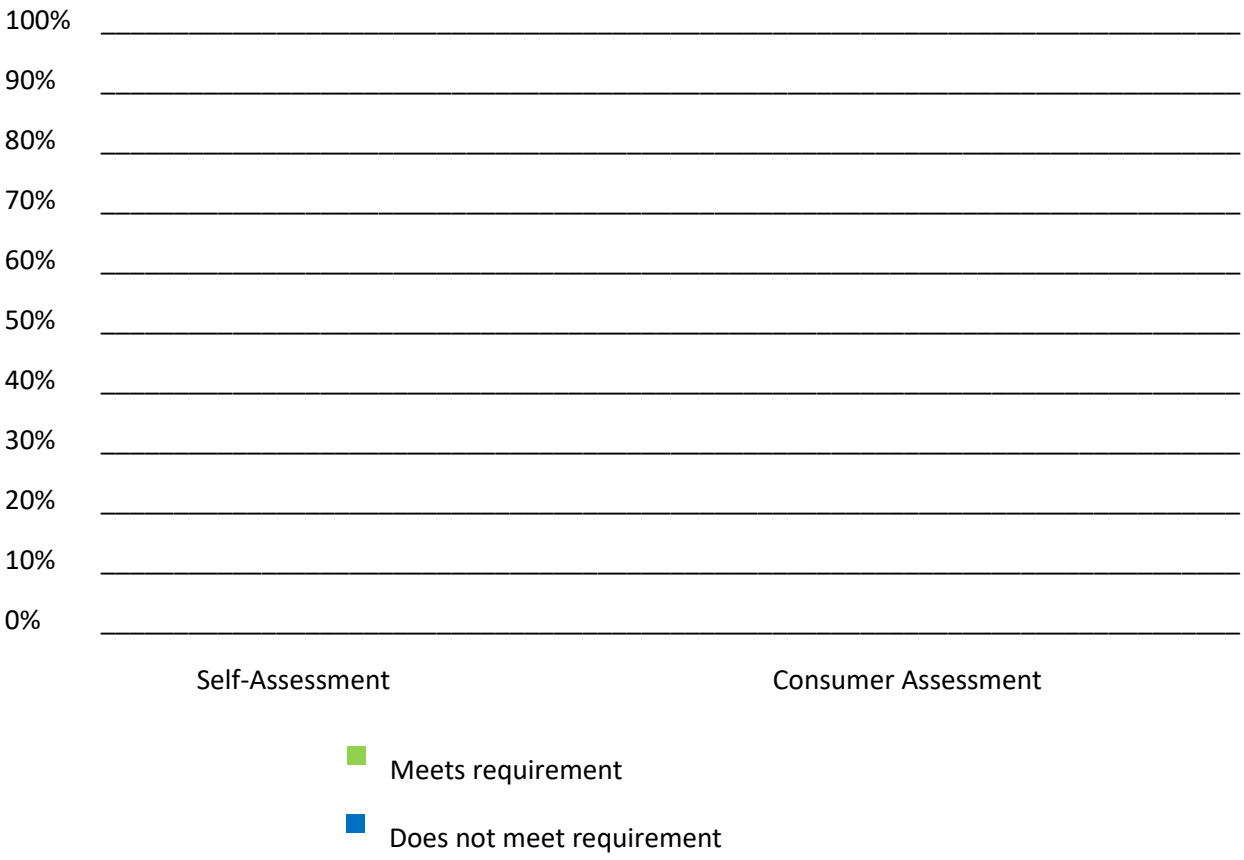
Setting Selection



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

Visitors



Total Settings Assessed: 0
Total Consumer Surveys: 0

All settings compliant

Attachment D: Sample Provider Policy Compliance Report

Accessibility

Policy submitted for 1 out of 7 questions

- Fully compliant: 3
- Not Fully compliant: 4

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do individuals have full access to typical facilities in a home such as a kitchen, cooking facilities, dining area, laundry, and comfortable seating in the shared areas?
2) For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheelchairs, viable exits for emergencies, etc.?
3) Does the setting ensure that there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?
4) Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are their environmental adaptations such as a stair lift or elevator to ameliorate the obstruction?
5) Are appliances accessible to individuals (e.g., the washer/dryer are front loading for individuals in wheelchairs)?
6) Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?

Autonomy

Policy submitted for 0 out of 3 questions

- Fully compliant: 0
- Not fully compliant: 3

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Does the setting optimize interaction, autonomy and independence in making life choices?
2) Are individuals given information to assist them to make informed decisions?
3) Are individuals learning skills to enable them to maximize independence?

Choices

Policy submitted for 3 out of 4 questions

- Fully compliant: 3
- Not fully compliant: 1

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are individuals aware of how to make a service request?

Integration

Policy submitted for 5 out of 15 questions

- Fully compliant: 7
- Not fully compliant: 8

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is the setting integrated in and supportive of the same degree of access to the greater community for individuals whether or not they receive Medicaid HCBS?
2) Do individuals shop, attend religious services, schedules appointments, have lunch with family and friends, etc., in the community, as they choose?
3) Do individuals in the setting have access to public transportation? If not, are other resources provided for the individual to access the broader community?
4) Does the setting offer opportunity for individuals to receive multiple types of services and activities OFF-site and not setting-operated, including day services, medical, behavioral and social/recreational services? (Note: If most of the individuals receive multiple types of services and activities ON-site, then answer "No" to this question.)
5) Is the setting in the community among other private residences, retail businesses?
6) Does the setting provide opportunities to engage in community life?
7) Are individuals aware of or have access to materials to become aware of activities occurring outside of the setting?
8) Is the individual employed or does the individual attend day services outside of the setting?
9) Do individuals work in an integrated community setting?
10) If an individual is of working age, are there activities with the individual to pursue work as an option?

Lease

Policy submitted for 1 out of 3 questions

- Fully complaint: 0
- Not fully compliant: 3

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is there a legally enforceable agreement comparable to a lease?
2) Does the written agreement include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Do individuals know their rights regarding housing and when they could be required to relocate? **Note:** Residency agreement submitted, describes on page 12 section 4 why and how the agreement can be ended, by who. Additionally, it also lists who to contact if an issue arises.

