New York State
HCBS Settings Transition Plan
Executive Summary

New York State presents its Statewide Transition Plan (STP) to achieve compliance with the Home and Community-Based Services (HCBS) Final Rule. New York State operates one 1115 and twelve 1915(c) waivers across five offices that oversee programs and services to individuals with disabilities; either physical, behavioral, mental, developmental, or intellectual.

The agencies/offices which oversee New York's home and community-based service (HCBS) provision are the: Department of Health (DOH); Office for People with Developmental Disabilities (OPWDD); Office of Mental Health (OMH); Office for Alcohol and Substance Abuse Services (OASAS); and Office of Children and Family Services (OCFS). The below listed 1915(c) waivers are those currently operating in New York State. The agency/office indicated to the right of each waiver operates the waiver under the oversight of the Department of Health, the State's Medicaid Agency.

- Nursing Home Transition and Diversion Waiver (DOH)
- Traumatic Brain Injury Waiver (DOH)
- Care at Home Waivers I, II, III, IV, and VI - (I and II: DOH; III, IV, and VI: OPWDD)
- Bridges to Health (B2H) Waivers - B2H Serious Emotional Disturbances, B2H Developmental Disabilities and B2H Medically Fragile (OCFS)
- Home and Community Based Services (HCBS) Waiver (OPWDD)
- Serious Emotional Disturbances (SED) Children's Waiver (OMH)

The aforementioned agencies/offices offer home and community-based Long Term Services and Supports (LTSS) through our Medicaid program, and DOH, OMH and OASAS provide HCBS under the NY Partnership Plan 1115 Demonstration Waiver. While State Plan LTSS are not impacted by this regulation, per notification by the Centers for Medicare and Medicaid Services (CMS), New York will address the application of the HCBS Final Rule to all HCBS provided through its 1115 Demonstration in this Statewide Transition Plan.

The State's initial assessment of our HCBS delivery system indicates that the vast majority of individuals in receipt of Medicaid-funded home and community-based services are living in their own homes or the homes of family members, friends, or neighbors. In addition, many Medicaid recipients may live in group homes or other settings where they enjoy the benefits of receiving services in the community, as opposed to in an institution. However, there are individuals who

live in congregate housing, adult care facilities and supportive housing where their autonomy, independence and community integration may be less apparent, including children and youth whose rights are delegated to their parents or guardians.

While the overall policy governing the New York State Transition Plan provides a uniform framework across the agencies, the specific way agencies have developed their assessment methodologies, tools and compliance approaches reflects their unique systems for quality improvement and budgetary resources.[1] Even though some differences in assessment methods exist, every New York State agency that sponsors a Medicaid HCBS waiver program is following the required approach delineated by CMS for bringing the HCBS systems into full compliance by March 2019, including: (1) a comprehensive systemic review of rules, regulations, policies, etc., and the results of this activity, as well as the remedial actions required to come into full alignment with the HCBS rules; (2) a site-specific assessment of the respective service systems, the results of the assessments, and the remedial actions that are being implemented to achieve full compliance; (3) methodology for ongoing quality monitoring for HCBS compliance; (4) training and other quality improvement activities and methods planned on-going; and (5) heightened scrutiny processes.

The revised New York State HCBS Statewide Transition Plan that follows is the result of the work of our Interagency Workgroup. This group was convened in 2014 by the Governor's Office in order to address achieving compliance with the requirements of the Final Rule. The New York State Department of Health (DOH), as the Single State Medicaid Agency, will continue to lead and oversee the State's Interagency Workgroup. The Interagency Workgroup, comprised of senior-level agency representatives from the Executive Chamber, DOH, OPWDD, OMH, OASAS and OCFS, is scheduled to meet each month to review how the respective state agencies are progressing in their efforts to achieve compliance with the HCBS rule. Through the Interagency Workgroup and management of stakeholder outreach, the DOH will continue to carry out its responsibilities for administration of the Medicaid program.

[1] For example, the Office for People with Developmental Disabilities (OPWDD), the largest HCBS system in New York State (NYS) serving more than 70,000 people through the 1915(c) Comprehensive Waiver, is able to utilize its existing quality surveyors to review each program and setting on-site for compliance with the HCBS settings rules annually and to determine which settings trigger heightened scrutiny, because the resources already exist within OPWDD to integrate the HCBS settings rules into existing quality processes and protocols. The NYS Mental Hygiene Law (MHL) requires annual review of all facilities overseen by OPWDD at least annually; this infrastructure does not exist as such in other state agency HCBS systems. In other NYS agencies, it may be necessary to rely on provider self-assessment processes with required validation methodologies, as specified by CMS guidance.

NEW YORK STATE DEPARTMENT OF HEALTH (DOH) HCBS SETTINGS TRANSITION

EXECUTIVE SUMMARY

DOH oversees the provision of home and community-based long term services and supports in both residential and non-residential settings for individuals who are physically disabled and/or frail elderly. Some of these participants may also be developmentally or behaviorally disabled. As the single State Medicaid Agency (New York or the State), DOH will also take the lead in implementing the Statewide Transition Plan (STP) with our sister agencies and offices.

I. INTRODUCTION

DOH has a long history of community-based care, beginning with the Long Term Home Health Care Waiver in the 1980s. Through our ongoing commitment to providing individuals the opportunity to receive long term services and supports (LTSS) in the community, we have moved to a system where more than 61 percent[1] of Medicaid spending on these services and supports is on community-based care rather than institutional care. We share CMS' goal that individuals in receipt of Medicaid-funded HCBS have their needs, preferences, and goals met in a way that maximizes their independence and community integration.

The vast majority of individuals participating in Medicaid-funded home and community-based services (HCBS) live in their own homes or homes of family members, close friends, or neighbors. This includes individuals living in apartments and affordable housing units through supportive housing or "at market" rent in communities across the State.

There are 171,000 individuals enrolled statewide in New York's Managed Long Term Care Demonstration, each of whom requires more than 120 continuous days of long term services and supports. Currently, approximately 161,000 of these individuals live in the community. A portion of the individuals enrolled in one of New York's Medicaid Managed Care Demonstration plans also receive Medicaid-funded HCBS. In addition, DOH oversees a number of waivers serving over 6,800 individuals.

The most challenging aspect of implementing the HCBS settings requirements in DOH residential and non-residential settings is the transition of New York's Medicaid Assisted Living Program (ALP) from a state plan, personal care program, into the 1115 Demonstration and our Adult Day Health Care (ADHC) Program.

New York's ALPs will transition into the 1115 Demonstration Waiver in 2017, at which time they will be required to comply with the HCBS rule. A full assessment of these sites will be necessary to determine their level of compliance in anticipation of their transition into the 1115. It is likely that changes may have to be made in terms of providing each individual with the full

[1] According to 2016 Balancing Incentives Program data.

range of choice and control over personal space, activities and time required by the federal rule. We have detailed this in a separate transition plan, attached.

Our Adult Day Health Care Programs are critical to provide the level of support that many of our elderly and/or physically disabled recipients of HCBS need during the day while their natural supports work or attend school. However, by State law and regulatory requirement they are affiliated with, and often located within, skilled nursing facilities. While we believe that these programs can meet the requirements of the federal rule, many would be considered to be presumed institutional under New York's reading of the federal rule. Therefore, DOH will be assessing each ADHC site, developing a transition plan to move it into compliance and submitting to CMS the addresses of those in need of heightened scrutiny, with evidence that the characteristics and qualities of an appropriate HCBS setting are present.

In addition, our managed long term care plans cover social day care in their benefit package. As part of its non-residential assessment process, DOH will survey a statistically significant sample of the programs with which plans are contracted. Remediation plans will be developed and implemented, where needed.

II. OVERVIEW OF DOH TRANSITION

The purpose of this Transition Plan is to describe how DOH's existing 1915(c) waiver programs and 1115 Partnership Plan Demonstration Project (covering both Medicaid Managed Care and Managed Long Term Care) comply with the federal rule. Where services provided under these programs may not fully comply with the rule, a plan to remediate, seek heightened scrutiny, or transition individuals to a compliant setting is described. In those rare instances where settings are, in fact, non-compliant, we will describe the planned assessment and remediation processes.

First, we will review the programs and services overseen by DOH to provide Medicaid-funded HCBS in home and community-based settings.

Authorities Affected by the HCBS Final Rule

DOH operates the following 1915(c), waivers in addition to overseeing our sister agencies and offices that operate other 1915(c) waivers as the State's Medicaid agency.

- Long Term Home Health Care Program Waiver[2]
- Nursing Home Transition and Diversion (NHTD) Waiver
- Traumatic Brain Injury (TBI) Waiver
- Care at Home Waivers I and II

In addition, as noted above, New York State offers significant home and community-based LTSS through our Medicaid state plan, as well as under the NY Partnership Plan 1115 Demonstration Waiver. The rule does not apply to state plan services outside of 1915(i) and 1915(k) authorities. However, CMS has indicated that it expects New York State to address the application of the HCB Settings rule to all HCBS provided through its 1115 Demonstration in this Statewide Transition Plan. Finally, New York State implemented the Community First Choice

[2] Individuals in this waiver have been subsumed into Managed Long Term Care under New York's Partnership Plan (1115 Demonstration Project) and the waiver sunset.

Option (CFCO) – 1915(k), with an effective date of July 1, 2015, with the understanding that such services would not be provided in congregate or provider-owned settings until these options are assessed and remediated, if necessary, through the Statewide Transition Plan period.

DOH Service System

1915 (c) Waivers

New York's DOH has direct oversight over the above noted 1915(c) waivers. In each of these waivers, individuals live in their own homes or those of family members, friends or neighbors. They may, however, receive services in non-residential settings, including structured day programs or adult day health care.

To provide context, the following home and community-based services and supports are provided to eligible individuals participating in these waiver programs. Some are state plan services and some are available only through the various 1915(c) waivers:

- Home Care, including aide services, nursing, and therapy services
- Personal Care
- Personal Emergency Response Systems (PERS)
- Home and Community-Based Support Services (discrete supervision and cueing)
- Home-Delivered/Congregate Meals
- Transportation
- Assistive Technology
- Environmental Modifications
- Respite Care
- Community Integration Counseling
- Community Transition Services
- Structured Day Program
- Substance Abuse Programs (TBI only)
- Service Coordination
- Independent Living Skills Training (TBI only)
- Positive Behavior Interventions and Supports
- Respiratory Therapy Services (NHTD only)
- Moving Expenses (NHTD only)
- Peer Mentoring (NHTD only)
- Nutritional Counseling (NHTD only)
- Wellness Counseling (NHTD only)
- Home Visits by Medical Personnel (NHTD only)
- Bereavement Services (Care at Home only)
- Expressive Therapy (Care at Home only)
- Family Palliative Care Education (Care at Home only)
- Vehicle Modification (Care at Home only)
- Massage Therapy (Care at Home only)
- Pain and Symptom Management (Care at Home only)

1115 Demonstration Project (NY Partnership Plan) – MLTC & MMMC
Managed Long Term Care (MLTC)

The Managed Long Term Care program operated under the New York State Partnership Plan (1115 Demonstration Project) has over 171,000 enrollees statewide in the following types of plans: Program of All-Inclusive Care for the Elderly (PACE), Medicaid Advantage Program (MAP), Partial Capitation (Partial Cap) and Fully Integrated Duals Advantage (FIDA).

