

Ohio's Draft Plan to Comply with New Federal Home and Community Based Services Requirements

December 15, 2014

State Overview

Governor John Kasich created the Office of Health Transformation (OHT) to lead the Administration's efforts to modernize Medicaid and streamline health and human services programs. Using an innovative approach that involves collaboration among multiple state agency partners and a set of shared guiding principles, reform initiatives are improving services, thus enabling seniors and people with disabilities to live with dignity in the setting they prefer, especially their own home.

A recent study of states participating in the federal Money Follows the Person program reports Ohio is a national leader in transitioning residents who want to move out of institutions and into home and community based settings. Ohio's HOME Choice program ranks first among states in transitioning individuals with mental illness from long-term care facilities into alternative settings, and second overall in the number of residents moved from institutions into home and community based settings.

Ohio has joined the federal Balancing Incentive Program (BIP) and achieved the goal of spending at least 50 percent of the state's Medicaid long-term care budget on home and community based services (HCBS) one year ahead of the September 2015 target date. In addition, this initiative will create "no wrong door" for accessing services and provide more individuals with new opportunities for HCBS care.

On January 16, 2014, the Centers for Medicare and Medicaid Services (CMS) published 42 CFR 441.301(c) (4)-(6) in the Federal Register, which details new requirements that settings must meet in order to be eligible for reimbursement for Medicaid HCBS provided under sections 1915 (c), 1915 (i), and 1915 (k) of the Social Security Act.

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

Ohio administers nine HCBS waiver programs that are impacted by the new regulations: Assisted Living, Individual Options, Level One, MyCare Ohio, Ohio Home Care, PASSPORT, Self-Empowered Life Funding (SELF), Transition Carve-Out (TCOW) and Transitions Developmental Disabilities (TDD).

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

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

Section I summarizes the state's preliminary assessment activities and proposed remediation strategies for the ICF/IID system. The proposed action steps and timelines for the statewide transition plan for the ICF/IID system are outlined in the remediation grids (Appendices 1-2). The proposed timelines are contingent upon CMS approval of the plan.

Section II summarizes the state's preliminary assessment activities and proposed remediation strategies for the NF-LOC system. The proposed action steps and timelines for the statewide transition plan for the NF-LOC system are outlined in the remediation grids (Appendices 3-4). The proposed timelines are contingent upon CMS approval of the plan.

Section III describes the public process for both systems.

Section IV will contain the summary of the required public comment process.

Section I: ICF/IID Waiver System

Introduction

The DODD operates four HCBS waivers, each of which requires an ICF/IID level of care. As of September 2014, total enrollment in these waivers was 34,467. In accordance with Chapter 5160-3 of the Ohio Administrative Code (OAC), the ICF/IID level of care is mutually exclusive from both the intermediate and skilled levels of care, which are necessary for enrollment in the waivers administered by ODA and ODM.

- Individual Options (IO): Approved in 1991, the Individual Options Waiver, commonly referred to as the IO Waiver, allows people with developmental disabilities who meet an ICF/IID LOC to receive the services and supports necessary to reside in their community rather than reside in an ICF/IID.
- Level One: Approved in 2002, the Level One Waiver serves individuals with developmental disabilities who meet an ICF/IID LOC, but do not require the same level of services as those who are on the IO Waiver. Level One participants generally have a network of family, friends, neighbors and professionals that can safely and effectively provide needed care.
- Transitions Developmental Disabilities (TDD): Approved in 2002, the Transitions Developmental Disabilities (TDD) Waiver serves individuals with developmental disabilities whose needs require more medically oriented care than individuals on the other DODD-operated waivers. DODD began oversight of the TDD Waiver, formerly administered by the Ohio Department of Medicaid, in January 1, 2013.
- Self-Empowered Life Funding (SELF): Approved in July 2012, the Self-Empowered Life Funding Waiver is Ohio's first participant-directed waiver for individuals with developmental disabilities. It allows participants to direct their budget and to hire/fire their direct support workers. It also enables the individual to develop an Individual Service Plan using services that focus on community inclusion and integrated employment.

Assessment Methodology

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

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

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

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

Several subcommittees were formed to conduct in-depth reviews of state systems, residential settings, and non-residential settings. The subcommittees reviewed current rules, regulations, policies and procedures, service definitions, and provider qualifications across Ohio's DD system to determine level of compliance with the HCBS regulation. The subcommittees' findings were reported back to the Transition Plan Committee, which decided what would be included in the first draft of DODD's Transition Plan.

The subcommittees were further divided into four groups: Person-Centered Planning, State System Issues (Systemic Review), Residential Settings and Adult Day Waiver Services. The information generated from these subcommittees informed DODD's components of the Transition Plan, and are outlined below.

- **Person-Centered Planning:** The task of this subcommittee was to review how DODD's person-centered planning process addresses the HCBS setting requirements, including documentation of individuals' choice of setting in which HCBS are provided, and to review the monitoring processes to ensure that ongoing compliance is maintained.
- **Systemic Review/State System Issues:** The task of this subcommittee was to review the current state system processes and regulations, identify areas where DODD's current system may not be in alignment with the CMS HCBS regulation, and develop a means by which the systems can align appropriately.

- **Residential Settings:** The task of this subcommittee was to devise a method to assess residential settings' incorporation of the HCBS settings criteria as established in the CMS regulation. This method will provide the data needed to determine what remediation strategy the state might need to implement for full compliance with CMS' requirements.
- **Adult Day Waiver Services:** This subcommittee looked at how to redesign the structure of DODD's Adult Day Waiver Service system, including service categories, definitions, provider qualifications, and rate methodologies, to promote opportunities for integrated work and day activities.

Assessment Process

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

- **Person-Centered Planning:** This subcommittee reviewed existing rules related to the person-centered planning process, as well as the tools used to monitor compliance.
- **Systemic Review:** This subcommittee reviewed DODD's existing rules, waiver service definitions, provider qualifications, and rate structures to identify areas where changes were needed to ensure full compliance with the CMS HCBS regulation. This subcommittee looked at crosswalks of similar service definitions and rules across all four waivers to determine how revisions could best be made to enhance DODD's adherence to the new criteria.
- **Residential Settings:** This subcommittee chose to distribute a survey to the field, which allowed providers to assess their locations to determine level of compliance with the CMS HCBS settings criteria. Additionally, County Boards were given the ability to complete the survey based on their assessment of these same locations, as a means of having a validity check for the self-assessments. Where necessary, an on-site evaluation conducted by the State will be completed.
- **Adult Day Waiver Services:** As a means of gathering input for purposes of restructuring the Adult Day Waiver Services, DODD conducted a series of 12 Adult Day Service/Employment First forums in July and August, which was attended by more than 700 stakeholders. The information and suggestions obtained during these forums were used to refine the Guiding Principles that are being used as the foundation for the revised Adult Day Waiver Service package. Work on this service package will continue

throughout 2014, with a revamped set of services/service definitions, and rate structure targeted for completion by mid-2015.

Additionally, in order to assess DODD's Adult Day Waiver Service locations, DODD distributed a survey for Adult Day Waiver Service providers to perform an assessment of their program(s) to determine compliance with the Medicaid HCBS criteria. As with the Residential Settings Survey, this assessment helped the state to identify which areas may need the most focus as the state transitions to the new CMS regulation.

Assessment Results

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

Systemic Review

Based on the results of their analysis of CMS' regulation in conjunction with DODD's current waiver services and administrative rules, the State Systems Issues/Systemic Review Subcommittee determined that interpretations of "integration" vary. The consensus of the group, in alignment with the CMS definition for an HCBS setting, is that integration is about what the individual experiences, and must be understood as being individual-specific.