Location

Policy submitted for 0 out of 2 questions

- Fully complaint: 2
- Not Fully Compliant: 0

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is the setting in a public or privately-owned facility that provides inpatient treatment?
2) Is the setting on the grounds of, or immediately adjacent to a publicly-funded healthcare institution?

Locks

Policy submitted for 0 out of 3 questions

- Fully compliant: 0
- Not fully compliant: 3

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do the rooms have lockable entrance doors, with individuals and staff

having keys as needed?
2) Can individuals close and lock the bedroom door?
3) Can individuals close and lock the bathroom door?

Modifications

Policy submitted for 0 out of 4 questions

- Fully compliant: 0
- Not fully compliant 4

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are modifications of the setting requirements for an individual supported by an assessed need and justified in the person-centered plan?
2) Does documentation note if positive interventions and supports were used prior to any plan modifications?
3) Are less intrusive methods of meeting the need that were tried initially documented?
4) Does the plan include a description of the condition that is directly proportional to the assessed need, data and information to support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?

Personalization

Policy submitted for 0 out of 3 questions

- Fully compliant: 3
- Not fully compliant: 0

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do individuals have freedom to furnish their sleeping units?
2) Are individual's personal items, such as pictures, books, and memorabilia are present and arranged as they desire?
3) Do the furniture, linens, and other household items reflect the individual's personal choices?

Person-Centered Planning

Policy submitted for 1 out of 5 questions

- Fully compliant: 0
- Not fully compliant: 5

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is/are the individual/chosen representative(s) aware of how to schedule Person-Centered Planning meetings?
2) Can individuals and chosen representatives explain the process to develop and update their plan?
3) Were individuals present during their last planning meeting?
4) Did/does the planning meeting occur at a time and place convenient individuals to attend?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Does the individual, or a person chosen by the individual, have an active role in the development and update of the individual's person-centered plan?
Note: Intake policy submitted which discusses an individual assessment and plan determined by resident's needs. Does not speak meetings or updating of plan

Privacy

Policy submitted for 3 out of 5 questions

- Fully compliant: 4
- Not fully compliant: 1

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are there opportunities for individuals to have privacy?
2) Do individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Can an individual have private visits with family and friends?
Note: Resident handbook and policy submitted. Residents can use any public space in setting for visits and their room for visits. Policy does have limits on visiting times

Rights

Policy submitted for 7 out of 11 questions

- Fully compliant: 8
- Not Fully compliant: 2

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Does the setting ensure freedom from coercion and restraint?
2) Are individual's comfortable discussing concerns?
3) Is informal (written and oral) communication conducted in a language that individuals understand?
4) Does staff ensure that conversations about individuals occur privately and not within earshot of other persons living in the setting?

Roommate

Policy submitted for 4 out of 4 questions

- Fully compliant: 1
- Not fully compliant: 3

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Do individuals have choice of roommates?
Note: Policy submitted on changing of rooms and reasons why. Allows for choice of roommates within possible options

2) Do individuals have their own bedroom?
Note: Residency agreement states choice of room options and sharing of rooms.

3) If not, are individuals given a choice of a roommate? (Note: For individuals who room-share)
Note: Residency agreement states choice of room options and sharing of rooms.

Schedule Control

Policy submitted for 8 out of 11 questions

- Fully compliant: 5
- Not fully compliant: 6

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Do individuals have control over their schedules?
2) Do individuals have access to such things as a television, radio, and leisure activities that interest them, and can they schedule such activities at their convenience?
3) Can individuals request an alternative meal if desired?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Do individuals schedule his/her days of service and or arrival and departure times based on his or her preferences?
Note: Submitted information about signing out to attend community activities and maintaining previous community activities. Also submitted RI resident rights
2) Are individuals able to follow their own flexible (i.e., not set) schedule for waking, bathing, eating, exercising, activities, etc.?
Note: Policy for eating states" meals are served as follows Breakfast 8:00, lunch 12:00 and dinner 5:00. if you are not present at the time no meal will be saved,"
3) Do individuals have a meal at the time and place of his/her choosing?
Note: Policy for eating states" meals are served as follows Breakfast 8:00, lunch 12:00 and dinner 5:00. if you are not present at the time no meal will be saved,"
4) Can individuals sit in any seat in a dining area? (no assigned seats)
Note: Policy submitted states that residents have assigned seats for all meals, and must ask permission to sit elsewhere
5) If an individual desires to eat privately, can s/he do so?
Note: Policy submitted which states client can eat in their room if ill, must pay extra if a tray is sent to room for other reasons.

Setting Selection

Policy submitted for 0 out of 2 questions

- Fully compliant: 2
- Not fully compliant: 0

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Are individuals given a choice of available options regarding where to live/receive services?
2) Were individuals given opportunities to visit other settings?

Visitors

Policy submitted for 2 out of 3 questions

- Fully compliant: 1
- Not fully Compliant: 2

POLICY NOT SUBMITTED FOR THE FOLLOWING QUESTIONS:

1) Is the furniture arranged as an individual prefers and does the arrangement encourage the comfort and conversation with visitors?

POLICY NOT FULLY COMPLIANT FOR THE FOLLOWING QUESTIONS:

1) Are individuals able to have visitors at any time?
Note: Policy on visitors states that visitors are permitted only at "reasonable hours and any after- hours visits must be approved by administrator."