MLTC plans provide the following HCBS services and supports:

- Home Care
- Personal Care, including Consumer Directed Personal Care
- Adult Day Health Care
- Social Day Care
- Personal Emergency Response System (PERS)
- Home-Delivered/Congregate Meals
- Social and Environmental Supports
- Assistive Technology
- Structured Day (FIDA only)

Almost all enrollees in Managed Long Term Care plans who are living in the community live in their own homes or that of a family member, friend or neighbor. Compliance will be assessed, and settings remediated, as needed, over the transition period in order to continue providing Medicaid-funded HCBS in those settings not presumed compliant.

Adult Day Health Care Programs

An Adult Day Health Care Program (ADHC) is defined as the health care services and activities provided to a group of registrants with functional impairments to maintain their health status and enable them to remain in the community. A registrant is a person who does not live in a residential health care facility, is functionally impaired and not homebound, and requires supervision, monitoring, preventive, diagnostic, therapeutic, rehabilitative or palliative care services but does not require 24-hour-a-day inpatient care and services. The registrant's assessed social and health needs can satisfactorily be met in whole or in part by the delivery of appropriate services in the community setting.

The ADHC programs provide a range of services in a community-based setting. General medical care, including nursing care needs, rehabilitative therapy, nutritional services, case management, social services, health education, pharmaceutical services, inter-disciplinary care planning, assistance and supervision with activities of daily living, (i.e., toileting, feeding, ambulation, bathing, etc.) therapeutic or recreational activities, religious and pastoral counseling and referral for necessary dental services and sub-specialty care are provided. Each registrant's care plan must be developed and updated in accordance with regulatory standard and must address all programs and services to meet the individual needs of each registrant (e.g., nursing services, food and nutrition, rehabilitation, leisure time activities, etc.).

Currently, there are 158 ADHCPs located throughout the state, with the largest concentration (55) located in the New York City area. These programs are surveyed once every three years for programmatic monitoring, which includes direct observation, record review and interviews with staff and registrants. The ADHCP Registrant Review form is a programmatic on-site

monitoring tool that assists the surveyor with this process. In addition, the programs are required to submit a Program Survey Report (Facility Self - Assessment Tool) and a certification statement of accuracy of the report to their regional office, annually.

Mainstream Medicaid Managed Care (MMMC)

The Mainstream Medicaid Managed Care program operated under the New York State Partnership Plan (1115 Demonstration Project) has over 4,406,000 enrollees statewide.

MMMC programs provide the following HCBS services and supports:

- Private Duty Nursing
- Home Health Services
- Personal Care Services
- Personal Emergency Response System
- Consumer Directed Personal Assistance Services
- Adult Day Health Care
- AIDS Adult Day Health Care
- Home Delivered Meals

As with MLTC, the vast majority of enrollees in Mainstream Medicaid Managed Care programs living in the community live in their own homes or that of a family member, friend or neighbor. Compliance will be assessed, and settings remediated, as needed, over the transition period in order to continue providing Medicaid-funded HCBS in those settings not presumed compliant.

Community First Choice Option (CFCO)

New York State is implementing the Community First Choice option (1915k). Under the State Plan Amendment approved by CMS, during the transition period we will **not** be offering these services and supports to individuals who do not live in their own home or that of a family member, friend or neighbor. Once congregate and provider-owned and controlled settings have been assessed and, if necessary, remediated, New York State may seek an amendment to the SPA to enable individuals living in such settings eligible to participate in CFCO.

III. ASSESSMENT METHODOLOGY

Site Level: New York will conduct and validate site-level residential and non-residential assessments; develop a menu of remediation strategies to address each characteristic and quality of an appropriate home and community-based setting; collect and maintain data for a comprehensive statewide database of settings and their level of compliance; implement corrective action/site-level transition plans, where necessary, under the direction of the DOH/State agency or office that oversees the setting; prepare evidence packages with public input for settings that require heightened scrutiny for DOH/State agency review and submission to CMS; and develop a monitoring schedule based on the State's existing surveillance and quality assurance activities to ensure ongoing compliance with the federal rule.

System Level: Each agency/office has also undertaken a systemic assessment, or much more detailed review, of state-level regulation, policy and guidance, and detailed areas of non-compliance, along with specific milestones and timelines for remediation. Areas assessed were

indicated as either “compliant,” “partially-compliant,” “silent,” or “non-compliant,” with the standards of the Final Rule, with documentation links being provided for any areas indicated as “compliant” or “partially-compliant.” Areas indicated as “partially-compliant,” “silent,” or “non-compliant,” needed a corresponding remediation plan with milestones for implementation. The systemic assessments can be found in the attached Systemic Compliance Charts (SCCs). The SCCs are located behind each agency/office transition plan narrative, and an index of New York’s regulations, policies and guidance materials which were reviewed can be found in Appendix C.

IV. ASSESSMENT PROCESS

Site Level: Assessments will be conducted on a statistically significant sample basis. Those settings that are presumed institutional due to their location or their tendency to isolate the individuals living or receiving services within them will be assessed and the State will determine whether or not to seek a heightened scrutiny review to continue providing Medicaid-funded services there after the transition period. Where the State determines that the site cannot or will not comply within the transition period, a plan will be developed to remove the site from among those where federal assistance will accrue for HCBS services and supports.

System Level: Staff from each agency or office administering HCBS Medicaid-funded service delivery reviewed the rules, regulations, protocols and policies relevant to implementing compliance with the HCBS Final Rule. The State then compiled the eight attached agency or office specific Systemic Compliant Charts, reviewed them for accuracy and completeness, and worked with each agency or office to promote a thorough review that identified needed remediation and milestones within the corresponding charts.

V. ASSESSMENT RESULTS

As noted above, the vast majority of settings in which individuals in receipt of Medicaid-funded HCBS services and supports live in their own home or that of a family member, friend or neighbor. However, as detailed in a separate transition plan, licensed adult homes will be assessed statewide and as instances where individuals living in non-compliant adult homes arise, a transition plan will be developed to remediate that setting or move the individual to a compliant setting.

After New York finishes conducting assessments of a sample of adult day health care programs and social day care entities with which managed long term care plans contract, a chart will be provided detailing their level of compliance.

VI. Remediation and Quality Improvement Strategies

The State will develop and implement remediation strategies, where needed. These strategies will range from training and/or hiring additional staff to ensuring a range of activities are available to meet the recipient’s needs, preferences and goals.

The remediation plans will be specific to the compliance issues noted in the survey tool and will be approved by the agency overseeing services and supports provided in that site.
Ongoing compliance with the Statewide Transition Plan is expected to be achieved for DOH waivers and the 1115 Demonstration by requiring our State agencies to develop a regular

schedule of surveillance, based on the existing state schedule for surveillance and quality oversight in collaboration with State surveillance staff. Sister agencies and offices have indicated their plans for assuring ongoing compliance within their respective transition plans.

VII. Public Input

New York State's Home and Community-Based Services Final Rule Statewide Transition Plan was posted for public input in the following locations:

- New York State Register on August 17, 2016, which can be found here: HCBS Final Rule STP NY State Register Post
- Medicaid Redesign Team website on July 19, 2016, which can be found here: HCBS Final Rule STP MRT Website Link
- Regional Resource Development Centers and on various State websites beginning August 18, 2016

The public comment period was extended until September 9, 2016 to ensure that a full 30 days of public comment was allowed for both paper and electronic formats. A summary of comments and the State's responses can be found below. In addition, New York hosted a HCBS STP webinar on August 18, 2016 and we have three HCBS STP Regional Forums scheduled to be completed by Summer 2017 in order to get additional stakeholder input on our plan.

Collocation and Administrative Interconnectedness of Adult Day Health Care (ADHC) and Nursing Homes:

A commenter noted that it was by requirement that ADHCs have been collocated, and administratively and fiscally interconnected, with nursing homes in New York. The commenter stated that without this design the programs, which prevent more costly nursing home placements, will fail. This failure would be a result of the increased cost associated with relocation or separation of programmatic operations. Many commenters wondered what other options would be available if ADHC services are eliminated.

Response: We appreciate these comments and will take them into consideration.

Request for Clarification of the Compliance Process, Heightened Scrutiny Assessment, and a Stand-Alone Adult Day Health Care Transition Plan:

Commenters sought guidance as to how ADHCs can come into compliance and requested a separate ADHC transition plan. They also suggested a revised *Summary of DOH Transition Activities* (Appendix B), stating the schedule is overly ambitious.

Response: New York is in the preliminary stages of working with our ADHC provider network as to how they can come into compliance with the Final Rule. We are also in the process of developing a provider compliance training. We anticipate that as more information is gathered throughout the assessment process, the ADHC portion of the Statewide Transition Plan (STP) would be reflective of this and further elaborate on the transitional plan for affected settings.

ADHC Operated Through State Plan:

A commenter asked if New York would consider moving Adult Day Health Care out of the 1115 Demonstration Project and cover the service under State Plan share.

> ***Response:*** We appreciate the question; however, at this time we will not be moving in that direction.

Adult Day Health Care Programs are Not Institutional:

Many commenters noted that ADHCs should not be considered for heightened scrutiny under the settings rule, because they provide services needed to prevent individuals from being placed in institutions.

> ***Response:*** New York State acknowledges that ADHCs can play an important role in preventing an institutional level of care by providing individuals with medical, social, and behavioral services that may enable them to continue living in the community. To ensure that the intent of the Final Rule is met, all settings that provide Medicaid-funded home and community-based services will need to be in compliance with the rule, and will be assessed in the manner required by CMS.

Heightened Scrutiny Process for Adult Day Health Care:

Commenters expressed that State regulations regarding ADHCs, which result in them (often) being collocated and administratively interconnected with Skilled Nursing Facilities in New York, have caused them to be presumed institutional. They expressed confusion and concern over the intended process of heightened scrutiny assessment and remediation of these settings, and a desire for strong stakeholder engagement in the process.

> ***Response:*** Heightened scrutiny is triggered when one or more of the following criteria have been met: the setting is located inside of a public or private institution; is on the grounds of, or adjacent to, a public institution; and/or it has the effect of isolating the individuals served. New York is in the process of developing a plan for our heightened scrutiny assessments. It is intended that we will work closely with stakeholders throughout this process, as well as educating providers and participants on the process of assessment and remediation before implementation of these steps.

Public Skilled Nursing Facilities (SNFs) Applicability to Heightened Scrutiny:

A commenter stated that Skilled Nursing Facilities (SNFs) are Medical Institutions, as opposed to Institutions. Therefore, they expressed concern that Medicaid-funded HCBS programs located on the grounds of, or adjacent to, public SNFs or Nursing Homes (NHs) do not trigger the second categorical criteria requiring them to undergo heightened scrutiny assessment, such as with programs located on the grounds of, or adjacent to, county or municipal-owned SNFs or NHs.

> ***Response:*** In New York State, hospitals are Medical Institutions. SNFs and NHs are not Medical Institutions, they are Institutions. Therefore, any programs receiving HCBS Medicaid-funding which are located on the grounds of, or adjacent to, municipal or county run SNFs or NHs will require heightened scrutiny assessment, should we decide

to claim Federal Financial Participation (FFP) for these settings past the transition period.

Adult Day Health Care (ADHC) and AIDS Adult Day Health Care (AIDS ADHC) Applicability to 1115 Mainstream Medicaid Managed Care:

A commenter expressed that it was erroneous for New York to assert that Medicaid Managed Care (MMC), nor the participating Managed Care Organizations (MCOs), have no regulatory oversight of ADHCs and AIDS ADHCs, and that the MMC systemic assessment shouldn't have indicated they had no sites of heightened scrutiny given that some ADHCs are located in nursing facilities.