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

- The current Licensure, Provider Certification, and Free Choice of Provider rules will be revised;
- Waiver Service definitions (Homemaker/Personal Care; Adult Day Waiver Services) will be revised to promote emphasis on providing supports in the community;
- A "lease agreement" template will be created for use with provider-controlled settings.

Existing committees were identified to further explore how these revisions would occur and to determine feasible timeframes for implementation.

An overview of the existing support for compliance with each component and the proposed remediation strategies, action steps, and timelines for the ICF/IID system are described in Appendix 1.

Residential Settings

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

1. Settings that currently meet HCBS characteristics.

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

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

When combining the presumed compliant locations with the settings that were surveyed, 87% are in compliance with the CMS HCBS Regulations. The remaining settings will be addressed in the following sections.

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

Of the settings providing DODD waiver services, 11.9% (892 settings housing 2,897 individuals) fall under the category of not currently meeting all of the HCBS characteristics, but recognize that they could become compliant with modifications. The providers completing the self-assessment were asked to identify barriers to compliance and potential timeframes for remediation. Most identified changes to person-centered plans, improved linkage to the community, and staff development and training as their primary barriers.

To help address these barriers, DODD has included, as part of its remediation strategy, continuation of its statewide person-centered planning training and development of web-based person-centered planning resources to be available to county boards, providers, individuals, and families. Along with this, DODD's compliance tool is being modified to ensure that County Boards and providers are compliant with the person-centered planning standards identified in the Service and Support Administration rule (OAC 5123:2-1-11).

DODD is also developing an overarching HCBS Waiver Administration rule that will align with the CMS HCBS Regulation. This rule provides a resource to assist DODD in more effectively implementing the CMS HCBS criteria. Additional remediation strategies can be found in the Settings Remediation table.

3. Settings that are presumed to have the qualities of an institution and may be subject to heightened scrutiny review.

Based on the criteria listed by CMS regarding which settings would be “presumed to have the qualities of an institution”, and therefore would likely be subject to heightened scrutiny, 0.9% (72 settings housing 326 individuals) of the settings included in the survey fit into this category.

For part of the remediation strategy for this category, DODD will conduct on-site evaluations of these locations to determine their level of non-compliance. These site reviews are anticipated to be completed by 2016. The determination of level of compliance will be the primary deciding factor in choosing whether enough evidence can be presented to CMS to show that the setting is not institutional in nature; or if the provider will need to find another, more integrated setting for the provision of its services. Action steps relating to the remediation strategy for these locations are detailed in the Settings Remediation grid (Appendix 2).

4. Settings that cannot meet the HCBS characteristics.

The Residential Settings survey identified four settings housing 43 individuals that cannot meet the HCBS settings characteristics. This is equivalent to .1% of the DODD Waiver population. The first step for transition with these locations is to review each location, determine the validity of this response for that particular location, and where applicable, inform the provider that HCBS cannot be provided in an institution. These providers will be given the option of either finding a separate location for waiver services (one that is an integrated setting that meets the HCBS characteristics); or create and implement a plan detailing how individuals who utilize the provider's services at that location will be transitioned to a more integrated setting in the least disruptive manner possible.

Adult Day Waiver Services

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

1. Settings that currently meet HCBS characteristics.

DODD also conducted a survey for its Adult Day Waiver Service (ADWS) settings to determine the level of compliance for those HCBS services. To ensure the survey results data was as accurate as possible, settings in which integrated, community employment services are provided were not included. The survey was distributed to providers of facility-based work and non-work services. In the DODD system, those services are Adult Day Supports and Vocational

Habilitation. In total, responses were received from 464 settings where services are provided to more than 25,000 individuals.

2. Settings that currently do not meet HCBS characteristics but may with modifications. The survey results show that 50 of the 464 settings, or 8.4%, believe that, while they don't have the qualities of an institution, some improvement could be made for how those services are delivered to the individuals they serve. Although these self-assessment results from providers indicate a relatively low number of settings that have the qualities of an institution, DODD believes the self-reporting significantly underrepresents the number of ADWS settings that possess these qualities.

As a means of incorporating the CMS HCBS requirements into the ADWS, DODD is working with a consultant who is facilitating a stakeholder group charged with creating a new service package to maximize opportunities for integrated employment and integrated wrap-around supports. The work for this waiver service package redesign is slated to conclude in mid-2015.

3. Settings that are presumed to have the qualities of an institution and may be subject to heightened scrutiny review.

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

4. Settings that cannot meet the HCBS characteristics.

Thirteen (13) settings (2.8%) stated they cannot meet the HCBS requirements. To determine the level of compliance for these settings, DODD will conduct an on-site review and, if the review aligns with the assessment, DODD will develop a carefully constructed a plan for any individual receiving waiver services at that location to ensure as smooth a transition as possible.

Remediation Strategy

The proposed remediation plan for the four ICF/IID waivers utilizes seven primary strategies: waiver amendments, administrative rule revisions, training resources, service re-design, provider level remediation plans, on-site assessments and as a last resort, relocation. Appendices 1 and 2 describe in detail how the proposed remediation strategies will bring the pre-existing ICF/IID 1915(c) programs into compliance with the home and community-based settings requirements. The proposed timelines are contingent upon approval of the plan by CMS.

Rule Revisions, Waiver Amendments, and Resources

The Systemic Review Subcommittee identified several existing rules that supported the concepts incorporated in the CMS regulations, including the Service and Support Administration

rule (OAC 5123: 2-1-11) enacted March 17, 2014 and the Employment First rule (OAC 5123: 2-2-05) enacted April 1, 2014.

Additional rule revisions are in progress, which will further enhance the infrastructure to support the new regulation.

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

A new overarching rule relating to the administration of all HCBS waivers for individuals with an ICF/IID level of care is also being developed. This rule will specify the settings in which HCBS may not be provided and will include a requirement that individuals be offered the opportunity to choose both services and settings of service provision that promote integration, independence, and autonomy.

DODD also intends to revise service definitions based upon the assessment processes utilized to develop the Transition Plan. Amendments to be submitted to CMS will include the following:

- The Transition Plan Committee identified shared living models of service, including both the Adult Family Living and Adult Foster Care services in the Individual Options Waiver, to be among those that provide the greatest opportunities for individuals to have experiences similar to those not receiving HCBS. One of the obstacles to expanding this model is the current service title. Individuals and families have proposed changing the service title to "Shared Living" to reduce the stigma that was associated with receiving a foster care service for adults.
- A recommendation was also made to modify the existing Homemaker/Personal Care definition in both the Individual Options and Level One Waivers to expand upon the

ability for this service to be utilized to support individuals in integrated community settings.

- The existing Adult Day Waiver Services, including Adult Day Support and Vocational Habilitation, were determined to have a significant bias toward facility-based supports. As a result, a workgroup was formed to redesign the adult day array of services to promote integrated, community-based supports for individuals receiving HCBS. The workgroups are expected to finalize recommendations for new service definitions, provider qualifications, and rate methodologies by mid- 2015.
- DODD began operating the Transitions DD Waiver in January 2013. This waiver was originally operated by the Ohio Department of Medicaid and was modeled after the Ohio Home Care Waiver, which serves individuals with nursing facility levels of care. The Personal Care Aide service is limited in scope and is designed to provide hands-on assistance with activities of daily living and instrumental activities of daily living. In addition, the Adult Day Health Center offered only facility-based options and no employment supports to the individuals enrolled in the waiver, who are primarily young adults with an average age of 22. A phase-out plan will be submitted to CMS that will include plans to migrate all individuals enrolled in the Transitions DD Waiver to another waiver operated by DODD, which includes the new adult day array services.