2) Are visitors welcomed and encouraged?
Note: Visitors are encouraged but policy limits time visitors can come

Attachment E: Heightened Scrutiny Grid

Setting	Address	Reason
Cortland Place (now Stillwater Assisted Living and Skilled Nursing Community)	20 Austin Ave, Greenville, RI 02828	Setting• Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care.
Scandinavian Home	50 Warwick Ave, Cranston, RI 02905	Setting• Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Forest Farm Assisted Living	191 Forest Dr. Middletown, RI 02842	Setting• Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Brookdale Assisted Living/South Kingstown	1959 Kingstown Road, South Kingstown, RI 02879	Setting• Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Tockwotton on the Waterfront Assisted Living	500 Waterfront Dr, East Providence, RI 02914	Setting• Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care
Winslow Gardens Assisted Living	40 Irving Ave. East Providence, RI 02914	Setting• Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care

Attachment F: Heightened Scrutiny Questions

Question	Assisted Living Response Y/N	Response	Evidence	Public Comment	Consumer Comment	DOH surveyors/Alliance Validation
Is there a separate entrance or a separate address for the AL?						
Is there a separate administrator, administrator's license, corporation or corporate structure?						
Are the policies and procedures for the AL separate and distinct from the NH?						
Is there an overlap between AL staff and NH staff?						
What training is provided to AL regarding services, philosophy? Is the training different from NH?						
What is access to transportation? Is public transportation an option?						
Do residents have the ability to engage in outside community activities, to the degree the person has interest in? These activities should NOT only be those organized by the setting.						
Are AL community activities, meals separate from those of the NH?						

Question	Assisted Living Response Y/N	Response	Evidence	Public Comment	Consumer Comment	DOH surveyors/Alliance Validation
Are the activities that the person engages in, in the community, do they foster additional relationships with community members?						
Are there additional options for services such as transportation?						
Would others in the community see the setting as part of the community not just for people with a disability?						
Is the setting integrated with other residential, community sites?						
What are the policies /procedures for an individual's ability to engage in community activities/individual activities						
Facility has notified each resident/family of heightened scrutiny.						

Facility Name:

Assessor:

Date:

Attachment G: HCBS Final Rule Ombudsman Questions – Residential

Question	Instructions	Response
1. Are grievances policies posted in accessible areas (i.e., near elevators, front desk, etc.)?	Observe the setting and ask for assistance as to where the grievance policies are located.	
2. Do residents appear to be dressed in appropriate clothing for the time of year and are they well groomed?	Observe the setting and the residents.	
3. Is the setting physically accessible both to enter and within the building?	Are there any visible restrictions to certain areas of the setting or would an individual in a wheelchair have difficulty entering the building?	
4. Is the setting in the community among other private residences, retail businesses?	Observable.	
5. Is staff interacting with respect? How are staff addressing participants?	Observe how the staff are interacting with the residents.	
6. How do residents get involved in planning activities?	Engage in a conversation with a resident and ask them about their experiences getting involved with activities.	

Attachment H: HCBS Final Rules Participant Questions: Residential

HCBS Final Rules Participant Questions – Residential	
Question	**Response**
1. **Integration** a. Are you able to go out for fun? b. Are you able to choose the activities that you do? c. Are you happy with how often you are able to go out? d. What are some of the things that you usually do? **PROBE:** *Do you get to tell staff your favorite things to do while they are making the activities schedule?* **Is the individual able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** a. Did you have a choice of locations or settings before moving to this home? b. Do you like where you live? c. 1. Are you able to pick your staff? 2. Are you able to choose your aides? **PROBE:** *Were you asked if you wanted to stay or live in a home/apartment with help from family or staff?* *What happens when you don't like your staff?* **C1: For BHDDH Participants, C2: For OHHS/DEA Clients. **Was the individual given the opportunity to explore living options in a non-disability specific setting? What does the process look like if the participant doesn't like their staff?	
3. **Rights/Privacy** a. Are you treated with respect? b. Do you feel important? c. Where do you go if you want privacy or want to have private conversations? d. Can you talk on the phone without anyone listening? **PROBE:** *Does the staff monitor all of your phone calls?* **How much opportunity is there for the participant to have privacy?	
4. **Autonomy/Schedule Control** a. Who decides your schedule each day (like when to wake up, eat, etc.)? b. Can you pick out what you want for snacks and meals?	

HCBS Final Rules Participant Questions – Residential	
Question	**Response**
c. Are you able to stay home if you don't want to go to your day program or schedule activities? **PROBE:** *What happens if you don't want to go bowling or to the beach?* **Does the participant have control over their schedule?	
5. **Visitors** a. Are you able to have visitors at any time? b. Has there ever been a time when you were not allowed to have a visitor? **PROBE:** *What happened the last time you had a visitor?* **Is the participant restricted to when they have visitors?	
6. **Roommates** a. How did you pick your roommates or housemates? **PROBE:** *Do you like your roommate?* **What is the option for the participant to make a change if they don't like their roommate?	

Other HCBS Final Rules Requirements:

1. Lease requirement – we can ask the provider for a sample lease
    a. Does the individual have appeal rights and the rights of a Tenant? **Y N (Circle One)**
    b. Does the lease give the resident the option of having a lock on their door? **Y N (Circle One)**
2. Accessibility – this can be observed in the setting
    a. Are participants able to move around the building/facility freely? **Y N (Circle One)**
3. Locks – this can be observed in the setting
    a. Observable on participants doors in a residential setting
4. Personalization – this can be observed in the setting
    a. Does the individual have pictures, posters, or personal trinkets set up in their room? **Y N (Circle One)**
    b. If no, does the individual have their room decorated as they'd like it to be? **Y N/A (Circle One)**
5. Modifications – this will need to be a person-centered plan review

Attachment I: HCBS Final Rule Participant Questions: Non-Residential

HCBS Final Rule Participant Questions – Non-Residential	
Question	**Response**
1. **Integration** a. Are you offered opportunities to participate in activities you enjoy outside of the building? b. How often are you offered the opportunity to go out? c. What types of things do you usually do? **PROBE:** *Do you get to tell staff your favorite things to do while they are making the activities schedule?* **Is the individual able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** a. Were you given a choice of other places to go? b. 1. Are you able to pick your staff? 2. Are you able to choose your aides? **PROBE:** *Were you asked if you wanted to go to a senior center with supports and staff instead of adult day?* ****B1: For BHDDH Participants, B2: For OHHS/DEA Clients. **Was the individual given the opportunity to explore living options in a non-disability specific setting?	
3. **Rights/Privacy** a. Are you treated with respect? b. Do you feel important here? c. Where do you go if you want privacy or want to have private conversations? **PROBE:** *Do you always feel like there is someone listening to your conversations?* **How much opportunity is there for the participant to have privacy?	
4. **Autonomy** a. Who decides the activities you do when you are here? **PROBE:** *What happens if you don't like any of the activities on the schedule?* **Does the participant have freedom and choice over their schedule?	