Response: New York's contract with MCOs obliges that they will follow all relevant state and federal regulations, which include the HCBS Final Rule.

AIDS Adult Day Health Care (AIDS ADHC) Utilization of Provider Self-Assessments and/or Attestation vs. Annual Monitoring:

A commenter expressed concerns with DOH's plan to utilize a provider self-assessment and/or attestation to ensure AIDS Adult Day Health Care programs comply with CMS' community setting standards, and asserted that rather than relying on self-assessment by provider agencies, DOH should monitor annually and ensure that these programs are compliant.

Response: While DOH does intend to implement a process of self-assessment by provider agencies with respect to compliance with CMS' community setting standards, it was never our intent to rely solely on this self-assessment process to determine compliance. As indicated in the Statewide Transition Plan for AIDS Adult Day Health Care programs, we do intend to incorporate CMS community setting standards into routine on-site program monitoring, which will occur annually.

Richmond Center for Rehabilitation AIDS ADHC as Potential Institutional Setting:

A commenter raised concern about the Richmond Center for Rehabilitation and Health Care AIDS Adult Day Health Care Program, a program located within a nursing home, and stated that, given that a nursing home by its very nature is an institutional setting which isolates individuals from the broader community, the commenter is unsure how the DOH will ensure that the ADHC program located at the Richmond Center for Rehabilitation and Healthcare will be compliant with CMS' community setting standards unless this program is re-located elsewhere.

Response: We are aware that this particular program setting, located within a nursing home, is presumed to be institutional in nature, but as also noted by CMS, will not necessarily meet the criteria for having the effect of isolating individuals. Given its current location, this particular setting has been identified as rising to the level of heightened scrutiny, and we intend to adhere to CMS guidance pertaining to heightened scrutiny. In addition, the program will be subjected to the same process to assess compliance as other AADHC programs.

Revisions to Tool Used to Conduct Site Level Assessments:

One commenter made many specific suggestions as to how to revise the proposed OPWDD assessment tool in order to be more responsive to the needs of a non-residential setting overseen by the DOH, namely an ADHC.

Response: We appreciate the suggestions and will take them under advisement.

DOH Use of OPWDD Assessment Tool:

Commenters supported the State's intention to modify the assessment tool developed by the Office for Persons with Developmental Disabilities (OPWDD) for the site level assessments. Another commenter questioned the State's plan to use OPWDD's assessment tool, stating that it fails to evaluate key HCBS Rule standards, such as choice of setting option, choice of roommate and whether the individual would like to work.

Response: It is New York's intent to evaluate the proposed tools used for the site-level assessment process in order to ensure that the HCBS requirements are accurately assessed within DOH specific settings.

Assessment of Structured Day:

Commenters noted that the Traumatic Brain Injury (TBI) and Nursing Home Transition and Diversion (NHTD) HCBS waivers offer Structured Day Programs which they stated need to be assessed as they unnecessarily isolate and restrict participant autonomy, and may be located in nursing homes.

Response: New York plans on assessing Structured Day Programs as they must comply with the HCBS rule in the same manner other programs receiving HCBS Medicaid-funding.

Systemic Compliance Charts (SCCs) as Site Level Assessment Tool:

Many comments reflected concern that the Systemic Compliance Charts (SCCs) were, in fact, a site level assessment tool which could not adequately assess settings for compliance.

Response: SCCs were not used for site-level assessments, rather they are a tool used for New York's systemic assessment. The required systemic assessment we conducted consisted of cross-walking the HCBS Final Rule standards with New York's regulations, policies and protocols related to HCBS. When a final rule standard was listed as "compliant" in the SCC for a particular program or setting type, it meant that particular standard of the HCBS Final Rule was explicitly stated within the relevant regulations/protocols, etc. Site-level assessment tools, with plans for their implementation, are described separately within the STP.

PACE Compliance and Applicability:

One commenter mentioned that it was irrelevant for New York to state that most PACE participants live at home within its systemic compliance chart, as PACE is a congregate facility-based day program which must come into compliance. Another commenter stated that PACE should be removed from New York's systemic assessment altogether as the program does not fall under the purview of HCBS Final Rule currently; a point punctuated by a proposed PACE regulation, currently out for public comment, which solicited comment as to whether the HCBS Final Rule should apply to services arranged or delivered by PACE.

Response: New York has asked CMS whether PACE programs need to be compliant and CMS has not yet responded directly.

Potential for CFCO to be Offered in Provider-Owned and Controlled Settings:

One commenter noted that CFCO provides personal attendant services and one-on-one support services to assist people with disabilities to carry out activities of daily living at home, in integrated employment or other community settings. They stated that it is not intended to be used to staff congregate disability-related "day" or "activity" programs. They felt the State should keep in mind that the self-direction option must always be available for the recipient to choose, which may make use of the program in provider-owned or controlled residential settings impractical.

Response: We appreciate the comment and will take it under advisement.

Community First Choice Option (CFCO):

Commenters expressed support for CFCO, stating that its' intent is to operationalize the Olmstead Decision by promoting its goals, such as community integration and self-directed options. They had many suggestions for ensuring full implementation of CFCO.

Response: Thank you for your feedback. These comments have been forwarded to Department of Health, Division of Long Term Care program staff who are working on CFCO implementation.

Inclusion of Principles of Independent Living:

Commenters recommended that the Statewide Transition Plan incorporate the Principles of Independent Living within its implementation, that "people with disabilities should not be required to accept, or comply with, services to get and/or maintain housing," "must be able to maintain their legal tenant and housing rights and still receive services and supports they need," and that they "should be able to direct fundamental decisions that affect their lives and get the services and supports they need." They recommended DOH develop a statement of HCBS consumer rights and have provider and recipient trainings on the topic.

Response: We appreciate the feedback and will take it into consideration.

STP Omission of Enhancements to Affordable, Integrated Housing Options and Adequate Workforce:

A commenter stated New York's Statewide Transition Plan failed to include essential elements to reforming its system, namely plans for providing more affordable, integrated housing options, as well as for increasing workers' wages and/or other measures to improve the availability of a quality work force to support persons with disabilities.

> ***Response:*** New York has demonstrated its commitment to increasing the availability of housing options and realizes the importance of a qualified workforce which is needed in order to adequately support persons with disabilities. We appreciate the relationship of these issues in supporting the implementation of the Statewide Transition Plan.

Assessment of Managed Care Organizations (MCOs) Compliance:

One commenter suggested New York assess the HCBS compliance of MCOs, including using input from consumers in the process.

> ***Response:*** New York intends to assess HCBS compliance with any MCOs offering HCBS Medicaid-funded services.

Revision of the Medicaid Managed Care (MMC) Model Contract:

A commenter noted that revising the MMC Model Contract, while beneficial, is not sufficient to ensure MCOs compliance with the HCBS Rule. They suggested that MCOs receive training in conjunction with the DOH collecting ongoing feedback from stakeholders, to ensure compliance and consumer satisfaction with service provision.

> ***Response:*** Revision of the MMC Model Contract is a remediation which will help ensure HCBS Rule compliance from a systemic, or regulatory, stance. In terms of site level compliance, DOH acknowledges that while most MMC participants live at home, some MMC participants may receive services in settings that need to be remediated over the transition period. This will be assessed using the methodology described within the Statewide Transition Plan, including stakeholder input in the process, and we intend to train this audience, as well.

Affording Greater Access to HCBS under 1115 Demonstration:

Several commenters expressed concern that New York was not planning to assess all settings where home and community-based services (HCBS) may be delivered, or where recipients may live, outside of their own homes or that of a family, friend or neighbor. They felt that all settings should be assessed because many more individuals are now eligible for HCBS through the 1115 Demonstration, or MLTC and MMC.

> ***Response:*** New York will issue guidance to MCOs on coming into compliance with the HCBS Final Rule by the end of 2017. By that time we will also begin developing a plan to surveil MCOs, provider contracts and all settings where HCBS is delivered so that eligible individuals will be able to receive these services in a wide variety of settings across the state.

Examination and Public Input on New York's 1115 Demonstration Project:

A commenter expressed concern that the full implications of the impact of the HCBS Final Rule on New York's 1115 Demonstration Project, including Mainstream Managed Care (MMC) and Managed Long Term Care (MLTC), are far reaching and haven't yet been fully analyzed or realized. They stated that these authorities became applicable to the rule through their Special Terms and Conditions, not within the Final Rule itself, and that public input should be included in the process of the State analyzing the impact.

> ***Response:*** The State will take this comment into consideration. We appreciate the feedback.

Affording Greater Access to HCBS under 1115 Demonstration:

Several commenters expressed concern that New York was not planning to assess all settings where home and community-based services (HCBS) may be delivered, or where recipients may live, outside of their own homes or that of a family, friend or neighbor. They felt that all settings should be assessed because many more individuals are now eligible for HCBS through the 1115 Demonstration, or MLTC and MMC.

> ***Response:*** New York will issue guidance to MCOs on coming into compliance with the HCBS Final Rule by the end of 2017. By that time we will also begin developing a plan to surveil MCOs, provider contracts and all settings where HCBS is delivered so that eligible individuals will be able to receive these services in a wide variety of settings across the state.

Improved HCBS STP:

Many commenters supported the amended HCBS STP by stating that it addressed many of CMS' concerns with the 2015 STP and demonstrated significant work on the behalf of New York's agencies and offices.

> ***Response:*** New York has worked hard to improve our STP and likewise to respond to as many CMS requests as possible at this time. We thank commenters for this feedback.

Lead Coordinator:

One commenter stated there was poor coordination across New York agencies. Another commenter suggested Office for Persons with Developmental Disabilities (OPWDD) be the lead agency overseeing the HCBS STP, in order to ensure that services for persons with developmental and intellectual disabilities (DD/ID) were properly understood and assessed.

> ***Response:*** The Department of Health (DOH), as the State Medicaid Agency overseeing all Medicaid service delivery, has been tasked with overall coordination of the STP, under the direction of the Governor's office and in coordination with all involved state agencies. New York State's vast and diverse HCBS delivery system serves many disability populations, all of which are engaged in the development of the STP.

Stakeholder Engagement and Input:

Commenters recommended that the Department of Health (DOH) and sister agencies and offices increase stakeholder engagement in the Statewide Transition Planning (STP) process.

> ***Response:*** DOH is currently planning regional forums to be held in locations throughout New York to provide information regarding the STP, as well as to engage with, and seek input from, stakeholders. DOH plans to offer a variety of stakeholder engagement opportunities in the future as well. Sister agencies and offices are all using various methods to engage with stakeholders, as described within their plans and responses to comments pertaining to their portions of the STP.

Assessment and Remediation of Settings Presumed Compliant:

One commenter questioned whether settings "presumed to be compliant" with the HCBS rule, such as private homes, can be determined "non-compliant" or "partially-compliant" at any time after an assessment, and how remediation plans would be determined, if so.

> ***Response:*** Settings presumed to be compliant by New York, i.e., the HCBS recipients own home or the home of a family, friend, neighbor or relative, aren't currently planned for site-level assessment, as New York has no regulatory authority over private homes. However, should New York find through, for example, a case manager report, that the setting resembles a congregate care facility which needs assessment, then the process of assessment and remediation will closely resemble that which was described in our Statewide Transition Plan for all residential settings which require assessment.