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

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

1. Settings that currently do not meet HCBS characteristics but may with modifications. Site-specific remediation strategies will be developed with providers who have identified the ability to come into full compliance with the regulation within one year. Implementation of the remediation strategies will be verified by DODD through ongoing compliance reviews.

2. Settings that are presumed to have the qualities of an institution and may be subject to the heightened scrutiny process.

Site visits of settings will be conducted by state personnel using the revised compliance tool. Upon determining the settings to be considered for heightened scrutiny, DODD will work with the provider to compile evidence for submission to CMS.

3. Settings that cannot meet the HCBS characteristics.

For those residential settings that DODD determines do have the qualities of an institution and cannot meet the HCBS characteristics, DODD will work with the provider, County Board and individuals served to either identify a new location in which the provider may continue to serve individuals or to assist individuals with obtaining a new provider.

Site visits of facility-based adult day waiver settings will be conducted after implementation of the newly redesigned services. Just as with the residential settings, for those settings that DODD determines have the qualities of an institution and cannot meet the HCBS characteristics, DODD will work with the provider, County Board, and individuals served to either identify a new setting in which the provider may continue to serve individuals or assist individuals with obtaining a new provider.

Section II: NF-LOC Waiver System

Introduction

Ohio administers five 1915(c) waivers with a nursing facility (NF) level of care (intermediate and skilled), serving approximately 50,000 individuals per month in community settings. There are 21 distinct long-term services and supports furnished through these waivers utilizing two delivery systems: fee-for-service and managed care.

The Ohio Department of Medicaid (ODM) operates three waivers:

- Ohio Home Care: This waiver serves individuals age 59 or younger with nursing facility level of care (NF –LOC) waiver and furnishes services and supports necessary to reside in their community rather than in a nursing facility.
- Transition Carve-Out: This waiver serves individuals age 60 or older who transfer in from the Ohio Home Care waiver to retain access to the services and support necessary to reside in their community rather than in a nursing facility.
- MyCare Ohio: This waiver is a component of the state's 1915(b)(c) managed care duals integration demonstration. The waiver is available in 29 of 88 Ohio counties, and serves

individuals age 18 or older with a NF-LOC . All the services and supports furnished in the other four nursing facility based waivers are available.

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

- **Assisted Living:** This waiver serves individuals age 21 or older with a NF-LOC and furnishes services only to individuals who reside in licensed residential care facilities that are certified by ODA as a home and community-based waiver provider.
- **PASSPORT:** This waiver serves individuals age 60 or older with a NF-LOC and furnishes services and supports necessary to reside in their community rather than in a nursing facility.

Assessment Methodology

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

Assessment Process

In the NF-based level of care waiver system, only one service (assisted living) is furnished in a provider-controlled setting; the remaining services are available to enrolled individuals residing in a private residence. Further, only one service (adult day health) is furnished in a non-residential setting. As a result, the focus of the compliance analysis is directed to these two services and the characteristics of the settings in which these services are delivered.

Residential Setting: Assisted Living

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

The assisted living waiver service is available to eligible individuals enrolled in the Assisted Living waiver (fee-for-service) and the MyCare Ohio waiver (duals demonstration managed care). As of October 2014, 4,512 individuals were receiving the assisted living waiver service. Individuals who receive this service reside in single occupancy living units with full bathrooms in a setting that provides supervision and staffing to meet both planned and unscheduled needs.

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

Data Analysis

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

- Approximately 54% (335) of the State's licensed residential care facilities have met the additional criteria to become an ODA-certified provider of the assisted living service.
- ODA-certified settings are located in 71 of 88 counties. There are 73% of Ohio counties with two or more certified assisted living providers.
- As of October 1, 2014, there were approximately 4,512 individuals receiving assisted living services through Assisted Living or the MyCare waiver.

System Review

The State conducted a systematic review of applicable state statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management standards, administrative and operational processes, monitoring and operational oversight activities.

To ensure clarity and consistency across the waiver programs regarding community integration and access, two overarching administrative rules addressing both person-centered planning and community characteristics are proposed. In addition, establishing acceptable evidence of compliance, modifications to the assisted living service specifications, and modifications to the provider certification and oversight rules are proposed to maintain compliance.

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

On-Site Assessment

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

Stakeholder Perspective

Using the CMS exploratory questions as the basis, in August 2014, the state conducted an on-line survey to gauge how the current assisted living waiver provider community assessed their level of compliance with the new regulations. The survey was distributed to the 326 ODA-

certified providers with a 30.7% response rate. 63.3% of the responses were from for-profit facilities and 36.7% of the responses were from non-profit facilities.

Survey findings include:

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

Waiver Service Setting: Adult Day Health

The purpose of the adult day health service is to furnish regularly scheduled services that support the individual's health and independence goals in a community setting. The service is available to individuals age 18 and older and includes recreational and educational activities of the individual's choice. A qualifying HCBS adult day health center must be a freestanding building or a space within another building that is not to be used for other purposes during the provision of adult day health service.

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

Data Analysis

There are currently 270 adult day health HCBS providers eligible to furnish the waiver service. The state conducted an analysis of data maintained by ODA and ODM to determine the following:

- Adult Day Health waiver settings are located in 50% (44) of 88 counties.
- As of October 1, 2014, there were approximately 2,300 individual enrolled on one of the five waivers receiving the service.

System Review

The State conducted a systematic review of the applicable state statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management standards, administrative and operational processes, monitoring and operational oversight activities.

To ensure clarity and consistency across the waiver programs regarding community integration and access, two overarching administrative rules addressing both person-centered planning and community characteristics are proposed. In addition, establishing acceptable evidence of

compliance, modifications to the adult day health service specification, and modifications to the provider certification and oversight rules is proposed to maintain compliance.

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

On-Site Assessment

The state contracts with 13 regional entities (PASSPORT Administrative Agencies) to conduct initial and annual on-site compliance reviews of the certified adult day health service providers. A survey of the 13 PASSPORT Administrative Agencies (PAAs) was conducted to obtain information about the setting characteristics for HCBS providers of the adult day health service.

Stakeholder Perspective

Using the CMS exploratory questions as the basis, in August 2014 the State conducted an on-line survey to gauge how the current adult day health HCBS provider network assessed its level of compliance with the new regulations. The survey was distributed to providers furnishing the adult day service in one or more of the following waivers: MyCare, Ohio Home Care, PASSPORT or Transition Carve-Out. 62% of the responses were from non-profit organizations; 87% of the responses indicated the adult day service was not furnished in the same building as a nursing facility.

Survey findings include:

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

Assessment Results

Residential Settings: The results of the state's preliminary assessment of the residential settings are described below.

1. Settings that currently meet the HCBS setting characteristics

In the preliminary analysis, the State has not identified any residential settings that are currently 100% compliant with the new regulation.

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

In the preliminary analysis, the State identified that 49.9% percent, or 167, of the currently certified HCBS assisted living waiver service providers are free-standing communities.

These settings are located in 54 counties and are serving approximately 49% (2,201) of the individuals enrolled on the Assisted Living waiver and the MyCare Ohio waiver.