Attachment J: HCBS Final Rule Staff Questions

HCBS Final Rule Staff Questions – Residential	
Question	**Response**
1. **Integration** e. What steps do you take to include individuals in community activities of their choosing? f. How often do individuals go out? g. How do they get there? **Is the individual able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** d. Can individuals come and visit before choosing this setting? e. Can individuals pick their staff? f. If an individual wanted to make a change to their service or provider, how would they do that? **Was the individual given the opportunity to explore options in a non-disability specific setting? What does the process look like if the participant doesn't like their staff?	
3. **Rights/Privacy** e. Where can individuals go to have privacy? **How much opportunity is there for the participant to have privacy?	
4. **Autonomy/Schedule Control** d. How do individuals dictate their daily schedule (when to wake up, eat, etc.)? e. Do the individuals choose their own meals? f. What happens if an individual wants to stay home from their day program? g. Are there any activities the individuals are required to attend? **Does the participants have control of their schedule?	
5. **Visitors** c. How often do individuals have visitors? d. How do you make it known to the individuals that they can have visitors of their choosing at any time? e. Where can people meet alone with their visitors? **Is the participant restricted to when they have visitors?	
6. **Roommates** b. How do individuals pick new roommates or housemates? **What is the option for the participant to make a change if they don't like their roommate?	

Other HCBS Final Rules Requirements:

1. Lease requirement – we can ask the provider for a sample lease
    a. Does the individual have appeal rights and the rights of a Tenant?
    b. Does the lease give the resident the option of having a lock on their door?
2. Accessibility – this can be observed in the setting
    a. Are participants able to move around the building/facility freely?
3. Locks – this can be observed in the setting
    a. Observable on participants doors in a residential setting
4. Personalization – this can be observed in the setting
    a. Does the individual have the opportunity to decorate with pictures, posters, or personal trinkets set up in their room?
5. Modifications – this will need to be a person-centered plan review

HCBS Final Rule Staff Questions – Non-Residential	
Question	**Response**
1. **Integration** d. Who decides what community-based activities are offered? e. How are individuals encouraged to communicate the activities that they want to do? f. How often are community activities offered? **Are participants able to help create the schedule rather than choosing from a schedule created by staff?	
2. **Setting Selection/Choice** c. Can individuals come and visit before choosing this setting? d. Can individuals pick their staff? e. If an individual wanted to make a change to their service or provider, how would they do that? f. Are there any restrictions to a participant choosing which days they attend the program? **Was the participant given the opportunity to explore living options in a non-disability specific setting? Or was the participant given the option to go to a senior center with support rather than go to an adult day? Are participants unable to pick the days they want to attend due to a full census?	
3. **Rights/Privacy** d. Where can individuals go to have privacy? **How much opportunity is there for the participant to have privacy?	
4. **Autonomy** b. How do individuals choose their activities when they are here? **Does the Participant have control over their schedule?	

Attachment K: Feedback Grid (2018)

Comment	Contributor	Received	State Response
I am not sure if anyone else noticed but on page I Table of Contents: Attachment C - Compliance is spelled incorrectly - Provider Compliance Report	Linda Haley	7/10/2018	The spelling error has been corrected
Can you please refer to AL's as communities or residences vs facilities? Is the RI HCBS Database open to the public or available through a FOIA request? On page 13 under Heightened Scrutiny/ Residential Settings/Assisted Living states there are 12 buildings subject to heightened scrutiny but the chart on page 15 lists 11 and attachment F lists 10. RI HCBS Transition 1115 plan page 8 & 9 Milestones section #3 and #5 did you want to update the posting of communities undergoing Heightened scrutiny compliance and submission dates to match the narrative?	Kathleen Kelly	7/9/2018	All reference where the term facilities has been removed if not supported by terminology used in regulations. The numbers for the heightened scrutiny settings has been corrected to read 8 throughout the plan. The number is reflective of new information received from CMS
I would recommend removing Neighborhood's name from the document and just refer to Managed Care Organizations.	Sandra Fournier	7/9/2018	The wording has been clarified as Neighborhood is still a provider of LTSS through the Integrity program (MMP). Additional definition has been provided as to other MCO's roles
A question -- Attachment C, results of self and consumer assessments -- these charts look blank. I recall seeing comparison graphs. Is that what you meant to attach? Also, another small thing: On p, 13, the Sherlock Center is referred to as "a quasi-state agency." I am not sure that is accurate. We are Rhode Island's University Center for Excellence in Developmental Disabilities (UCEDD). See this link for description of UCEDDs https://www.aucd.org/template/page.cfm?id=667 [aucd.org] -- core funding is federal.	Claire Rosenbaum	8/08/2018	The State is adding actual assessments of settings that were reviewed, with names removed. In addition, the State has also changed the definition of the Sherlock Center using the University Center for Excellence in Developmental Disabilities