Concern with HCBS Final Rule and Centers for Medicare and Medicaid Services (CMS) Guidance:

Commenters expressed concern over the nature of the HCBS Rule and its lack of applicability to the older adult population. They stated that CMS guidance to-date has not been inclusive of this population.

> ***Response:*** We will share these comments with CMS.

Appendices A (2) – (3) Addressing Adult Homes:

One commenter indicated that Appendices A (2) – (3), which address the systemic assessment of Medicaid Managed Care and Managed Long Term Care, erroneously failed to include adult homes.

> ***Response:*** Adult Homes were addressed in the Assisted Living Programs (DOH ALP) portion of the Statewide Transition Plan, beginning on p. 38.

Heightened Scrutiny Clarification - CCRCs:

A commenter suggested that New York designate Continuing Care Retirement Communities (CCRC) and "CCRC-like" settings as not needing to undergo the heightened scrutiny assessment process.

Response: CCRCs and "CCRC-like" settings may not automatically trigger heightened scrutiny assessment. However, we must assess all settings where HCBS Medicaid-funding is being utilized before we decide which settings will be subjected to heightened scrutiny.

Heightened Scrutiny Clarification – Assisted Living Program Self-Assessment Tool:

One commenter disagrees with the State's interpretation of the third heightened scrutiny categorical interpretation. CMS defines that category as being any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving HCBS. Commenter then questioned the Assisted Living Program Self-Assessment tool collecting evidence about all programs located on campus settings, indicating the State's assumption is that such settings would serve to isolate, or trigger the third heightened scrutiny category.

Response: The Assisted Living Program Self-Assessment Tool was designed to provide information related to provider compliance with the HCBS Rule. The information gathered will assist in the development and implementation of future guidance to assisted living providers across the state in an effort to comply with the person-centered care approach and embrace each individual's right to access services, providers and programs within the broader community.

Financial Impact of HCBS Compliance:

A commenter would like CMS and the Department of Health to recognize and respond to the cost burden associated with full compliance with the HCBS Rule.

Response: The true financial impact of compliance is unknown at this time, however the State welcomes a cost discussion in the near future.

Assisted Living Program Self-Assessment Tool:

A commenter recommends that multiple language changes are needed on the Assisted Living Program (ALP) Self-Assessment Tool.

Response: The State provided ample opportunity for stakeholders to comment on language within the ALP Self-Assessment Tool. Based on those comments, the State released the Tool and received 175 responses. An educational webinar was also held to assist ALPs with the completion of the Tool.

Special Needs Assisted Living Residences and Heightened Scrutiny:

One commenter disagrees with the inclusion of providers of Special Needs Assisted Living in the heightened scrutiny category following additional guidance released by CMS.

Response: The State will provide an opportunity for all assisted living program providers identified as requiring heightened scrutiny to submit documentation for review by the State. On-site reviews will also be conducted to validate that the information submitted satisfies the compliance expectations for the HCBS Final Rule.

Assisted Living Program Stakeholder Input:

A commenter recommends that all Stakeholders receive a copy of the surveillance protocol to be developed and used by New York to assess ongoing compliance for Assisted Living Programs.

> ***Response:*** The State will post the tools on its public website at: DOH ACF/ALP Webpage.

Adult Home Facilities Subject to the HCBS Rule:

A commenter recommends that all adult homes be subject to the HCBS Rule as they house many people who receive Medicaid Managed Care and Managed Long Term Care Services under the 1115 waiver.

> ***Response:*** New York State appreciates the comment and will continue to explore the appropriateness of this recommendation. In addition, the Adult Care Facility Regulatory workgroup will continue to incorporate the principles of the HCBS Final Rule in its regulatory review and revisions. Through this process, the State will further its goal of providing person-centered care in an environment that fosters informed choice and access to the broader community for all adult care facility residents, regardless of payer source.

Stakeholder Input and Adult Home Settlement:

A commenter suggests assessing adult homes with input from residents and advocates, and the plan should comport with the adult home settlement.

> ***Response*:** New York State appreciates the comment and will seek input from residents and advocates through the Adult Care Facility Regulatory workgroup forum. Regulations will be reviewed and revised based, in part, by the information contained in the State's systemic compliance chart. However, the State will not comment on existing litigation nor on information contained in *United States v. State of New York, CV-13-4165 (EDNY), O'Toole, et al. v. Cuomo, CV-13-4165, (EDNY*).

Adult Care Facility Remediation Strategies:

A commenter suggests that the New York's plan should specify how adult homes will be brought into compliance with the HCBS Rule or, alternatively, how residents will be transitioned to compliant settings.

> ***Response:*** The State expects all operators subject to the HCBS Final Rule to fully comply by March 17, 2019. The State will continue to provide ongoing guidance, education, training and on-site reviews, as necessary, to foster compliance. As such, the provider, not the State, is expected to develop, implement and monitor policies, protocols and facility practices necessary to achieve compliance. In addition, the State will revise regulations to align with the Final Rule, thereby increasing the need for action by the covered provider.

Assisted Living Program Assessment:

A commenter recommends that New York "properly assess" Assisted Living Programs housed in NYC adult homes.

Response: We will consider this comment in our overall assessment process.

Adult Care Facility Systemic Compliance:

A commenter recommends that DOH use its current Regulatory Workgroup and rewrites to further the goals of the HCBS Final Rule.

Response: The State agrees and accepts this recommendation.

Special Needs Assisted Living Residences and Heightened Scrutiny:

A commenter suggests that Special Needs Assisted Living Program should be excluded from the CMS Heightened Scrutiny Process.

Response: The State appreciates the comments and would like to clarify the process of heightened scrutiny. Facilities that are presumed to have qualities that subject them to the heightened scrutiny process will have the opportunity to individually provide the evidence-based and site-specific information to demonstrate their compliance with the HCBS Settings Rule. During a CMS-hosted webinar on July 27, 2016, CMS indicated that residents may reside on a secured unit only after the care planning team has determined through an assessment process that the individual has a history and pattern of unsafe wandering. Please note that the presence of a diagnosis related to a cognitive/memory disorder is not in and of itself an acceptable reason to place the resident on a secured unit. Periodic re-assessment is required and must be documented in the resident record and incorporated in the overall person-centered plan of care, which will not remain static. Lastly, although CMS has publicly stated that delayed egress on a secured unit is permissible, providers are to be reminded that this action must not replace appropriate staff supervision.

Adult Home HCBS Compliance Assessments:

One commenter requests the inclusion of all adult homes and references that all are "institutional."

Response: It is the intent of the State to assess all settings in which HCBS waiver participants reside, regardless of payment source, to determine compliance with regulations. It is the intent of the Adult Care Facility Regulatory Reform workgroup to incorporate the HCBS criteria and requirements into regulations. The self-assessment was initiated as a starting point and will not be the sole basis for determining HCBS compliance.

Adult Home Heightened Scrutiny Assessments:

A commenter recommends that all adult homes require heightened scrutiny and encourages DOH to coordinate activities with the Office of Mental Health.

Response: The State will assess all settings where HCBS are being provided and we are coordinating with OMH and all affected agencies/offices.

Stakeholder Input in Assisted Living Program (ALP) Plan:

A commenter suggests that the ALP transition plan was developed with limited input from stakeholders.

Response: The State is satisfied with the time allotted for stakeholders to review and comment on the ALP Self-Assessment. The transition plan is a work in progress, and the State will continue to review and revise, as applicable, and in consideration of stakeholder comments.

ACF HCBS Compliance:

A commenter requests that New York require significant environmental changes to existing ALPs.

Response: It is the State's position that adult care facility architectural standards are established to meet the needs and safety requirements for all residents. Standards are required to comply with all local building, fire and ADA requirements. The State accepts the commenter's recommendation that all resident units have lockable doors, with keys provided to the resident. This requirement, along with additional setting-specific requirements, will be addressed and regulations promulgated using the Adult Care Facility Regulatory Reform workgroup forum. As noted in the documentation submitted by this commenter, the State has, through its system compliance review process, determined a strong need for regulatory reform for all adult homes.

General Comments on New York's OPWDD Section of Statewide Transition Plan (STP):

A commenter was concerned that the Office for People with Developmental Disabilities (OPWDD) and New York State have failed to implement emerging best practices in the Intellectual/Developmental Disability (ID/DD) field by overly relying on segregated and congregate programs. Several commenters applauded key reforms in the STP, including coordinating HCBS compliance efforts with New York's on-going commitment to close both Intermediate Care Facilities (ICFs) and Sheltered Workshops.

Response: New York is committed to the values of integration, individual choice and independence imbedded within the HCBS Final Rule. This system transformation includes integrating emerging best practices and evidence-based practices, [such as Council on Quality and Leadership (CQL) Personal Outcome Measures (POMs) and the development and implementation of a valid, reliable, individual assessment tool through the Coordinated Assessment System (CAS)], as well as looking for ways to continue to make the system more flexible, individually tailored and person-centered.

Format of STP and Communication with Stakeholders:

Commenters expressed concern about a lack of communication regarding the federal rules and potential impact on services. They noted that the Transition Plan language, organization and formatting makes it difficult for people with disabilities to understand.

Response: While New York State satisfied all applicable federal regulations, we appreciate the concerns expressed about the difficulty with the STP's readability. We have strived to conduct as many information sessions as possible, and we will continue to conduct outreach. In addition, we have a workgroup engaged in making recommendations as to how we can better communicate directly with participants and other stakeholders, which consists of people with I/DD who receive services. We will engage this group in helping us to determine the important information to convey about the STP and in the development of a short guide for people supported by OPWDD.

Time and Resources Needed for Compliance:

Commenters expressed concern that the projected timeframe and lack of financial resources devoted to HCBS settings compliance will limit the possibility of successful implementation.

Response: New York is making every effort to fully comply with the rules by no later than March 2019.

Stakeholder Input in New York's OPWDD Committees:

Several commenters recommended that broader stakeholder representation be included in the State's OPWDD work groups and committees charged with Transition Plan implementation. These commenters further stated that a diverse range of housing and support options must be available in order to accommodate the broad autism spectrum.

Response: New York is committed to the values of integration, individual choice and independence imbedded in the rule, and is making every effort to communicate with, and obtain input from, our multiple stakeholders. We agree that a diverse range of housing and support options should be available to accommodate all people with intellectual and developmental disabilities (I/DD), including people on the autism spectrum, and we continue to work towards this goal.

Coordinated Assessment System (CAS):

A commenter expressed that OPWDD currently lacks a valid, reliable, individual assessment tool and that existing assessments fail to capture true needs, especially the complexity and number of high needs individuals. Another commenter has concerns that the CAS validation report is not yet available for review and there is no basis for evaluating the fit of individuals' needs to services in the context of the HCBS settings rules.

Response: New York is implementing the InterRAI Intellectual/Developmental Disability (ID/DD) individual assessment tool as the core instrument for OPWDD's Coordinated Assessment System (CAS). The CAS will be used to identify and assess each person's strengths, needs and interests and to create a person-centered plan. The CAS validation studies have been completed that demonstrate that the tool is, indeed, valid. OPWDD is actively working on the public report and, upon completion and review, will have a statewide WebEx presentation.

Choice of Setting:

Several commenters expressed concerns that the HCBS settings rules limit individual choice to reside in and/or receive services in a particular setting. A commenter was particularly concerned about agriculture-based programs and what effect the HCBS rules will have on these programs.

> ***Response:*** The HCBS Final Rule is a federal regulation. New York will make every effort to promote compliant settings, and to avoid the need for people to relocate in the event a setting is unable to achieve compliance. Also, the State can choose to present evidence to CMS in an effort to demonstrate that a particular setting complies with the HCBS rules.