3. Settings that are presumed to have the qualities of an institution and may be subject to heightened scrutiny process

The State's preliminary assessment identified two settings that may have the qualities of an institution and thus be subject to heightened scrutiny by virtue of their location alone:

There are 40.3 percent, or 135, licensed residential care facilities certified as an HCBS assisted living provider located on the campus of a Continuing Care Retirement Community designed to allow individuals with different levels of need, including those who are not receiving HCBS services, to remain together or close by. These settings are located in 52 counties and currently serve approximately 41 percent (1855) of the individuals enrolled in the Assisted Living waiver and the MyCare Ohio waiver.

There are 9.8 percent, or 33, licensed residential care facilities certified as an HCBS assisted living provider located in the same building as a nursing facility. These settings are located in 19 counties and currently serve approximately 8.4 percent or 380 individuals enrolled in the Assisted Living waiver and the MyCare Ohio waiver.

The State has projected that 50.1 percent, or 168, of the certified HCBS provider network fall into these categories, with 49.4 percent, or 2,235, of individuals receiving the assisted living service residing in these settings.

As of the publication of this document, assessment of whether these settings have the effect of isolating individuals from the broader community is not complete. In order to complete an objective assessment of this characteristic, regulatory changes and administrative and operational processes must be established. The State will conduct on-site evaluations of these locations to determine their level of compliance. The determination of level of compliance will be the primary factor in choosing whether enough evidence can be presented to CMS to show that the setting is not institutional in nature. Action steps relating to the remediation strategy for these locations are detailed in the settings remediation grid (Appendix 4).

4. Settings that cannot meet the HCBS characteristics

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

Adult Day Health Waiver Service Setting: The results of the state's preliminary assessment of the adult day waiver service settings are described below.

1. Adult Day Health Waiver Service Settings that currently meet the HCBS setting characteristics.

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

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

In the preliminary analysis, the State has identified that 92% of the currently certified HCBS adult day health providers are free standing.

These settings are located in 44 counties and are serving approximately 91% of the individuals enrolled on the Ohio Home Care, PASSPORT, Transition Carve Out and the MyCare Ohio waivers.

3. Adult Day Health waiver service settings that are presumed to have the qualities of an Institution and may be subject to heightened scrutiny process.

The State's preliminary assessment identified one setting, which may have the qualities of an institution and be subject to heightened scrutiny by virtue of its location alone: adult day health settings that are located in the same building as a nursing facility.

Eight percent (22) of adult day settings are located in the same building as a nursing facility. These settings are located in 15 counties and currently serve approximately 9 percent of all the individuals receiving the adult day health service.

As of the publication of this document, the State's assessment of whether these settings have the effect of isolating individuals from the broader community is not complete. In order to complete an objective assessment of this characteristic, regulatory changes and administrative and operational processes must be established.

The State will conduct on-site evaluations of these locations to determine their level of compliance. The determination of level of compliance will be the primary factor in choosing whether enough evidence can be presented to CMS to show that the setting is not institutional in nature. Action steps relating to the remediation strategy for these locations are detailed in the settings remediation grid (Appendix 4).

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

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

Remediation Strategy

The proposed remediation plan for the five NF-LOC waivers utilizes five primary strategies: administrative rules; community education; provider level remediation plans to ensure the individual has greater control over the critical activities, such as access to meals, activities of his/her choosing in the larger community; on-site assessments, and as a last resort, relocation.

Appendices 3 and 4 describe in detail how the proposed remediation strategies will bring the pre-existing NF-based LOC 1915(c) waivers into compliance with the home and community-based settings requirements. The proposed timelines are contingent upon approval of the plan by CMS.

1. Settings that currently meet the HCBS setting characteristics.

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

In the event a setting which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, a relocation team will work with individuals to transition to a setting of their choice which meets the HCBS characteristics.

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

The state will ensure that existing settings come into full compliance with the HCBS characteristics by adopting new Ohio Administrative Code rules, modifying existing OAC rules, furnishing provider education, and modifying the State's HCBS ongoing provider oversight function.

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, a relocation team will work with individuals to transition them to a setting of their choice, which meets the HCBS characteristics.

3. Settings that are presumed to have the qualities of an institution and may be subject to heightened scrutiny process.

The State will ensure that existing settings that are subject to heightened scrutiny come into full compliance with the HCBS characteristics by adopting new Ohio Administrative Code rules, modifying existing OAC rules, establishing standards and defining acceptable evidence of compliance, provider remediation plans, on-site assessments, and modifying the State's HCBS ongoing provider oversight function.

In the event the setting cannot or does not produce acceptable evidence of compliance, a relocation team will work with individuals to transition them to a setting of their choice, which meets the HCBS characteristics.

4. Settings that cannot meet the HCBS characteristics.

The State will ensure no new settings that cannot meet the HCBS characteristics are permitted to furnish the HCBS assisted living service by adopting new Ohio Administrative Code rules and modifying the state's initial HCBS provider certification function.

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, a relocation team will work with individuals to transition them to a setting of their choice, which meets the HCBS characteristics.

Section III: Public Input

As part of the public input process the following is a summary of the strategies used to engage all stakeholder communities.

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

ODA/ODM invited consultants from Mercer Government Human Services Consulting to do an open forum for consumers and stakeholders of NF-LOC based waivers. The meeting was an all-day event at which details on the CMS HCBS Rule were presented to roughly 200 stakeholders. The event mirrored the outreach effort that DODD had with its stakeholders, utilizing an identical meeting format, location, and program.

In addition, DODD, in conjunction with stakeholders from Ohio's DD system, are considering the creation of a public service announcement to promote the integration of individuals with developmental disabilities in community activities and settings. This announcement will serve to address some of the concerns expressed in the survey comments about a lack of public awareness to support inclusion.

DODD plans to conduct regional sessions to share information related to the new regulation and the content of the Transition Plan. All stakeholders will receive information about where to review Ohio's Transition Plan and how to submit feedback.

DODD incorporated representatives from the Ohio Association of County Boards of Developmental Disabilities, Ohio Provider Resource Association, The Arc of Ohio, Values and Faith Alliance, Ohio Association of Superintendents of County Boards of Developmental Disabilities, Ohio Self-Determination Association, Advocacy and Protective Services, Inc., to gather input on the assessment process for the Transition Plan. Multiple stakeholder subcommittees conducted a thorough analysis of each of the focus areas to determine which areas of Ohio's DD system needed revision/strengthening to be in full compliance with the CMS regulation.

In addition, as a component of the ongoing communication strategy with the stakeholders throughout the implementation phase, an NF-LOC -based waiver advisory group was formed in November 2014. The advisory group is comprised of individuals representing the following organizations: Ohio Olmstead Task Force, Ohio Council for Centers for Independent Living, Office of the State Long-Term Care Ombudsman, AARP, Ohio Association of Senior Centers, Ohio Assisted Living Association, Leading Age Ohio, Ohio Health Care Association, Ohio Academy of Nursing Homes, National Church Residences, Ohio Council for Home Care and Hospice, and Midwest Care Alliance.

The final draft of the Transition Plan will be shared with DODD's Strategic Planning Leadership Group for potential revisions before being submitted to the Office of Health Transformation and posted for public comment.

DODD, ODM and ODA will participate in the state agency panel for Public Hearings that will be held to obtain feedback from the public.

Following the public comment period, the final draft of the Transition Plan will be distributed to the ODM/ODA CMS Transition Stakeholder Advisory Group and DODD's Strategic Planning Leadership Group for review before submission to CMS.