Comment	Contributor	Received	State Response
As noted, while the Transition plan was disseminated to the Task Force and posted to the EOHHS website, I did not see, nor could I find public notice of the comment period. It may have been in the paper, but it does not currently accompany the posting of the Transition Plan, nor can I find this on the EOHHS webpage. A broader public notice of the plan and the comment period might have generated more public comment. How would any interested party know how and where to go to look for this plan? If they did come across it, how would they know about any opportunity to provide comment? When, how and where to do this?	Claire Rosenbaum	08/08/2018	The State acknowledged that the Transition Plan was not posted on the EOHHS Website. This was corrected on 8/8/2016.
I know that early on there was a plan to use RI college and university interns to assist with the monitoring compliance. You stated verbally that this plan was abandoned and the mention of it on page 3 and page 17 should have been deleted. You assured us this will be deleted in the final submission to CMS. College interns typically would not have the depth of knowledge of the HCBS rules and experience with the populations served to be effective monitors.	Claire Rosenbaum	08/08/2018	The State has removed these sections from the Transition Plan.
For elders, there is a plan to use the Long-Term Care Ombudsman office to assist with the consumer portion of monitoring, but there is not a similar clear plan for gathering consumer survey data for the DD population. Experience with interviewing people with non-traditional methods of communication is crucial to getting good information from this population. There should be more detailed plan for training interviewers for the DDD population, or assurances that any interviewers will already have this expertise.	Claire Rosenbaum	08/08/2018	BHDDH is using a new computerized system which will allow for closer oversight of services and quality of services that members in the DD community are receiving. Please see page 20 of the Transition Plan.
Validation of providers self-assessment was obtained through consumer surveys. Yet the response rate was only 10%, admittedly well below the state's desired response rate of 30%. As we move forward, there should be planned efforts to gather more than the 10% consumer feedback to validate provider self-assessment. It is possible that with better consumer education, more consumers will voluntarily participate with survey process. Using interviewers skilled and trained in communicating with non-traditional communication may also help get a higher consumer response rate.	Claire Rosenbaum	08/08/2018	See comment above and page 20 of the Transition Plan that addresses concern.

Comment	Contributor	Received	State Response
As a member of the Task Force, I have seen a report of aggregate statewide data filling the fields in attachment C – a comparison of provider self-assessment and consumer assessment. This was likely over a year old now, but it gives a "moment in time" snapshot of areas of non-compliance and also discrepancies between provider and consumer response. It would be good to include that document, with explanation, as attachment C rather than the blank tool, which is not very informative. Some notable discrepancies in the DD population data between providers and consumers were in the areas of rights, choice, privacy, person-centered planning, and required consent and documentation in plans when modifications to rules occur. In these areas, consumers report much less compliance than provider self-assessment, making it even more important to ensure robust consumer feedback as part of ongoing monitoring in the future.	Claire Rosenbaum	08/08/2018	The aggregate data that was collected from the ID/DD providers has been included in this version of the State Transition plan and is available on page 82. The State will be working on detailing and finalizing an ongoing system of consumer feedback and the oversight that is built into all programmatic oversight for Medicaid funded HCBS programs

Comment	Contributor	Received	State Response
In assessing settings for heightened scrutiny, it is obvious when a setting is located in or on the grounds of a facility providing institutional treatment. RI settings with those features have been clearly identified for heightened scrutiny. However, it is unclear how the state determined if settings did not have the “effect of isolating individuals” – the third prong of heightened scrutiny criteria. If a group home or assisted living center is in a rural setting, not very near neighbors, and residents do not have easy access to transportation when they need or want it, a setting could “have the effect of isolating.” It does not seem as though those settings have been identified for heightened scrutiny.	Claire Rosenbaum	8/8/2018	All DD settings need to come into compliance with HCBS, including any DD group home in a rural setting. Having the "effect of isolating individuals", can happen in any setting not just a rural setting. All settings need to have policies in place to meet HCBS compliance and these policies must be implemented. The initial assessment of all DD settings consisted of policy reviews and provider self-assessment surveys completed at each DD group home. Surveys were also completed with individuals living in the group homes receiving services. Based on the initial assessment, the only DD group homes that were found not in compliance or unable to ever come into compliance were the "Special Care" facilities, which were determined to have both the qualities of an institutional setting and having the effect of isolating individuals. All other settings were found to be in partial compliance with HCBS, meaning policies need to be updated or in some cases a new policy is needed.

Comment	Contributor	Received	State Response
			Implementation of the new policies will be required for the setting to meet full compliance. The DD division believes that all other settings can come into full compliance even if the setting is in a rural setting. All DD individuals must have full access to the community and have full access to both print and news media, computers and telephones. Also, DD individuals must have privacy in using the phone or computer. CMS is requiring all states to come into full compliance by March 2022. RI is expected to come into full compliance with all HCBS requirements before the national deadline. Currently, BHDDH and OHHS are in the process of updating the HCBS timeline. RI has recently amended the DD regulations which has caused a delay in providers updating their policies to meet HCBS requirements. Once the providers come into full compliance, the setting must always meet HCBS regulations. Through licensing and ongoing quality reviews, the State will require the settings to remain in compliance with HCBS..

Comment	Contributor	Received	State Response
			If a setting is found not compliant through quality reviews, the State will require the provider to make the necessary changes

Attachment L: Feedback Grid (2020)

Comment	Contributor	Received	State Response
Will the group Stakeholder continue to meet monthly ? It states here and throughout the transition plan that the group continues to meet monthly. To my knowledge last meeting was the summer of 2019(page 3)	Claire Rosenbaum	1/27/2020	Yes, the state stakeholder meetings will continue to meet. As the process continues and the restrictions/focus related to COVID 19 are decreased, meetings will resume through virtual platforms
Chart (page 5) seems like the consumer survey rate(17%) is low for shared living and no on site reviews. What attempts can we put into place to get a higher rate of consumer survey participation? **It will be particularly important to get validation of self reporting in these settings, since unlike congregate settings, there are very few "eyes" on the person and their support provider**	Claire Rosenbaum	1/27/2020	The State is reviewing these numbers as it maybe an error on our part The State will review the request for validation of self reporting. Currently, the state requires that the licensed is required to provide oversight of the SLA and is required to have regular interaction with both the individual and the provider.