Compliance Assessment, Survey Tools, and Ongoing Monitoring:

A commenter expressed support for New York's decision to conduct assessments of OPWDD surveyed sites rather than relying on provider self-assessments, but suggested the assessment tool be expanded to more fully cover all HCBS settings criteria and CMS Exploratory Questions.

> ***Response:*** OPWDD's initial HCBS Settings assessment tools for residential settings (Part I, Person-Centered Review and Part II, Site Review) were based upon the CMS Exploratory Questions for Residential Settings. While the questions themselves may not have used the exact wording of the Exploratory Questions, and many of the Exploratory Questions were duplicative, the essential elements and intent of the Exploratory Questions is evident within the assessment tool questions and the 100 page OPWDD Guidance Document, which is the interpretative guidance for these questions.

Use of Participant Interviews with Assessment Tool:

Another commenter conveyed the belief that the State's OPWDD site assessment tool will be effective for determining compliance, yet noted that the assessments should include interviews with supported individuals in addition to input from providers, self-advocates and advocacy groups.

> ***Response:*** We agree that it is important to include interviews with participants, their circle of support, and providers. Advocate groups and other self-advocates will have the ability to provide public comments related to settings subject to heightened scrutiny. OPWDD's HCBS Settings residential assessment results included 1,000 Person-Centered Reviews that were based upon discussion and interview directly with people receiving supports and their circles of support.

Site Review Methodology for OPWDD:

A commenter stated that New York's STP does not provide sufficient detail on its site review methodology, including details on how residents of programs will be interviewed where most are non-verbal, and how reviewers synthesize the interviews and impressions of programs into reliable data for the purpose of calculating HCBS compliance.

> ***Response:*** The State posted the OPWDD HCBS settings assessment tools and interpretative guidance on the HCBS Settings Toolkit on OPWDD's website. The

Guidance Document for the Residential Assessment (*see*: HCBS Settings Toolkit) describes the method for determining whether a standard is met or not met, and also describes the requirements for interviewing people, including when a person does not communicate with words. The Person-Centered Review Tool standards assess individual experiences and outcomes in the setting, and are similar to the concepts included in the Council on Quality and Leadership (CQL) Personal Outcome Measures (POMs). OPWDD received technical assistance from CQL on the assessment tools and the assessment process to ensure that we address important concerns such as the commenters.

Assessment of Day Programs, Family Care Providers and Respite:

A commenter noted that New York has not completed a compliance assessment of day programs, Family Care providers or Free Standing Respite overseen by OPWDD.

Response: A review of HCBS settings requirements in day programs is incorporated in the Division of Quality Improvement (DQI) survey tools and process for the 2016-17 survey year and beyond. New York intends to develop and implement a plan to assess Family Care Settings in 2016-17 and the dates in the Statewide Transition Plan will be revised to reflect this change. CMS allows states to use institutional settings for respite services that typically do not exceed 30 days' duration and, therefore, such settings are excluded from the HCBS settings requirements.

Evaluation of Regulatory Requirements:

A commenter criticized DQI for not having a strong system in place for evaluating regulatory requirements.

Response: OPWDD has a strong system in place for reviewing regulatory compliance, including on-site reviews of all certified programs and annual reviews of waiver programs and Medicaid Service Coordination (MSC).

Guardian Participation in Assessment Process:

A commenter suggested that protocol guidelines be added to the HCBS Statewide Transition Plan giving guardians adequate notice so that they may attend interviews for compliance surveys.

Response: New York will carefully consider this comment. OPWDD periodically contacts a sample of parents/guardians during reviews to assess information provided from this perspective about the supports and services provided.

Validity and Reliability of Assessment and Data:

Several commenters noted concern regarding the validity and reliability of OPWDD's assessment tool and the data reported in the Transition Plan.

Response: New York received technical assistance from Council on Quality Leadership (CQL) in the development of OPWDD residential assessment tools. The tools were based on CMS' Exploratory Questions or the recommended questions for HCBS compliance assessment. We developed a robust interpretive guidance document and

trained surveyors to administer the tools, including training provided by DQI surveyors on assessing personal outcomes. In addition, completed assessments were reviewed by the Central Office Continuous Quality Improvement to verify the validity of results, and sampling methods were selected based on accepted sampling methods for HCBS waivers. We did, however, realize a mistake was made in how the sampling was described. A correction will be made to the STP to reflect that there was a subsample of IRA/CRs chosen from the larger sample of IRA/CRs, in which up to two individuals from the subset of IRA/CRs were selected for the Part I Person-Centered Review.

Community-Based Supports and Services:

A commenter suggested that New York include a plan to increase the amount and availability of OPWDD community-based supports and services.

Response: Guided by the recommendations of the Transformation Panel, New York has continued to focus on the service and support needs of people with I/DD who live at home. New residential support categories have been developed for those living at home whose family members are no longer able, or soon will be unable, to care for them. OPWDD's 2016-17 budget dedicates $120 million of new service and supports funding, of which $10 million is allocated specifically to create residential supports for individuals living at home.

Day Habilitation:

Several commenters criticized facility-based day habilitation as described in the OPWDD portion of the Statewide Transition Plan.

Response: The HCBS Final Rule does not prohibit facility-based programs/settings, but does require that these programs/settings meet the HCBS settings requirements, including facilitating people going out into the broader community. OPWDD is making every effort to ensure that facility-based day programs understand the HCBS settings rule.

Several commenters raised concerns regarding criteria related to determining whether a person should be authorized for facility-based day habilitation.

Response: New York is implementing the InterRAI as the core instrument for the Coordinated Assessment System (CAS). The CAS will be used to identify and assess each person's strengths, needs and interests, and will help OPWDD and providers to create person-centered plans that will align resources to individual needs and desires. This tool, along with the person-centered planning process, will help determine whether a person needs facility-based services, including day habilitation.

Developmental Center Closure:

A commenter expressed concern over the lack of clarity on the criteria being used for determining which individuals remain in developmental center settings.

Response: New York is committed to fulfilling its long-standing regulatory obligations to develop safe discharge plans for anyone leaving OPWDD care in full consultation with the person receiving services, his/her family and/or advocates. Those written plans are official components of their comprehensive plan of care. Anyone who has questions

about the transition plan can facilitate those questions through their Medicaid Service Coordinator or, if she or he resides in an Intermediate Care Facility, through the assigned Qualified Intellectual Disabilities Professional (QIDP). Additionally, any qualified party may pursue due process rights under Mental Hygiene Law 633 to object, or seek significant modifications to, proposed discharge plans.

Fiscal Platform/Rate Setting and Related Comments:

Several commenters criticized fiscal platforms and rate setting as they relate to OPWDD residential settings, respite and high support needs individuals in certified versus non-certified settings.

Response: New York will carefully consider the comments to use hourly rates for services, to unbundle rates for housing and support services, and suggestions on congregate care payments as we continue to work on OPWDD transformation plans, agency rate setting methodologies, and move to a care management infrastructure. With regard to respite services, Respite rates were increased to reflect cost of living adjustments for direct support professionals and clinical staff, and were also recently adjusted upward to reflect a .2% trend as established in the 2015-16 budget. Further adjustments will be made as necessary, and we are proposing a new Respite fee methodology based on the concerns of providers after a recent rebalancing of rates.

Heightened Scrutiny:

One commenter disagreed that the heightened scrutiny test is obscure and suggests that OPWDD develop downsizing plans and close sites rather than using resources to defend hundreds of heightened scrutiny settings.

Response: The State's statement noting that the CMS test for overcoming a presumption of heightened scrutiny is unclear refers to a lack of information on the specific requirements for an evidence package, as well as the CMS evidence review process and timeline for such determinations.

New York State will only forward to CMS for a heightened scrutiny determination those settings which, in the State's opinion, overcome the presumption of being institutional and/or isolating based upon the evidence and on-site review measured against the HCBS compliance standards.

Housing:

Several commenters expressed concern about the housing plans described in the Statewide Transition Plan, including the lack of detail about how housing will be affordable, accessible and integrated.

Response: Through the work of the Transformation Panel and Balancing Incentive Program grants, New York is exploring innovative and flexible housing initiatives related to growing non-certified housing options in New York State. In addition, OPWDD is working on a Five-Year Housing Plan that will also address housing subsidies. OPWDD anticipates that the enhanced care coordination design will consider the role of housing navigation/housing counseling in the context of the care team and envisions a

specialized niche for housing navigation and/or housing counseling that may be connected to or a component of the future care management system.

Intermediate Care Facility (ICF) Closures:

Commenters expressed concern and are seeking guidance on the ICF Transition Plan that requires ICF closures (except Children Residential Projects [CRPs]) by October 2018.

Response: New York is proceeding with the ICF transition plans in accordance with the ICF Transition Plan negotiated with CMS. With regard to ICFs converting to waiver settings, OPWDD has a process in place to review person-centered planning and HCBS compliance work plans prior to authorizing ICF conversions to proceed. Our process requires that each person be assisted to make an informed choice on where they would like to live from an array of available housing options.

Rights of HCBS Recipients:

Several commenters expressed concerns with regard to individuals' rights in the Statewide Transition Plan, including people's right to privacy and sexual expression, and rights restrictions due to the needs of another.

Response: New York is actively working to achieve state regulatory alignment and consistency with the HCBS rule and will ensure that there is a thorough review of the regulation components noted by the commenters. OPWDD's ADM #2014-04 provides guidance on rights modifications under the rule. If there are rights modifications that affect others in the home, the expectation is that the provider works with all involved to safeguard others rights. This will also be addressed through future regulatory revisions.

Remediation Strategies:

A commenter criticized the Statewide Transition Plan (STP) as not going far enough to identify mitigation strategies to assist providers in meeting the HCBS Final Rule.

Response: New York will consider this comment as we move forward with additional development and implementation of our STP.

Residential Schools and Discharge Plans:

A commenter criticized New York's lack of inclusion in the STP of discharge planning for young adults graduating from OPWDD residential schools.

Response: Discharge planning for young adults is not addressed in the STP; however, we are aware of the critical need to improve the transition of school age, young adults to adult services in a timely manner. For this reason, revenues generated from OPWDD participation in Community First Choice Option (CFCO) are directed to the service needs of young adults leaving the education system. Additionally, staff continue to reach out to school districts in their catchment areas to make sure that individuals and families are connected to OPWDD and service coordination well in advance of the student's completion of school. Also, in the current HCBS Waiver Amendment, New York is proposing high needs funding that is designed to improve access to certain services for individuals with high staffing needs.

Residential Setting Size and Downsizing of Large IRAs:

Several commenters were critical of the permitted flexibility in determining appropriate size as well as long-term plans for downsizing and funding group homes in the STP.

> ***Response:*** New York agrees that downsizing larger IRAs requires long-term planning and resources. Our survey process will assess compliance with the HCBS rule in large IRAs and will require corrective actions when necessary; failure of any setting to achieve compliance within required timeframes may result in the suspension of waiver funding. CMS does not prescribe a size limitation for compliance with the rule and notes that even a very small setting may be isolating and a very large setting can be compliant. There may be circumstances in which a larger size (more than 4 people) is needed to ensure the health and safety of people with I/DD who need medically intensive staffing and services.

Self-Directed Services:

Several commenters criticized and made recommendations regarding self-directed services outlined in the STP. Specifically, commenters discussed fiscal intermediary (FI) policies and practices, positive behavioral supports and individuals with intensive needs.