Section IV: Required Public Comment Process

(to be completed after the 30 day public comment period)

Summary of Public Comment Process

Summary of Public Comments

Summary of Modifications made based on the public comments

Appendices: Remediation Plans

Appendix 1: ICF/IID System Remediation Grid

Appendix 2: ICF/IID Settings Remediation Grid

Appendix 3: NF-LOC System Remediation Grid

Appendix 4: NF-LOC Settings Remediation Grid

APPENDIX 1: ICF/IID System System Remediation Grid 12/15/2014

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

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

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
Setting is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15
		Revise service definition of Homemaker/Personal Care under the Individual Options and Level One Waivers to include language that supports the use of this service to promote individuals' integration in and access to the greater community	<ul style="list-style-type: none"> • Submit waiver amendments to CMS • Formal clearance for draft rule • Final file • Implementation 	7/1/15
		Modify the compliance tool utilized to conduct accreditation reviews of county boards of developmental disabilities and compliance reviews of providers of HCBS to include prompts for ensuring person-centered plans reflect and HCBS are provided in settings that comport with the regulation.	<ul style="list-style-type: none"> • Convene workgroup • Develop draft compliance tool • Share draft with stakeholders for feedback • Provide training on new tool • Begin implementation 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS.	Section 5123.022 of the Revised Code requires that employment services for individuals with developmental disabilities be directed at community employment and that individuals with developmental disabilities are presumed capable of community employment.	Create new service definitions, provider qualifications, and rate methodologies for integrated community supports and integrated employment services.	<ul style="list-style-type: none"> • Convene workgroup • Submit waiver amendments to CMS • Formal clearance for draft rule • Final file • Implementation 	1/1/16
	SSA and Employment First rules require path to community employment to be identified in each person-centered plan.	The Transitions DD Waiver does not include a service which supports individuals in seeking and working in competitive, integrated settings. The state intends to submit a phase-out plan for this waiver which will include offering individuals the opportunity to enroll in LV1, IO, or SELF.	<ul style="list-style-type: none"> • Convene stakeholder group • Develop phase-out plan • Secure public input on phase-out • Submit amendment to CMS • Initiate phase-out plan, if approved • Phase-out complete 	Initiate phase-out 7/1/15 to be concluded by 6/30/17
	LV1, IO, SELF include services that support individuals on their path to employment, such as SE and integrated employment			
The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections.	Revise service definition of Homemaker/Personal Care under the Individual Options and Level One Waivers to include language that supports the use of this service to promote individuals' integration in and access to the greater community	<ul style="list-style-type: none"> • Convene workgroup • Submit waiver amendments to CMS • Formal clearance for draft rule • Final file • Implementation 	7/1/15
		Create new service definitions, provider qualifications, and rate methodologies for integrated community supports and integrated employment services.	<ul style="list-style-type: none"> • Convene workgroup • Submit waiver amendments to CMS • Formal clearance for draft rule 	

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
			<ul style="list-style-type: none"> • Final file • Implementation 	1/1/16
The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Section 5123.62 of the Ohio Revised Code requires that individuals have the right to control personal financial affairs, based on individual ability to do so.	Develop a new rule addressing personal funds of individuals.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	4/1/15
The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.		Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual's free choice of Homemaker/Personal Care provider.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	1/1/15
		Modify the compliance tool utilized to conduct accreditation reviews of county boards of developmental disabilities and compliance reviews of providers of HCBS to include prompts for ensuring person-centered plans reflect and HCBS are provided in settings that comport with the regulation.	<ul style="list-style-type: none"> • Develop draft compliance tool • Share draft with stakeholders for feedback • Provide training on new tool • Implementation 	4/1/15
An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.			
	Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.			

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
	Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.			
Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.	Ohio Administrative Code 5123:2-1-11 outlines the decision-making responsibility of individuals receiving services and a requirement for person-centered plans to assist the individual with self-advocacy, if desired.			
Individual choice regarding services and supports, and who provides them, is facilitated.		Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual's free choice of homemaker/personal care provider.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	1/1/15
Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum,		Amend Ohio Administrative Code 5123: 2-3, DODD Licensure rules, to specify the required contents of a residency agreement or other written agreement for individuals residing in a provider-owned or controlled setting.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	4/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the state must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.		Develop template of sample written agreement for provider-owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Share draft template with stakeholders • Issue guidance to impacted providers 	4/1/15
		Modify the compliance tool utilized to conduct accreditation reviews of county boards of developmental disabilities and compliance reviews of providers of HCBS to include prompts for ensuring existence of written agreement in all provider-owned or controlled settings	<ul style="list-style-type: none"> • Develop draft compliance tool • Share draft with stakeholders for feedback • Provide training on new tool • Implementation 	4/1/15
Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
	Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.			
	Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.			
	Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures.			
Provider owned or controlled residential settings: Individuals sharing units have a choice of roommates in that setting.		Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15
	Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.			
	Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.			
Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
	Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.			
	Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.			
	Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures.			
Provider owned or controlled residential settings: Individuals are able to have visitors of their choosing at any time.	Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15
	Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.			

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
	Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.			
	Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures.			
Provider owned or controlled residential settings: The setting is physically accessible to the individual.	Ohio Administrative Code 5123:2-3-10 addresses the physical environment standards in licensed settings.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15
Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.		Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.		Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided.	<ul style="list-style-type: none"> • Convene workgroup • Formal clearance for draft rule • Final file • Implementation 	6/1/15

APPENDIX 2: ICF/IID System Settings Remediation Grid 12/15/2014

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

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

I. Settings which currently meet HCBS characteristics.

A. Setting Type	A1. Living alone
	A2. Living with family
	A3. Shared living

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

Setting Type	Remediation Required	Action Steps	*Timeline
A. Residential Settings 11.9% (892 settings)			
	<ul style="list-style-type: none"> Adopt and implement an overarching DODD HCBS Waiver Administration rule that details the CMS HCBS settings characteristics that providers must incorporate to be compliant. Modify Homemaker/Personal Care (HPC) service definition to incorporate CMS' required HCBS community integration/access characteristics. Implement a revised compliance review tool to assess the incorporation of the Person-Centered Planning and HCBS settings standards 	<ul style="list-style-type: none"> Post draft rule for comment, make necessary revisions, final file, and final file with proposed implementation date by 6/1/15 Submit waiver amendment to CMS and modify service rules. Continue statewide Person-Centered Planning training and implementation of Person-Centered Planning processes. Modify the compliance tool utilized to conduct accreditation reviews of county boards and compliance reviews of providers to include prompts for ensuring 	<p>Implementation by 6/1/15</p> <p>Submit to CMS March 2015, implement 7/1/15</p> <p>Ongoing</p> <p>Complete By June 2015</p>

	<ul style="list-style-type: none"> Implement setting-specific remediation strategies 	<p>person-centered plans are occurring and that HCBS services are provided in settings that comport with the regulation.</p> <ul style="list-style-type: none"> Request remediation plans from providers who identified the ability to comply with the regulation within one year with modifications Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. 	<p>By 3/1/15</p> <p>By 3/1/16</p> <p>Ongoing</p>
B. ADULT DAY WAIVER SERVICES SETTINGS 8.4% (50 settings)			
	<ul style="list-style-type: none"> Create and implement a new Adult Day Waiver Service (ADWS) package (service definitions, provider qualifications, rate structure) that maximizes opportunities for integrated employment and integrated wrap-around supports Monitor compliance with the provision of services in integrated settings 	<ul style="list-style-type: none"> Submit waiver amendment to CMS. Submit DODD HCBS Rule and the new Day Services rules through rule review and implementation process. Modify the compliance tool utilized to conduct accreditation reviews of county boards and compliance reviews of providers to include prompts for ensuring that HCBS services are provided in settings that comport with the regulation. Request remediation plans from providers who identified the ability to comply with the regulation within one year with modifications 	<p>Submit by September 2015</p> <p>Complete by December 2015</p> <p>Complete by June 2015</p> <p>By 3/1/15</p>