Comment	Contributor	Received	State Response
P5-6 While policy review can give some indication of settings rules implementation, sometimes practice does not comport with policy for practical reasons-e.g., policy might say a person has autonomy and choice around going places of their choosing, but staffing patterns or access to transportation may make going places of a person's choosing impossible. **Important to validate with consumers in every setting that written policy in every setting is implemented**	Claire Rosenbaum	1/27/2020	The State agrees that onsite reviews will be necessary in addition to policy reviews when ongoing monitoring is in place.
P6- 18% community residences require heightened scrutiny? Page 16 chart says 0. **Seems like a discrepancy. Which is correct?**	Claire Rosenbaum	1/27/2020	Corrected, error on the state's part.
Page 14 refers to the Paul V Sherlock Center on Disabilities as a "quasi-state agency." The Sherlock Center on Disabilities is not a state agency(quasi or otherwise) , but RI's University Center for Excellence on Developmental Disabilities (UCEDD).All states have at least one UCEDD, funded by the Administration on Intellectual and Developmental Disabilities, a Division of the US Department of Health and Human Services .	Claire Rosenbaum	1/27/2020	Corrected

Comment	Contributor	Received	State Response
Pg.20-Ongoing monitoring -There is a reference here to participant surveys as part of the ongoing monitoring and that BHDDH staff and advocates will receive training on how to administer surveys to participant." I would suggest we acknowledge the literacy and communication challenges inherent in this population and **specify that surveys will need to be administered in person and with communication supports which the person typically uses-may need to be participation of a guardian or other advocate to support their communication**	Claire Rosenbaum	1/27/2020	The state has added the following language: As part of the training that is provided on administering the survey there will be topic specific information on the use of appropriate communication tools and advocates to insure that individuals have the opportunity to fully express their experiences and feelings.
P.41 This is a list of advocates rather than a list of providers.	Claire Rosenbaum	1/27/2020	Corrected
Is the state making the submission of Heightened Scrutiny within the second quarter of 2020	Ann Mulready	2/21/2020	The State has corrected the transition plan to reflect submission of the Heightened Scrutiny in the third quarter of 2020
Concern about Page 6 and discrepancy between numbers of settings that have been identified as possible heightened scrutiny and posted in plan	Ann Mulready	2/21/2020	Corrected, error on the state's part.

Comment	Contributor	Received	State Response
Narrative page 16 indicates that the state "has mapped each of the [community]to identify clusters of settings that may have the effect of isolating individuals" From this last statement, we understand that the state determined that some community residences may have met the third category of settings that are presumed to have the qualities of an institution, i.e., "settings that have the effect of isolating individuals" We ask the state to clarify the discrepancy as well as the numbers and kinds of residential settings that will be subject to heightened scrutiny	Ann Mulready	2/21/2020	Many sites that were considered isolating in nature (group homes in close proximity) have been closed as BHDDH moves to a lesser dependence on the group home structure and a more inclusive housing process.
Attachment D – graphs are a helpful visual of compliance with identified indicators . We could not determine whether the first part of the Attachment on Provider compliance covered all residential settings including BHDDH and other day settings (Not including BHDDH)	Ann Mulready	2/21/2020	Attachment D covers all settings, both BHDDH and settings within other OHHS departments

Comment	Contributor	Received	State Response
In addition to the participant questions listed in attachments H and I, we recommend that the state consider using the Potential Outcomes and Measurements Tools identified by the HCBS Advocacy coalition in conjunction with national subject matter experts	Ann Mulready	2/21/2020	The state will share and review with Stakeholder group to determine whether how the state can incorporate the recommendation in the ongoing monitoring and oversight of the HCBS Final Rile requirements. Additionally, the role of Quality Improvement at DD will be further explored as the State moves forward with developing ongoing monitoring. DD would like to build on methods that have been successful elsewhere but would need to adjust them to our specific settings.

Attachment M: Adult Day New Provider letter

Date

Dear

As you are aware CMS has issued the Final Rule on Home and Community Based Services (HCBS) regulations (42 CFR 441.301 and 441.710) ("Final Rule"). The regulations enhance the quality of HCBS, promote community integration, and provide additional protections to individuals that receive services under these Medicaid authorities.

In Rhode Island, the community based settings that were reviewed for compliance with the Final Rule were: Assisted Living Residences, Adult Day Programs, Shared Living, Residential Group Homes, and Day/Employment Programs. The process for review included: a comprehensive review of all applicable State Rules and Regulations concerning these community based settings, a provider self –assessment, followed by a consumer assessment related to their experiences in the setting, and a review of the policies and procedures for each provider agency.

As a new provider of Adult Day Services, your community setting is required to be in compliance with the above referenced Final Rule prior to the opening of your Agency. You have provided the required information in the form of policies, procedures, and other documents. This enabled the State staff to determine that you are in compliance with the HCBS rule. In addition, State staff have visited your Agency prior to its opening and utilized this information as part of the verification process.

Please accept this correspondence as confirmation that your community based setting has met the requirements of the Home and Community Final Rule. This correspondence may be presented to DXC as confirmation of your compliance with the Final Rule. If you intend to become a Managed care provider please provide the plan representative with a copy of this correspondence. If you have further questions or concerns please feel free to contact me at Linnea.Tuttle@ohhs.ri.gov or 401-462-6278.

Respectfully,

Attachment N: Assisted Living Ongoing Provider Letter

Date

Dear

As you are aware CMS has issued the Final Rule on Home and Community Based Services (HCBS) regulations (42 CFR 441.301 and 441.710) ("Final Rule"). The regulations enhance the quality of HCBS, promote community integration, and provide additional protections to individuals that receive services under these Medicaid authorities.

In Rhode Island, the community based settings that were reviewed for compliance with the Final Rule were: Assisted Living Residences, Adult Day Programs, Shared Living, Residential Group Homes, and Day/Employment Programs. The process for review included: a comprehensive review of all applicable State Rules and Regulations concerning these community based settings, a provider self –assessment, followed by a consumer assessment related to their experiences in the setting, and a review of the policies and procedures for each provider agency.

As a provider of Assisted Living Services, your community setting is required to be in compliance with the above referenced Final Rule prior. You have provided the required information in the form of policies, procedures, and other documents. This enabled the State staff to determine that you are appear to be in compliance with the HCBS rule. In addition, State staff have visited your Agency and utilized this information as part of the verification process.

Please accept this correspondence as confirmation that your community based setting has met the requirements of the Home and Community Final Rule. This correspondence may be presented to DXC as confirmation of your compliance with the Final Rule. If you are a Managed care provider please provide the plan representative with a copy of this correspondence. If you have further questions or concerns please feel free to contact me at Linnea.Tuttle@ohhs.ri.gov or 401-462-6278.