> ***Response:*** New York will consider these comments as it continues to work to strengthen and improve OPWDD's self-directed service options and implement the Transformation Panel recommendations. OPWDD has convened a work group that is examining challenges with the new self-direction model and the recommended changes resulting from this work may be addressed in subsequent waiver amendments.

Sheltered Workshops:

Several commenters strongly criticized sheltered workshops and their ability to be converted in place to integrated employment settings as well as their need to undergo heightened scrutiny as part of the STP. Another commenter suggested that other funding sources be used for sheltered workshops between 2019 and 2020 to be consistent with the requirements set forth in the HCBS Final Rule.

> ***Response:*** We believe that an integrated employment setting that was previously a sheltered workshop can comply with the rule. We will consider the comment about using other funding sources for sheltered workshops that continue to operate from March 2019 through April 2020.

Transportation:

A few commenters were critical of how transportation supports, systems and funding are addressed in the STP.

> ***Response:*** Based on recent New York State legislation, there is work currently underway to study transportation services across the various New York service sectors. OPWDD was authorized to contract with an outside entity to conduct an assessment of the mobility and transportation needs of persons with disabilities and other special populations. A report and recommendations related to the transportation needs of

people with disabilities is scheduled to be submitted to the Governor and Legislature in December 2016.

Work Force and Direct Support Professionals (DSPs):

Several commenters identified concerns regarding work force adequacy and credentialing of Direct Support Professionals (DSPs) in the HCBS Transition Plan.

Response: The credential program that has been proposed in New York State in the study commissioned by the Legislature in 2014-15 would be a voluntary credential. No decision has been made to require credentialing of DSPs and no funding was allocated for credentialing in the 2016-17 budget. OPWDD is currently working with a stakeholder group to recommend voluntary credentialing options for the direct support workforce in New York State. Consideration will be given to the financial requirements of a credential program as well as any potential costs that could impact direct support professionals in future planning. The Transformation Panel has identified the DSP wage issue as one that should be assessed so that appropriate wages are available for the direct support workforce.

Behavioral Health HCBS Services Availability:

A commenter states a strong belief that the New York State Office of Mental Health (OMH) Behavioral Health Home and Community-Based Services (BH HCBS) should be made available to all eligible individuals in all residential settings during the transition period.

Response: The State has provided written policy allowing people residing in settings currently under review to be assessed and receive appropriate BH HCBS, if eligible. This policy has been dispersed to Health Homes, Managed Care Organizations, Residential Programs, pertinent State agencies, and OMH operated field offices and facilities. A copy of the policy is included here: Behavioral Health HCBS Policy Guidance Document

Concern with OMH's Implementation Timeline:

Commenter expressed concern with the timeline for implementation of New York's OMH transition plan activities.

Response: New York State is working diligently to implement an expedited statewide assessment of OMH settings to promote compliance with federal rules. We are working with OMH residential programs in an effort to complete a statewide residential review. Prior to implementation in NYC, and in collaboration with the Managed Care Technical Assistance Center (MCTAC), we held four trainings in NYC on June 27 and June 28, 2016 to present the provider self-assessment process. In addition, we established a separate e-mail box for providers who encounter any difficulties during this process, as well as the direct contact information of two staff dedicated to the oversight of this process. Additionally, through our partnership with Managed Care Technical Assistance Center, we posted the material covered in the training on the MCTAC website. Beginning in October and November, 2016, New York State OMH will hold at least four additional trainings for the remainder of the State OMH residential providers on the implementation of the provider self-assessment process. As of September 21, 2016, 946 assessments for BH HCBS have been completed and 177 are in the process of

being completed. Participation from residential providers has been overwhelmingly responsive.

Use of Provider Self-Assessments for OMH Settings:

Commenter notes New York should not rely solely on Provider Self-Assessments of HCBS compliance for OMH settings.

Response: The State does not intend to rely solely on provider assessments of OMH settings. We will continue to assess HCBS final rule requirements during regular site visits conducted by OMH field offices. In addition, issues identified on the provider assessments will be assessed and site visits conducted, as necessary, for further review for HCBS compliance.

Assessment of OMH Non-Residential Settings:

A commenter states OMH's portion of the transition plan fails to include any assessment of non-residential settings.

Response: New York has designated non-residential HCBS provider settings through a separate service-based electronic designation process, which includes agencies overseen by OMH attesting to HCBS settings compliance. HCBS services will not be provided in day programs or supported employment programs that do not comply with the settings rule.

Plan for Pre-determined Non-Compliant OMH Settings:

A commenter notes New York provides no explanation for its conclusion for pre-determined non-compliant OMH settings and no plan for transitioning people into compliant settings.

Response: New York's OMH licensed programs are, by nature, designed as transitional residential programs, therefore there is always the expectation that residents will transition from the non-compliant settings to compliant settings. Residents requiring the level of care provided in a community residence must meet medical necessity standards and be authorized by a physician to receive the services provided by the community residence.

The community residence also offers Medicaid-funded rehabilitative services in a setting designed to assist residents in achieving life goals and transitioning into the least restrictive setting appropriate to their needs and wants. Community residences and family care programs are licensed by OMH and provide an environment that is structured and designed for individuals requiring this level of care. New York has pre-determined these settings to be non-compliant due to the regulations governing these programs and program rules that are in direct conflict with some of the HCBS settings rule. For example, some of the conflicts include, but are not limited to, the following: residents cannot have visitors at any time, cannot live with their spouse, often have limited choice of roommate, and in family care, are not provided with a lease or sublease. State regulation and additional documentation for New York's determination regarding these settings can be found in the STP's regulatory crosswalk table.

Review of DOH Licensed Settings:

A commenter notes that New York's plan does not reflect intentions for OMH to review DOH licensed settings, including adult care facilities.

Response: DOH will do their settings review on their licensed settings.

Residential Settings on the Grounds of, or Adjacent to, Psychiatric Institutions:

A commenter notes the State does not offer a plan for rending OMH owned or operated residential sites compliant, which are on the grounds of, or adjacent to, psychiatric institutions.

Response: Over the past few years, the State has been rebalancing our institutional resources to further develop and enhance community–based mental health services consistent with the Americans with Disabilities Act and *Olmstead*. As noted in New York's plan, further details of OMH's Transformation Plan can be accessed by visiting this website: OMH Transformation Webpage

Consumer/Advocate Stakeholder Involvement:

A commenter states New York has involved no consumer or advocacy stakeholders in the development or planned implementation of OMH's portion of our transition plan.

Response: Following the provider self-assessments, we intend on requesting stakeholder input, including consumer input. We are in the beginning stages of completing a systemic review of residential programs and collecting baseline data needed, prior to involving stakeholder input. As identified in STP plan, the Association for Community Living (ACL) and the Supportive Housing Network of New York (SHNNY) are two advocacy provider agencies included on the OMH's Stakeholder Workgroup. We have been in contact with both advocacy agencies to discuss and address any concerns with the rolling-out of this process. In addition, we provided trainings and received feedback from agencies at both ACL and SHNNY's annual conferences.

Designation of OMH Congregate Treatment Programs:

A commenter stated that New York's plan discusses congregate treatment programs which do not comply with the HCBS regulations, and states that we, "*may* complete a full assessment and review of these settings at a future date."

Response: The State has pre-determined these settings to be non-compliant due to the regulations governing these programs and program rules, which conflict with the HCBS settings rule. These conflicts include, but are not limited to, the following: residents cannot have visitors at any time, cannot live with their spouse, and often have limited choice to roommate. State regulation and additional documentation for our determination regarding these settings can be found in the STP's regulatory crosswalk table under NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law. We are in the beginning stages of completing a statewide systemic review of residential programs and collecting baseline data.

Residents of Non-Compliant Facilities Access to Medicaid-Funded LTSS:

A commenter notes that under the New York's "Managed Care for All" policy, residents of non-compliant facilities will not legally be able to receive ANY Medicaid-funded community long-term services or supports at all, in or out of those facilities.

Response: New York's OMH licensed programs are by nature designed as transitional residential programs, therefore there is always the expectation that residents will transition from the non-compliant settings to compliant settings and will be able to receive HCBS. The community residence offers rehabilitative services in the setting designed to assist residents in achieving life goals and transitioning into the least restrictive setting appropriate to their needs and wants. Residents requiring the level of care provided in a community residence must meet medical necessity standards and be authorized by a physician in order to receive services provided by the community residence. Community residences are licensed by the OMH and provide an environment that is structured and designed for individuals requiring this level of care.

At the point of discharge planning from an ineligible to eligible setting, care coordination policies ensure an individual is linked to HCBS (if the individual chooses) immediately upon entering the eligible setting. Further details regarding these policies can be found within our regulatory crosswalk regarding the HARP 1115 Waiver located after the OMH section of the STP. This information can also be found in the recently updated HCBS Expedited Workflow Guidance.

Assessment Methodology for OMH Settings:

A commenter is concerned New York's assessment methodology may be too burdensome for OMH residential providers.

Response: Providers will need to invest time and energy to complete the survey. We designed the survey to be as user friendly and simple as possible while still capturing the information the State needs to adequately assess the settings for compliance. OMH has already initiated implementation of the HCBS provider self-assessment in NYC. To date, 946 assessments have been completed, with 177 in the process of being completed. Feedback from residential providers has been overwhelmingly positive and participation is highly responsive.

Lack of Guidance on Remediation:

A commenter notes lack of specific guidance on how remediation will be accomplished other than elements requested within provider compliance plans.

Response: The provider self-assessment referred to is intended to provide baseline data on OMH providers and areas of concern for compliance on a systemic level that will be further assessed by the State. We intend to include stakeholder involvement in discussing practicality with plans to address remediation.

Potential for Physical Changes Needed:

A commenter mentions possible situations where physical changes may be needed for OMH settings to comply with HCBS settings regulations*.*

> ***Response:*** There may be some settings which require modifications. OMH, through provider assessments and site visits, is in the process of identifying the scope of such sites and the costs that would be associated with making such sites compliant.

Review of OMH Leases/Subleases for Compliance:

A commenter questions how New York will review leases and subleases for OMH settings which include clauses that require a unit to be drug or alcohol-free.

> ***Response:*** We are currently in the process of reviewing such leases and subleases to determine what changes may be necessary to ensure HCBS compliance. As noted in the transition plan, we participate in the Interagency Occupancy Agreement Workgroup which develops guidance to ensure leases and sublease are compliant with the settings requirements of the final rule.

Assessment of Group Home's Compliance with CMS' Community Setting Standards:

Commenter stated that New York's Amended HCBS Plan is a proposal to make a plan to ascertain if they are compliant with CMS' Regulations.

> ***Response:*** The State will continue to review (1) New York State Codes, Rules, and Regulations (2) Administrative Directives (3) Local Commissioners Memorandums (4) Informational Letters to Local Departments of Social Services and Executive Directors of Voluntary Agencies for compliance to Federal Home and Community-Based Settings Regulations. OCFS will confirm adherence to the settings rule and monitor all Group Home and Agency Operated Boarding Home placements of individuals enrolled in Bridges to Health to ensure compliance.

Inclusion of OASAS Permanent Supportive Housing (PSH) Programs in HCBS Plan:

Commenter indicates that the New York State Office of Alcohol and Substance Abuse Services (OASAS) has not included PSH programs in the Statewide Transition Plan and that residents in these units may be eligible for BH HCBS services.