		<ul style="list-style-type: none"> Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. 	<p>By 3/1/16</p> <p>Ongoing</p>
III. Settings that are <u>Presumed to have the Qualities of an Institution</u> and <u>may be Subject to Heightened Scrutiny Process</u>.			
Setting Type	Remediation Required	Action Steps	Timeline
A. RESIDENTIAL SETTINGS 0.9% (72 settings)			
A1. Group Home (with more than 4 individuals)	<ul style="list-style-type: none"> Adopt and implement an overarching DODD HCBS Waiver Administration rule that details the CMS HCBS settings characteristics that providers must incorporate to be compliant. 	<ul style="list-style-type: none"> Post draft rule for comment, make necessary revisions, final file, and final file with proposed implementation date by 6/1/15 	Implementation by 6/1/15
A2. Disability Specific Farm	<ul style="list-style-type: none"> Modify Homemaker/Personal Care (HPC) service definition to incorporate CMS' required HCBS community integration/access characteristics. 	<ul style="list-style-type: none"> Submit waiver amendment to CMS and modify service rules. 	Submit to CMS March 2015, implement 7/1/15
A3. Cul-de-sac of Group Homes			Ongoing
A4. Campus Setting	<ul style="list-style-type: none"> Implement a revised compliance review tool to assess the incorporation of the Person-Centered Planning and HCBS settings standards 	<ul style="list-style-type: none"> Continue statewide Person-Centered Planning training and implementation of Person-Centered Planning processes. Modify the compliance tool utilized to conduct accreditation reviews of county boards and compliance reviews of providers to include prompts for ensuring person-centered plans are occurring and that HCBS services are provided in settings that comport with the regulation. 	Complete By June 2015

	<ul style="list-style-type: none"> Determine the locations for which heightened scrutiny will be requested Implement setting-specific remediation strategies for settings determined to have institutional qualities based upon the on-site evaluation 	<ul style="list-style-type: none"> Conduct on-site evaluations of locations. Compile evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics based upon the on-site evaluation Submit requests for heightened scrutiny to CMS Work with provider, county board and individuals served to identify a new location in which the provider may offer services or assist individuals with selecting new providers. Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. 	<p>Complete by December 2016</p> <p>Complete by December 2016</p> <p>By January 2017</p> <p>By January 2017</p> <p>By January 2019</p> <p>Ongoing</p>
B. ADULT DAY WAIVER SERVICES SETTINGS 4.1% (19 settings)			
B1. Facility-based work	<ul style="list-style-type: none"> Create and implement a new Adult Day Waiver Service (ADWS) package (service definitions, provider qualifications, rate structure) that maximizes opportunities for integrated employment. and integrated wrap-around supports Determine the locations for which heightened scrutiny will be requested 	<ul style="list-style-type: none"> Submit waiver amendment to CMS and modify service rules. 	<p>Submit by September 2015, implement by January 2016</p>
B2. Facility-based non-work			
B3. Facility-based combination of work/non-work		<ul style="list-style-type: none"> Conduct on-site evaluations of locations. 	<p>Complete by June 2017</p>

	<ul style="list-style-type: none"> Implement setting-specific remediation strategies for settings determined to have institutional qualities based upon the on-site evaluation 	<ul style="list-style-type: none"> Compile evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics based upon the on-site evaluation Submit requests for heightened scrutiny to CMS Work with provider, county board and individuals served to identify a new location in which the provider may offer services or assist individuals with selecting new providers. Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. 	<p>Complete by June 2017</p> <p>By January 2018</p> <p>Complete by March 2024</p> <p>By March 2024</p> <p>Ongoing</p>
IV. Settings which <u>cannot meet</u> the HCBS characteristics (such as a nursing facility, ICF/IID, and hospitals, or other locations that have qualities of an institutional setting, as determined by the Secretary.)			
Setting Type	Remediation Required	Action Steps	Timeline
A. RESIDENTIAL SETTINGS .1% (4 settings)			

A1. Located inside, on the grounds of, or adjacent to a public institution.	<ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. 	<ul style="list-style-type: none"> Inform these providers the location where they are providing waiver services does not meet HCBS Criteria. 	Complete by March 2015
A2. Located inside a private institution.	<ul style="list-style-type: none"> If a provider chooses the 2nd option above, a plan for relocating individuals to an HCBS-compliant location in a manner that is least disruptive to the individuals will be developed and implemented. 	<ul style="list-style-type: none"> Work with provider, county board and individuals served to develop a transition plan for coming into compliance, or for relocating individuals if the provider is not willing/able to come into compliance. Implement plan to ensure individuals have as seamless of a transition as possible. 	<p>Complete by March 2019</p> <p>Ongoing</p>
B. ADULT DAY WAIVER SERVICES SETTINGS 2.8% (or 13 settings)			
B1. Located inside, on the grounds of, or adjacent to a public institution.	<ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. 	<ul style="list-style-type: none"> Inform these providers the location where they are providing services does not meet HCBS Criteria. 	Complete by June 2016
B2. Located inside a private institution.	<ul style="list-style-type: none"> If a provider chooses the 2nd option above, a plan for relocating individuals to an HCBS-compliant location in a manner that is least disruptive to the individuals will be developed and implemented. 	<ul style="list-style-type: none"> Work with provider, county board, and individuals served to develop a transition plan for coming into compliance, or for relocating individuals if the provider is not willing/able to come into compliance. Implement plan to ensure individuals have as seamless of a transition as possible. 	<p>Complete by March 2019</p> <p>Ongoing</p>

Appendix 3: NF-LOC System System Remediation Grid 12/15/2014

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

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

Regulation	Areas of Compliance	Remediation Required	Action Steps	Timeline*
Setting is integrated in and supports full access of individual receiving Medicaid HCBS to the greater community, includes opportunities to seek employment and work in competitive integrated settings, opportunities to engage in community life, and to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Assisted Living Service	Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.	Rule Process: Utilize the existing rule development and filing processes to draft new and amended rules and obtain stakeholder input.	4/2015-4/2016
	Residents Rights ORC 3721.13			
	Licensure Rules OAC 3701-17-50 – 68.			
	HCBS waiver person-centered care Planning policies and procedures.	Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS person-centered planning characteristics required for all HCBS NF-based waiver providers.	Training: Modify Provider and case management operational manuals and applicable forms as needed.	10/2015-12/2015
	Adult Day Health Service		Issue guidance to impacted providers and case management entities.	2/2015-4/2016
	Consumer Choice & Control Rules OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42.06	Amend the following administrative rules to incorporate HCBS community integration/access characteristics:	Ongoing Compliance: On site annual provider structural compliance reviews conducted for each setting in accordance with OAC rules.	4/2016 and ongoing
	Person-centered care planning policies and procedures outlined in the approved waivers.	Assisted Living OAC 173-39-02.16	Establish a consistent data source(s) for evidence of compliance with the standard.	10/2015-4/2016
		Adult Day Health OAC 5160-46-04 (C) OAC 173-39-02.1	Quality Strategy: Utilize the annual National Core Indicators-	2016 and ongoing

		<p>Amend the following administrative rules to reflect requirement for compliance with the state's new rules and consequences for non-compliance:</p> <p>OAC 5160-46-04 Provider Requirements</p> <p>Conditions of Participation OAC 173-39-02</p> <p>Disciplinary Actions OAC 173-39-05</p>	<p>Aging and Disability (NCI-AD survey results to assess waiver participants experience with community integration and access.</p>	
--	--	--	--	--