Respectfully,

Attachment O: Heightened Scrutiny Letter

(Administrator)
(Facility)
(Address)

Date

Dear

As you are aware CMS has issued the Final Rule on Home and Community Based Services (HCBS) regulations (42 CFR 441.301 and 441.710). The regulations enhance the quality of HCBS, promote community integration, and provide additional protections to individuals that receive services under these Medicaid authorities.
In Rhode Island, the settings that were reviewed for compliance are Assisted Living Residences, Adult Day programs, Shared Living, Residential Group Homes, and Day/Employment programs.
One provision of the rule is that certain settings are presumed to be "**institutional"** if they meet any of the characteristics listed below:

- **Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment; an example would be an Assisted Living or Adult Day program located in a building that provides nursing home care.**
- **Settings in a building on the grounds of, or immediately adjacent to, a public institution; (CMS has further defined public institution as an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.)**
- **Any other setting that has the effect of isolating individuals receiving Medicaid home and community-based services from the broader community of individuals not receiving Medicaid home and community-based services.**

You recently completed a Provider self- assessment which provided the Executive Office of Health and Human Services with information about your facility. With the information from that survey EOHHS was able to determine that your

facility may meet one of the criteria listed above and maybe designated as such a setting. **Being identified as meeting one of the above criteria does not affect anyone currently residing in your Residence. This identification is not a comment on the care provided at your facility.** The **"Institutional**" designation (also known as Heightened Scrutiny) allows for a state to provide evidence to CMS that the setting in question actually meets the HCBS criteria.

Your facility was identified due to the following reason:

The process for providing information to support the State's position that your facility meets the HCBS rule, is for EOHHS to work closely with your facility to gather evidence that provides information on your compliance with the HCBS rule. Information provided can include licensure information, photos, training information, activities calendar, consumer surveys, and availability of community integration, as an example. A member of the HCBS Final rule team will be contacting you to arrange a meeting time to discuss this letter and how we will be working with you.

CMS requires, though not a regulation, the State to post information on facilities designated as Heightened Scrutiny on the EOHHS' website for 30 days and in the Providence Journal. Public comment will be open for 30 days. Please note that all efforts will be made to fully explain that the heightened scrutiny designation is not a comment on quality of care.

Please feel free to call or e-mail myself or other members of the team.

Respectfully,

Attachment P: Ad Order Confirmation

Ad Number:0011139858-01

Color: **Ad Size:** 1 X 8.98 In

Run Date	Product	Placement/Classification - Position
7/13	Providence Journal	PJ CLs Legals- PJ LG Legal Notices
		Sort Text PN TRANSITION
	PJ Projo.com	PJ CIs Legals- PJ LG LegaL Notices
		Sort Text PN TRANSITION

Notice of Public Comment

Public Input into Transition Plan for Home and Community Based services (HCBS) for the Center of Medicare and Medicaid Services (CMS) Final Rule of January 2014

The Executive Office of health and Human Services is adverting for public comments on the proposed updated Transition plan that will be submitted no later than August 31, 2018. The public comment period is July 13, 2018 through August 11, 2018.

In January 2014 the Centers for Medicare and Medicaid Services (CMS) issued a final rule regarding Medicaid funded home and community based long term services (HCBS). The rule requires that each state develop a Transition Plan for compliance with the new rule. Rhode Island is planning to submit an updated transition plan on August 31, 2018. The plan proposes that March 17, 2022 as the date the state will be compliant will the new requirements.

The summary of the Intent of the Final Rule of January 2014 was to ensure that Medicaid HCBS services are provided to individuals in a setting that is integrated and supports full access to the community; is selected by the beneficiary; ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint , optimizes autonomy and independence in making life choices; facilitates individual choice regarding services and supports, and who provides them: and where possible , the person leads the process of developing his or her service plan.

The original transition plan and any updates can be obtained through the following means:

1. EOHHS website for Home and Community Based Services, http://eohhs.ri.gov
On the main page search In itiative. Scroll down to HCBS Final Rule. The orig inal plan and all updates are there. The most recent addition is dated 6/17/2018
2. Request a version by contacting: Linnea Tuttle
Chief, Health Systems De velopment
Executive Office of Health and Human Services
3 West Road
Cranston, RI 02920
401-462-6278
Fax: 401-462-4266
E-Mail: Linnea.Tuttle@ohhs.ri.gov

Eric J. Beane, Secretary
Signed this 6th day ol July 2018

Attachment Q: DD Policy Review Tool

DDO Policy Review Tool - HCBS Final Rule

DDO Name:

Evaluator's Name: **Review Date:**

Instructions: *Complete notes on policy content, best practices, areas for improvement, etc. as needed. Then mark one description per row that most accurately represents the policy content.*

REQUIREMENTS FOR ALL SETTINGS

Notes (best practices, areas for improvement, etc.)	1 Meets Requirements	0 Improvement Needed
INTEGRATION:	☐ The submitted policy(ies) promote individuals' integration into the local community and communities of choice, in areas such as ❑ physical access ❑ appearance of integration ❑ personal relationships ❑ transportation ❑ level of staff support ❑ community resources and activities	☐ The submitted policy(ies) inhibit individuals' integration into the local community and communities of choice in one or more areas, such as ❑ physical access ❑ appearance of integration ❑ personal relationships ❑ transportation ❑ level of staff support ❑ community resources and activities
SETTING SELECTION:	☐ The submitted policy(ies) reflect that ❑ individuals are free to select settings based on their needs and desires ❑ disability-specific settings are just one option among others ❑ individuals' choices are not limited to settings operated by their residential provider	☐ The submitted policy(ies) reflect that individuals' selection of settings is in some way limited by factors such as ❑ intellectual ability ❑ desires of family ❑ diagnosis ❑ residential provider
THE RIGHTS RULE:	☐ The submitted policy(ies) ❑ identify at least the rights to privacy, dignity, respect, and freedom from coercion and restraint ❑ specify the way(s) in which individuals are made aware of their rights ❑ specify how individuals should report violations of their rights	☐ The submitted policy(ies) ❑ do not identify at least the rights to privacy, dignity, respect, and freedom from coercion and restraint or ❑ do not specify the way(s) in which individuals are made aware of their rights or ❑ do not specify how individuals should report violations of their rights