> ***Response:*** The State will require PSH providers to analyze its settings to ensure compliance with the settings rules. This will be accomplished through a state developed survey and attestation of each PSH provider. OASAS will also conduct periodic unannounced reviews of PSH units to ensure HCBS compliance.

Summary of Changes to Statewide Transition Plan Resulting From Public Comment:

New York has determined that the changes made to the STP as a result of public comment are not substantive and therefore an additional public comment period is not required. These changes merely clarified the State's earlier submission.

We added a Programs and Services Index and a Systemic Assessment Index, to promote readability, as commenters expressed concerns in that regard. Given some commenters' apparent misinterpretation that the systemic compliance charts, (which comprise the State's regulatory compliance review), were intended to be used for site level assessment, we more fully described the specific requirements detailed in the charts within the Assessment Methodology and Assessment Process sections of the STP. We further clarified that we presume private homes and the homes of family members, friends and neighbors to be compliant settings.

In addition, within the OASAS section of the STP we added specificity and milestones relevant to the assessment of Permanent Supportive Housing. Within the OCFS section we clarified some of the language describing the assessment process to be used. Finally, the OPWDD portion of the STP was revised to clarify our description of the sampling methodology for Part I Person-Centered Reviews.

VIII. Conclusion

This revised Statewide Transition Plan incorporates all of New York's agency/office-specific transition plans and seeks to address CMS' written concerns with our initial submission by providing greater detail regarding our plans to assess and, where necessary, remediate congregate and provider-owned settings, other settings that may not qualify as an individual's own home, and non-residential program settings. We welcome further guidance from CMS to assist our state in achieving full compliance with the HCBS Final Rule.

CAH I 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				
1. Fully integrated into the broader community to the		X		Click here for Care at Home Handbook
same degree of access as individuals not receiving				All participants live in the home of family member, friend, relative or gaurdian.
Medicaid HCBS.				Click here for CAH I/II Palliative Care Provider Application
-- opportunities to seek employment/ work in		X		
-- engage in community life		X		Click here for Medicaid Care At Home Waivers Participant Survey
-- control personal resources		X		
-- receive services in the community		X		
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services		X		
and supports, and who provides them.				
Provider Owned or Controlled Settings:	**N/A**			
6. A specific place that can be owned, rented or				
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same				
responsibilities and protections from eviction that				
tenants have under the jurisdiction's				
landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or				
living unit:				
-- units have entrance doors lockable by the				
individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of				
roommates in that setting;				
-- Individuals have the freedom to furnish and				
decorate their sleeping or living units within the				

CAH I 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;				
--have access to food at any time.				
9. Individuals are able to have visitors of their				
choosing at any time.				
10. The setting is physically accessible to the				
individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides	NO			
inpatient institutional services?				
12. Is the setting in a facility on the grounds of	NO			
or immediately adjacent to a public institution?				
13. Does the setting serve to isolate the individual in	NO			
receipt of Medicaid funded HCBS from the broader				
community?				

CAH II 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				
1. Fully integrated into the broader community to the		X		Click here for Care at Home Handbook
same degree of access as individuals not receiving				All participants live in the home of family member, friend, relative or gaurdian.
Medicaid HCBS.				Click here for CAH I/II Palliative Care Provider Application
-- opportunities to seek employment/ work in		X		
-- engage in community life		X		Click here for Mediciad Care At Home Waivers Participanct Survey
-- control personal resources		X		
-- receive services in the community		X		
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services		X		
and supports, and who provides them.				
Provider Owned or Controlled Settings:		**N/A**		
6. A specific place that can be owned, rented or				
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same				
responsibilities and protections from eviction that				
tenants have under the jurisdiction's				
landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or				
living unit:				
-- units have entrance doors lockable by the				
individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of				
roommates in that setting;				
-- Individuals have the freedom to furnish and				
decorate their sleeping or living units within the				

CAH II 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;				
--have access to food at any time.				
9. Individuals are able to have visitors of their				
choosing at any time.				
10. The setting is physically accessible to the				
individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides	NO			
inpatient institutional services?				
12. Is the setting in a facility on the grounds of	NO			
or immediately adjacent to a public institution?				
13. Does the setting serve to isolate the individual in	NO			
receipt of Medicaid funded HCBS from the broader				
community?				

CAH III 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				
1. Fully integrated into the broader community to the		X		Click here fore GIS 15 MA/02
same degree of access as individuals not receiving				All participants live in the home of family member, friend, relative or gaurdian.
Medicaid HCBS.				Click here for Care at Home Waivers III, IV, VI Eligibility
-- opportunities to seek employment/ work in		X		
-- engage in community life		X		
-- control personal resources		X		
-- receive services in the community		X		
X				
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services		X		
and supports, and who provides them.				
Provider Owned or Controlled Settings:		N/A		
6. A specific place that can be owned, rented or				
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same				
responsibilities and protections from eviction that				

CAH III 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
tenants have under the jurisdiction's landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or living unit:				
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of roommates in that setting;				
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;				
--have access to food at any time.				
9. Individuals are able to have visitors of their choosing at any time.				
10. The setting is physically accessible to the individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides inpatient institutional services?	No			
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?	No			
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?	No			

CAH IV 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				
1. Fully integrated into the broader community to the		X		Click here for GIS 15 MA/02
same degree of access as individuals not receiving				All participants live in the home of family member, friend, relative or gaurdian.
Medicaid HCBS.				Click here for Care at Home Waivers III, IV, VI Eligibility
-- opportunities to seek employment/ work in		X		
-- engage in community life		X		
-- control personal resources		X		
-- receive services in the community		X		
X				
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services		X		
and supports, and who provides them.				
Provider Owned or Controlled Settings:		N/A		
6. A specific place that can be owned, rented or				
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same				
responsibilities and protections from eviction that				

CAH IV 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
tenants have under the jurisdiction's landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or living unit:				
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of roommates in that setting;				
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;				
--have access to food at any time.				
9. Individuals are able to have visitors of their choosing at any time.				
10. The setting is physically accessible to the individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides inpatient institutional services?	No			
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?	No			
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?	No			

CAH VI 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				All participants live in the home of family member, friend, relative or gaurdian.
1. Fully integrated into the broader community to the		X		Click here for GIS 15 MA/02
same degree of access as individuals not receiving				
Medicaid HCBS.				Click here for Care at Home Waivers III, IV, VI Eligibility
-- opportunities to seek employment/ work in		X		
-- engage in community life		X		
-- control personal resources		X		
-- receive services in the community		X		
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services		X		
and supports, and who provides them.				
Provider Owned or Controlled Settings:		N/A		
6. A specific place that can be owned, rented or				
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same				
responsibilities and protections from eviction that				

CAH VI 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
tenants have under the jurisdiction's landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or living unit:				
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of roommates in that setting;				
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;				
--have access to food at any time.				
9. Individuals are able to have visitors of their choosing at any time.				
10. The setting is physically accessible to the individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides inpatient institutional services?	No			
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?	No			
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?	No			

NHTD 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				NHTD provides rental subsidies to people living in their own apartments with leases.
1. Fully integrated into the broader community to the		X		Click here for Nursing Home Transition and Diversion Medicaid Waiver Program
same degree of access as individuals not receiving				Click here for Nursing Home Transition and Diversion Home and Community-Based Services Waiver
Medicaid HCBS.				Click here for Nursing Home Transition and Diversion Housing Subsidy Program
-- opportunities to seek employment/ work in		X		
-- engage in community life		X		
-- control personal resources		X		
-- receive services in the community			X	
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services			X	
and supports, and who provides them.				
Provider Owned or Controlled Settings:		N/A		
6. A specific place that can be owned, rented or				
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same				
responsibilities and protections from eviction that				
tenants have under the jurisdiction's				
landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or				
living unit:				
-- units have entrance doors lockable by the				
individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of				

NHTD 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
roommates in that setting;				
-- Individuals have the freedom to furnish and				
decorate their sleeping or living units within the				
lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;				
--have access to food at any time.				
9. Individuals are able to have visitors of their				
choosing at any time.				
10. The setting is physically accessible to the				
individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides	NO			
inpatient institutional services?				
12. Is the setting in a facility on the grounds of	NO			
or immediately adjacent to a public institution?				
13. Does the setting serve to isolate the individual in	NO			
receipt of Medicaid funded HCBS from the broader				
community?				

TBI 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
All Settings:				The Traumatic Brain Injury Program Housing Provider Manual Guidelines will be revised before 2018 to reflect applicable HCBS compliance standards.
1. Fully integrated into the broader community to the		X		Click here for Traumatic Brain Injury Waiver
same degree of access as individuals not receiving				Click here for Traumatic Brian Injury Waiver Manual
Medicaid HCBS.				Click here for Traumatic Brain Injury Housing Program Guidlines
-- opportunities to seek employment/ work in		X		Click here for Traumatic Brain Injury Housing Quality Standards Checklist
-- engage in community life		X		
-- control personal resources		X		
-- receive services in the community		X		
2. Selected by the individual among options		X		
including non-disability specific settings and an				
option for a private unit in a residential setting.				
--the options are identified and documented in the		X		
person-centered service plan				
--the options are based on the individual's needs,		X		
preferences, and for residential settings, resources				
available for room and board.				
3. Ensure an individual's rights of privacy.		X		
Ensure an individual's rights of dignity and respect.		X		
Ensure an individual's rights of freedom from coercion		X		
and restraint.				
4. Optimize and doesn't regiment individual		X		
initiative, autonomy, and independence in making				
life choices, including but not limited to, daily				
activities, physical environment, and with whom				
to interact.				
5. Facilitate individual choice regarding services		X		
and supports, and who provides them.				
Provider-Owned or Controlled Settings:				
6. A specific place that can be owned, rented or		X		
occupied under a legally enforceable agreement				
by the individual receiving services.				
The individual has, at a minimum, the same		X		
responsibilities and protections from eviction that				
tenants have under the jurisdiction's				
landlord/tenant law or equivalent.				
7. Each individual has privacy in their sleeping or		X		
living unit:				
-- units have entrance doors lockable by the		X		

TBI 1915 (c) Waiver

Standard/Quality	Degree of Compliance			Documentation/Citations
	Conflicts	Silent	Compliant	
individual with only appropriate staff having keys;				
-- individuals sharing units have a choice of		X		
roommates in that setting;				
-- Individuals have the freedom to furnish and		X		
decorate their sleeping or living units within the				
lease or other agreement.				
8. Individuals have the freedom and support to:				
--control their own schedules and activities;		X		
--have access to food at any time.		X		
9. Individuals are able to have visitors of their		X		
choosing at any time.				
10. The setting is physically accessible to the		X		
individual.				
Heightened Scrutiny:	**YES/NO**			
11. Is the setting in a facility that also provides	NO			
inpatient institutional services?				
12. Is the setting in a facility on the grounds of	NO			
or immediately adjacent to a public institution?				
13. Does the setting serve to isolate the individual in	NO			
receipt of Medicaid-funded HCBS from the broader				
community?				