<p>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Informed choice of HCBS services rather than institutional services documented for both services, in accordance with the approved waivers.</p> <p>Assisted Living</p> <p>Service Specification OAC 173-39-02.16</p> <p>Room and Board obligation documented in the care plan.</p> <p>Adult Day Health</p> <p>N/A</p>	<p>Standardize the Informed Choice Policy, including the requirement for documenting the setting options offered and selected.</p>	<p>Workgroup: Convene a workgroup to establish a consistent policy and case management expectations.</p> <p>Establish a consistent data source(s) for evidence of compliance with the standard.</p> <hr/> <p>Training Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: Established case management operational oversight processes.</p>	<p>4/2015</p> <p>4/2015-5/2015</p> <p>5/2015</p> <p>6/2015</p> <p>7/2015 and ongoing</p>
<p>An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	<p>Assisted Living</p> <p>Residents' Rights ORC 3721.10-15</p> <p>Resident Agreement OAC 3701-17-57</p>	<p>N/A</p>	<p>N/A</p>	

	<p>Adult Day Health</p> <p>Consumer Choice and Control OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42.06</p> <p>PASSPORT Bill of Rights OHCW/TCOW Consumer Handbook</p>			
<p>Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>Assisted Living Service</p> <p>Residents' Rights ORC 3721.13</p> <p>Resident Agreement OAC 3701-17-57</p> <p>Service Specification OAC 173-39-02.16 (A)</p> <p>Adult Day Health Service</p> <p>Consumer choice and Control OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42-06</p> <p>Person-centered care planning policies and procedures outlined in the approved waivers.</p>	N/A	N/A	

Individual choice regarding services and supports, and who provides them, is facilitated.	<p>Assisted Living Service</p> <p>Service Specifications OAC 173-39-02.16 OAC 3701-17-57 OAC 5160-58-03</p> <p>Adult Day Health Service</p> <p>Consumer Choice and Control OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42-06</p> <p>Person-centered care planning policies and procedures outlined in the approved waivers.</p>			
Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply,	<p>Assisted Living</p> <p>Transfer and Discharge Rights ORC 3721.16</p> <p>Residents' Rights ORC 3721.13(A)(30)</p> <p>Resident Agreement OAC 3701-17-57</p> <p>Service Provision OAC 173-39-02 (E)</p> <p>Adult Day Health</p>	N/A	N/A	

the state must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	N/A			
Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Assisted Living Residents' rights ORC 3721.13 Equipment and Supplies OAC 3701-17-64, 65 Living Unit Characteristics OAC 173-39-02.16 (B)(2) Adult Day Health N/A	N/A		
Provided owned or controlled settings: Individuals sharing units have a choice of roommates in that setting.	Assisted Living Living Unit Characteristics OAC 173-39-02.16 (B)(2) Adult Day Health N/A	N/A		

<p>Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>Assisted Living</p> <p>Supplies OAC 3701-17-65 (c)</p> <p>Community Transition Service OAC 173-39-02.17</p> <p>Adult Day Health N/A</p>	N/A		
<p>Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>Assisted Living service</p> <p>Dietary Services OAC 3701-17-60</p> <p>Service Specification OAC 173-39-02.16</p> <p>Adult Day Health Service N/A</p>	<p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.</p>	<p>Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.</p> <hr/> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: Established on-site annual provider structural reviews in accordance with OAC structural compliance review rules.</p> <p>Establish a consistent data source(s) for evidence of compliance with the standard.</p> <hr/>	<p>4/2015-4/2016</p> <p>10/2015-12/2015</p> <p>2/2015-4/2016</p> <p>2016 and ongoing</p> <p>10/2015-4/2016</p>

			Quality Strategy: Utilize the annual NCI-AD survey results to assess waiver participants experience with community integration and access.	4/2016 and ongoing
Individuals are able to have visitors of their choosing at any time.	<p>Assisted Living</p> <p>Residents' rights ORC 3721.13</p> <p>Service Specifications OAC 173-39-02.16</p> <p>Adult Day Health Service N/A</p>	Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.	<p>Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input .</p> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <p>Ongoing Compliance: Established on-site annual provider structural reviews in accordance with OAC structural compliance review rules.</p> <p>Establish a consistent data source(s) for evidence of compliance with the standard.</p> <p>Quality Strategy: Utilize the annual NCI-AD survey results to assess waiver participants.</p>	<p>4/2015-4/2016</p> <p>10/2015-12/2015</p> <p>2/2015-4/2016</p> <p>4/2016 and ongoing</p> <p>10/2015-4/2016</p> <p>2016 and Ongoing</p>

<p>15. The setting is physically accessible to the individual.</p>	<p>Assisted Living</p> <p>Conditions of Participation OAC 173-39-02</p> <p>Adult Day Health</p> <p>Conditions of Participation OAC 173-39-02 OAC 5160-46-04</p>	<p>N/A</p>	<p>N/A</p>	
<p>16. Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.</p>		<p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.</p>	<p>Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.</p> <hr/> <p>Standards: Establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community.</p> <hr/> <p>Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed.</p> <hr/>	<p>4/2015-4/2016</p> <p>4/2015-7/2015</p> <p>8/2015-10/2015</p>

17. Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.		Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.	Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.	4/2015-4/2016

Appendix 4: NF-LOC System Settings Remediation Grid 12/15/2014

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

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

I. Settings which currently meet HCBS characteristics.

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

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

Setting Type	Remediation Required	Action Steps	*Timeline
A. RESIDENTIAL SETTINGS 49.9% percent, (167 settings)			
Free standing licensed residential care facilities furnishing the assisted living waiver service	<ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS person-centered planning characteristics required for all HCBS NF-based waiver providers. Modify the assisted living service specification to incorporate CMS' required HCBS community integration/access characteristics. 	Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.	4/2015-4/2016
		Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.	11/2015-2/2016
		Educate provider network on how to use tools to identify current level of compliance and changes needed.	3/2016
		Develop and implement a compliance review tool to assess the compliance with the new rules.	12/2015-3/2016

	<ul style="list-style-type: none"> Modify the provider conditions of participation and disciplinary action rules to reflect requirement for compliance with the new rules. Develop a communication strategy to educate individuals and families about the implementation of the person-centered planning and community characteristic standards. 	<p>Compliance Time Frame</p> <p>Initial Assessment of Full Compliance: On-site assessments conducted to verify implementation and results of providers' remediation strategies to achieve full compliance.</p> <p>Ongoing Compliance: On-site annual provider structural compliance reviews conducted for each setting in accordance with OAC rules.</p> <p>Communication Plan: In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign.</p> <p>Quality Strategy: Utilize the annual National Core Indicators-Aging and Disability (NCI-AD) survey results to assess waiver participants experience with community integration and access.</p>	<p>5/2016-12/2016</p> <p>1/2017 and ongoing</p> <p>10/ 2015-4/2016</p> <p>2016 and Ongoing</p>
B. Adult Day Health waiver service settings. 92% (258 settings)			
Free Standing Adult Day Health settings furnishing the waiver service	<ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS 	<p>Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.</p> <p>Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to identify current level of compliance and changes needed.</p>	<p>4/2015-4/2016</p> <p>11/2015-2/2016</p> <p>3/2016</p>