Notes (best practices, areas for improvement, etc.)	1 Meets Requirements	0 Improvement Needed
AUTONOMY:	☐ The submitted policy(ies) optimize individuals' initiative, autonomy, and independence in making life choices, including ❑ daily activities ❑ interactions with others ❑ going places of one's choosing ❑ other personal choices	☐ The submitted policy(ies), in one or more ways, restrict individuals' initiative, autonomy, or independence in making life choices, including ❑ daily activities ❑ interactions with others ❑ going places of one's choosing ❑ other personal choices
CHOICE IN SERVICES AND SUPPORTS:	☐ The submitted policy(ies) ❑ align with individuals' freedom to choose services and supports based on their needs and desires, including who provides the services and supports ❑ reflect the provider's role as a resource for individuals in choosing services and supports	☐ The submitted policy(ies) in some way(s) ❑ restrict individuals' freedom to choose services and supports based on their needs and desires, or **who** provides the services and supports ❑ reflect the provider's role as a determiner of the individuals' services and supports
PERSON-CENTERED PLANNING:	☐ The submitted policy(ies) have:	☐ The submitted policy(ies) lack one or more of these elements
	❑ Reflect **both** phases of person-centered planning (the process and the service plan) ❑ Reflect that individuals lead the process and determine the involvement of representatives, subject to any representative's legal authority ❑ Support a process that is timely and convenient for individuals ❑ Respect individuals' cultural backgrounds and language abilities ❑ Reflect proper handling of disagreement and include guidelines for dealing with conflict(s) of interest ❑ Support informed choice for individuals about services, supports, and who provides them ❑ Include a method for updating plans as individuals desire ❑ Specify that alternative home- and community-based settings considered by individuals must be documented ❑ Are aligned with DDD-required content for the ISP (see technical bulletin) ❑ Are aligned with service plans that ○ Reflect services and supports to meet needs identified through an assessment of functional need ○ Reflect that the setting in which the individual resides was chosen by the individual ○ Reflect paid and unpaid ("natural") supports ○ Are understandable to the individual and the persons supporting the individual ○ Identify the individual and/or entity responsible for monitoring the plan ○ Are finalized, agreed to, and signed by the individual and the providers responsible for its implementation ○ Are distributed to the individual and other people involved in the plan ○ Include any services the individual self-directs ○ Prevent unnecessary or inappropriate services from being provided ○ Document any modification to the requirements for residential settings owned or controlled by the provider ○ Are reviewed a) at least every 12 months; b) when the individual's circumstances or needs change significantly; or c) at the request of the individual Are revised upon reassessment of functional need	

ADDITIONAL REQUIREMENTS FOR RESIDENTIAL SETTINGS OWNED OR CONTROLLED BY THE PROVIDER

Notes (best practices, areas for improvement, etc.)	1 Meets Requirements	0 Improvement Needed
LEASE/RESIDENCY AGREEMENT	☐ The submitted policy(ies) support leases/residency agreements that ❑ outline protections against eviction/discharge/transfer, including appeal process ❑ are signed by individual/representative and provider ❑ identify the rights and responsibilities of individual and provider ❑ are copied to individual and individual's record ❑ provide the same protections regardless of privately owned, State owned, or SLA residence	☐ The submitted policy(ies) lack a provision for leases/residency agreements or any one of these required elements of a lease/residency agreement
PRIVACY IN LIVING UNIT	☐ The submitted policy(ies) support privacy in the individual's living unit through ❑ **lockable entrance doors** ❑ accommodation of individuals who are unable to use locks ❑ responsible use of keys ❑ practice of knocking and asking permission before entering ❑ staff training regarding privacy in living units ❑ agreement about which staff may enter locked living units ❑ **individuals choosing their roommates**, which must be documented in ISP ❑ addressing requests for private rooms ❑ **freedom to furnish living unit as desired** ❑ rules about furnishing included in lease/residency agreement	☐ The submitted policy(ies) impede the individual's privacy in living unit through inadequate treatment of lockable entrance doors, choice of roommate, or freedom to furnish living unit as desired
SCHEDULE CONTROL	☐ The submitted policy(ies) support schedule control through ❑ avoidance of regimentation and control by the provider ❑ assurance of individuals' **access to food** at any time ❑ promotion of individual initiative in use of time	☐ The submitted policy(ies) ❑ restrict schedule control, including **access to food**, in some way ❑ assume provider control and initiative in use of time

Notes (best practices, areas for improvement, etc.)	1 Meets Requirements	0 Improvement Needed
VISITORS	The submitted policy(ies) ❑ specify that the individual may have visitors of their choosing at any time ❑ protect the individual's right to privacy during visits	The submitted policy(ies) ❑ do not specify that the individual may have visitors of their choosing at any time ❑ do not protect the individual's right to privacy during visits
PHYSICAL ACCESSIBILITY	☐ The submitted policy(ies) ❑ require that individuals who live in the residence are able to physically access it ❑ assure reasonable supports for current and prospective residents who are unable to enter the residence without supports	☐ The submitted policy(ies) ❑ do not require that individuals who live in the residence are able to physically access it ❑ do not assure reasonable supports for current and prospective residents who are unable to enter the residence without supports
MODIFICATIONS	☐ The submitted policy(ies) require all of the following elements for any modification of the additional requirements for residential settings:	☐ The submitted policy(ies) do not require one or more of these elements for any modification of the additional requirements for residential settings:
	❑ identifying a specific and individualized assessed need ❑ documenting positive interventions and supports and less intrusive methods which were unsuccessful ❑ documenting in the ISP a clear description of the intervention that is directly proportionate to the assessed need ❑ regularly reviewing data to measure the ongoing effectiveness of the modification ❑ establishing time limits for periodic reviews of the modification to determine if it is still necessary ❑ ensuring informed consent and lack of harm to the individual from the modification	