	<p>person-centered planning characteristics required for all HCBS NF-based waiver providers.</p> <ul style="list-style-type: none"> • Modify the adult day health service specification rule to incorporate CMS' required HCBS community integration/access characteristics. • Modify the provider conditions of participation and disciplinary action rules to reflect requirement for compliance with the new rules and consequences for non-compliance. • Develop a communication strategy to educate individuals and families about the implementation of the person-centered planning and community characteristic standards. 	<p>Develop and implement a compliance review tool to assess the compliance with the new rules.</p> <p>Compliance Time frame</p> <p>Initial Assessment of Full Compliance: On-site assessments conducted to verify implementation and results of providers' remediation strategies to achieve full compliance.</p> <p>Ongoing Compliance: On-site annual provider structural compliance reviews conducted for each setting in accordance with OAC rules.</p> <p>Communication Plan: In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign.</p> <p>Quality Strategy: Utilize the annual National Core Indicators-Aging and Disability (NCI-AD) survey results to assess waiver participants experience with community integration and access.</p>	<p>12/2015-3/2016</p> <p>5/2016-12/2016</p> <p>1/2017 and ongoing</p> <p>10/ 2015-4/2016</p> <p>2016 and ongoing</p>
--	---	--	--

III. Settings that are Presumed to have the Qualities of an Institution and may be Subject to Heightened Scrutiny Process.			
Setting Type	Remediation Required	Action Steps	Timeline
<p>A. RESIDENTIAL SETTINGS</p> <p>40.3 percent (135 settings) are licensed residential care facilities certified as an HCBS assisted living provider are located on the campus of a Continuing Care Retirement Community.</p> <p>8 percent (33 settings) are licensed residential care facilities certified as an HCBS assisted living provider are in the same building as a nursing facility and operate separately and in accordance with residential care facility licensure rules and the CMS approved 1915 (c) assisted living waiver.</p> <p>Further analysis is required to determine the settings do not have the effect of isolating individuals from the greater community.</p>			
<p>Licensed residential care facilities located on the campus of a continuing care retirement community furnishing the assisted living waiver service</p> <p>Licensed residential care in</p>	<ul style="list-style-type: none"> Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS person-centered planning characteristics. Identify the settings for which heightened scrutiny will be requested. 	<p>Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.</p> <p>Standards: Establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community.</p> <p>Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed.</p>	<p>4/2015-4/2016</p> <p>4/2015-7/2015</p> <p>8/2015-10/2015</p>

<p>the same building as a nursing facility furnishing the assisted living waiver service</p>	<ul style="list-style-type: none"> Develop a communication strategy to educate individuals and families about the implementation of the person-centered planning and community characteristic standards. 	<p>Compliance Timeframe:</p> <p>Provider Remediation Plan: For settings that heightened scrutiny will be requested, providers will submit a written remediation plan describing actions to be taken to achieve full compliance within six months.</p> <p>On-Site Assessments: Conduct on-site evaluations of settings for which heightened scrutiny is requested to verify the implementation of the providers' remediation plans and to assess the providers' level of compliance with established standards.</p> <p>Heightened Scrutiny Evidence Package: Following each on-site assessment for those locations that the compliance reviews confirm a case for heightened scrutiny can be made, evidence will be compiled and submitted to CMS.</p> <p>For those locations that the compliance reviews show they continue to have the qualities of an institution, relocation planning will be initiated for individuals residing at the location.</p> <p>Ongoing Compliance: On-site annual provider structural compliance reviews conducted for each setting in accordance with OAC rules.</p> <p>Communication Plan In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign.</p> <p>Quality Strategy: Utilize the annual National Core Indicators-Aging and Disability (NCI-AD) survey results to</p>	<p>11/2015-1/2016</p> <p>6/2016-12/2016</p> <p>6/016- 12/2016</p> <p>1/2017-12/2017</p> <p>1/2017 and ongoing</p> <p>10/ 2015-4/2016</p> <p>2016 and ongoing</p>
---	---	---	--

		assess waiver participants experience with community integration and access.	
<p>B. Adult Day Health waiver service settings. 8% (22 settings) are in the same building as a nursing facility and operate in accordance with the adult day health service specification outlined in the CMS approved 1915 (c) waivers.</p> <p>Further analysis is required to determine to what extent these settings demonstrate the settings do not have the effect of isolating individuals from the greater community.</p>			
Adult Day Health settings in the same building as a nursing facility furnishing the adult day health waiver service	<ul style="list-style-type: none"> • Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. • Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS person-centered planning characteristics. • Determine level of non-compliance for locations that are believed to be subject to Heightened Scrutiny. • Develop a communication strategy to educate individuals and families about the implementation 	<p>Rule Process: Utilize the existing rule development and filing processes to draft rules and obtain stakeholder input.</p> <p>Standards: Establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community.</p> <p>Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to identify current level of compliance and changes needed.</p>	<p>4/2015-4/2016</p> <p>4/2015-7/2015</p> <p>8/2015-10/2015</p>

	<p>of the person-centered planning and community characteristic standards.</p>	<p>Compliance Timeframe:</p> <p>Provider Remediation Plan: For settings that heightened scrutiny will be requested, providers will submit a written remediation plan describing actions to be taken to achieve full compliance within six months.</p> <p>On-Site Assessments: Conduct on-site evaluations of settings for which heightened scrutiny is requested to verify the implementation of the providers' remediation plans and to assess the providers' level of compliance with established standards.</p> <p>Heightened Scrutiny Evidence Package: For those locations that the compliance reviews confirm a case for heightened scrutiny can be made, evidence will be compiled and submitted to CMS</p> <p>For those locations that the compliance reviews show they continue to have the qualities of an institution, relocation planning will be initiated for individuals residing at the location.</p> <p>Ongoing Compliance: On-site annual provider structural compliance reviews conducted for each setting in accordance with OAC rules.</p> <p>Communication Plan In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign.</p>	<p>11/2015-1/2016</p> <p>6/2016-12/2016</p> <p>6/016- 12/2016</p> <p>1/2017-12/2017</p> <p>1/2017 and ongoing</p> <p>10/ 2015-4/2016</p>
--	--	--	--

		<p>Quality Strategy: Utilize the annual NCI-AD survey results to assess waiver participants experience with community integration and access.</p>	<p>2016 and ongoing</p>
--	--	--	-------------------------

IV. Settings which <u>cannot meet</u> the HCBS characteristics			
Setting Type	Remediation Required	Action Steps	Timeline
A. RESIDENTIAL SETTINGS: No NF-LOC services are currently being furnishing in a nursing facility, a hospital, or an ICF-IID.			
TBD	<p>Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings.</p> <p>If a provider chooses the 2nd option above, a plan for relocating individuals to an HCBS-compliant location in a manner that is least disruptive to the individuals will be developed and implemented.</p>	<p>Relocation Process:</p> <p>Inform these providers the location where they are providing waiver services do not meet HCBS Criteria.</p> <ul style="list-style-type: none"> • Work with provider to develop a transition plan for coming into compliance, or for relocating individuals if the provider is not willing/able to come into compliance. • Implement plan to ensure individuals have as seamless of a transition as possible. 	12/ 2019
B. Adult Day Health waiver service settings. No NF-LOC adult day health waiver services are currently being furnishing in a nursing facility, a hospital, or an ICF-IID.			

<p>N/A</p>	<ul style="list-style-type: none"> • Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. • If a provider chooses the 2nd option above, a plan for relocating individuals to an HCBS-compliant location in a manner that is least disruptive to the individuals will be developed and implemented. 	<p>Relocation Process:</p> <p>Inform these providers the location where they are providing waiver services do not meet HCBS Criteria.</p> <p>Work with provider to develop a transition plan for relocating individuals if the provider is not willing/able to come into compliance.</p> <ul style="list-style-type: none"> • Implement plan to ensure individuals have as seamless of a transition as possible. 	<p>12/2019</p>
-------------------	---	--	----------------