	A	B	C	D	E	F
1	**1115 Waiver/Mainstream Medicaid Managed Care (MMC)**					
2	**Standard/Quality**	**Degree of Compliance**				**Documentation/Citations**
3		**Non-Compliant**	**Partially Compliant**	**Silent**	**Compliant**	
4	**All Settings:**					The mainstream Medicaid Managed Care benefit package includes the following long term services and supports (LTSS) in the home or community setting: Private Duty Nursing, Home Health Services, Personal Care Services, Consumer Directed Personal Assistance Program (CDPAP) Services, Adult Day Heath Care, AIDS Adult Day Health Care, Home-Delivered Meals (only for Enrollees who have transitioned to a MMC plan from the Long Term Home Health Care Program who received Home-Delivered Meals when in the LTHHCP). MMC Plans (aka Contractors) are required to establish and maintain an adequate and accessible network of participating providers to provide the benefit package services and meet the needs of their enrollees. Plans are required to credential such providers on a periodic basis and monitor provider performance. Plans are required to ensure, in accordance with PHL Article 44, that certain providers satisfy all applicable licensing, certification or qualification requirements under NYS law. See Medicaid Managed Care Model Contract for benefit package, network, and credentialing requirements: click here to link to Medicaid Managed Care Model Contract
5						
6	1. Fully integrated into the broader community to the					Neither the Medicaid Managed Care Program nor its participating Managed Care Organizations have regulatory oversight of the HCBS settings.
7	same degree of access as individuals not receiving					
8	Medicaid HCBS.					
9	-- opportunities to seek employment/ work in			x		The Medicaid Managed Care program will update the Medicaid Managed Care Model Contract by 12/31/18 to require Managed Care Plans are compliant with the pertinent requirements of the HCBS rule.
10	-- engage in community life			x		
11	-- control personal resources			x		
12	-- receive services in the community		x			MMC Contract, Appendix S, 1. c. requires that "When the Contractor determines an Enrollee is in need of LTSS, the Contractor shall provide additional services, as included in the Benefit Package and as medically necessary, to maintain the Enrollee's safety in the most integrated and least restrictive setting..." MMC Model Contract language related to this area will be strengthened by 12/31/18.
13						
14	2. Selected by the individual among options					Per Section 10.35 of the MMC Model Contract, a person-centered services plan (PCSP) is required for all Enrollees using LTSS. Such services are provided at home to Enrollees with chronic illness or disabilities who would otherwise be at risk for frequent emergency department visits, hospitalizations, or institutionalization. Sect. 10.35 outlines the PCSP standards and requirements. (See MMC Contract link above.) The Medicaid Managed Care program will update the Medicaid Managed Care Model Contract by 12/31/18 to require Managed Care Plans are compliant with the pertinent requirements of the HCBS rule.
15	including non-disability specific settings and an					
16	option for a private unit in a residential setting.					
17	--the options are identified and documented in the			x		
18	person-centered service plan					
19	--the options are based on the individual's needs,			x		
20	preferences, and for residential settings, resources					
21	available for room and board.					
22						
23	3. Ensure an individual's rights of privacy.			x		The Medicaid Managed Care Program will update the Medicaid Managed Care Model Contract by 12/31/18 to require that Managed Care Plans are compliant with pertinent requirements of the HCBS rule.
24	Ensure an individual's rights of dignity and respect.			x		
25	Ensure an individual's rights of freedom from coercion			x		
26	and restraint.					
27						

	A	B	C	D	E	F
1	**1115 Waiver/Mainstream Medicaid Managed Care (MMC)**					
2	**Standard/Quality**	**Degree of Compliance**				**Documentation/Citations**
3		**Non-Compliant**	**Partially Compliant**	**Silent**	**Compliant**	
28	4. Optimize and doesn't regiment individual		x			See # 2 above. The Medicaid Managed Care Program will update the Medicaid Managed Model Contract by 12/31/18 to require that Managed Care Plans are compliant with pertinent requirements of the HCBS rule.
29	initiative, autonomy, and independence in making					
30	life choices, including but not limited to, daily					
31	activities, physical environment, and with whom					
32	to interact.					
33						
34	5. Facilitate individual choice regarding services		x			See #2 above.
35	and supports, and who provides them.					
36						
37	**Provider-Owned or Controlled Settings:**					
38						Not applicable
39	6. A specific place that can be owned, rented or					
40	occupied under a legally enforceable agreement					Not applicable
41	by the individual receiving services.					
42	The individual has, at a minimum, the same					
43	responsibilities and protections from eviction that					
44	tenants have under the jurisdiction's					
45	landlord/tenant law or equivalent.					
46						
47	7. Each individual has privacy in their sleeping or					Not applicable
48	living unit:					
49	-- units have entrance doors lockable by the					
50	individual with only appropriate staff having keys;					
51	-- individuals sharing units have a choice of					
52	roommates in that setting;					
53	-- Individuals have the freedom to furnish and					
54	decorate their sleeping or living units within the					
55	lease or other agreement.					
56						
57	8. Individuals have the freedom and support to:					Not applicable
58	--control their own schedules and activities;					
59	--have access to food at any time.					
60						
61	9. Individuals are able to have visitors of their					Not applicable
62	choosing at any time.					
63						
64	10. The setting is physically accessible to the					Not applicable
65	individual.					
66						
67	**Heightened Scrutiny: (Note: if any site meets any of**	**YES**	**NO**	**How Many?**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
68	**the below criteria then they fall under heightened scrutiny)**					
69	11. Are any settings in facilities that also provide					not applicable
70	inpatient institutional services?					
71						
72	12. Are any settings in facilities on the grounds of,					
73	or immediately adjacent to a public institution?					
74						

	A	B	C	D	E	F
1	**1115 Waiver/Mainstream Medicaid Managed Care (MMC)**					
2	**Standard/Quality**	**Degree of Compliance**				**Documentation/Citations**
3		**Non-Compliant**	**Partially Compliant**	**Silent**	**Compliant**	
75	13. Do any of the settings serve to isolate individuals in					
76	receipt of Medicaid-funded HCBS from the broader					
77	community?					

FIDA

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					Click here for FIDA Contract
1. Fully integrated into the broader community to the			X		We will look at revising applicable policies persuant to HCBS compliance.
same degree of access as individuals not receiving					The vast majority of FIDA participants live in their own home or supportive housing not associated with Medicaid-funded HCBS service provision. Regulated adult homes will be assessed in 2016 to evaluate where there may be residents receiving Medicaid-funded HCBS in order to assess these settings for compliance.
Medicaid HCBS.					
-- opportunities to seek employment/ work in			X		
-- engage in community life			X		
-- control personal resources			X		
-- receive services in the community			X		
2. Selected by the individual among options			X		
including non-disability specific settings and an					
option for a private unit in a residential setting.					
--the options are identified and documented in the			X		
person-centered service plan					
--the options are based on the individual's needs,			X		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				X	Click here for Apendix B- Participant's Rights and Responsiblities
Ensure an individual's rights of dignity and respect.				X	
Ensure an individual's rights of freedom from coercion				X	
and restraint.					
4. Optimize and doesn't regiment individual			X		
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services	X				We will look at revising applicable policies persuant to HCBS compliance prior to 2019.
and supports, and who provides them.					
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or					Settings where FIDA participants live will be assessed to evaluate if there are provider-owned and controlled settings applicable to these standards.
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same					
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or					
living unit:					
-- units have entrance doors lockable by the					
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of					
roommates in that setting;					
-- Individuals have the freedom to furnish and					
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their					
choosing at any time.					
10. The setting is physically accessible to the					
individual.					
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES**	**NO**	**How Many?**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide					See above statement.
inpatient institutional services?					
12. Are any settings in facilities on the grounds of,					
or immediately adjacent to a public institution?					
13. Do any of the settings serve to isolate individuals in					
receipt of Medicaid-funded HCBS from the broader					
community?					

MAP

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					Click here for Mediciad Advantage Plus Model Contract
1. Fully integrated into the broader community to the			X		We will look at revising applicable policies persuant to HCBS compliance.
same degree of access as individuals not receiving Medicaid HCBS.					The vast majority of MAP participants live in their own home or supportive housing not associated with Medicaid-funded HCBS service provision. Regulated adult homes will be assessed in 2016 to evaluate where there may be residents receiving Medicaid-funded HCBS in order to assess these settings for compliance.
-- opportunities to seek employment/ work in			X		
-- engage in community life			X		
-- control personal resources			X		
-- receive services in the community			X		
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			X		
--the options are identified and documented in the person-centered service plan			X		
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			X		
3. Ensure an individual's rights of privacy.			X		
Ensure an individual's rights of dignity and respect.			X		
Ensure an individual's rights of freedom from coercion and restraint.			X		
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.			X		
5. Facilitate individual choice regarding services and supports, and who provides them.		X			Click here for 5. Contractor Responsibilities Section L. We will look at revising applicable policies persuant to HCBS compliance prior to 2019.
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.					Settings where MAP participants live will be assessed to evaluate if there are provider-owned and controlled settings applicable to these standards.
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or living unit:					
-- units have entrance doors lockable by the individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of roommates in that setting;					
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their choosing at any time.					
10. The setting is physically accessible to the individual.					

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?			See above statement.
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?			

PACE

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the			x		Click here for PACE Model Contract
same degree of access as individuals not receiving					We will look at revising applicable policies persuant to HCBS compliance.
Medicaid HCBS.					The vast majority of PACE participants live in their own homes or supportive housing not associated with Medicaid-funded HCBS service provision. Regulated adult homes will be assessed in 2016 to evaluate where there may be residents receiving Medicaid-funded HCBS in order to assess these settings for compliance.
-- opportunities to seek employment/ work in			x		
-- engage in community life			x		
-- control personal resources			x		
-- receive services in the community			x		
2. Selected by the individual among options			x		
including non-disability specific settings and an					
option for a private unit in a residential setting.					
--the options are identified and documented in the			x		
person-centered service plan					
--the options are based on the individual's needs,			x		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.			x		
Ensure an individual's rights of dignity and respect.			x		
Ensure an individual's rights of freedom from coercion			x		
and restraint.					
4. Optimize and doesn't regiment individual			x		
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services		x			We will look at revising applicable policies persuant to HCBS compliance prior to 2019.
and supports, and who provides them.					
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or					See statement above. Settings where PACE participants live will be assessed to evaluate if there are provider-owned and controlled settings applicable to these standards.
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same					
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or					
living unit:					
-- units have entrance doors lockable by the					
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of					
roommates in that setting;					
-- Individuals have the freedom to furnish and					
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their					
choosing at any time.					
10. The setting is physically accessible to the					
individual.					
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide					See above statement.
inpatient institutional services?					
12. Are any settings in facilities on the grounds of,					
or immediately adjacent to a public institution?					
13. Do any of the settings serve to isolate individuals in					
receipt of Medicaid-funded HCBS from the broader					
community?					

Partial Plan

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the			x		Click here for Partial Capitation Contract
same degree of access as individuals not receiving					The vast majority of MC/MLTC participants live in their own homes or supportive housing not associated with Medicaid-funded HCBS service provision. Regulated adult homes will be assessed in 2016 to evaluate where there may be residents receiving Medicaid-funded HCBS in order to assess these settings for compliance.
Medicaid HCBS.					
-- opportunities to seek employment/ work in			x		
-- engage in community life			x		
-- control personal resources			x		
-- receive services in the community			x		
2. Selected by the individual among options			x		
including non-disability specific settings and an					
option for a private unit in a residential setting.					
--the options are identified and documented in the			x		
person-centered service plan					
--the options are based on the individual's needs,			x		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				x	
Ensure an individual's rights of dignity and respect.				x	
Ensure an individual's rights of freedom from coercion				x	
and restraint.					
4. Optimize and doesn't regiment individual			x		We will look at revising applicable policies persuant to HCBS compliance prior to 2019.
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services		x			We will look at revising applicable policies persuant to HCBS compliance prior to 2019.
and supports, and who provides them.					
Provider Owned or Controlled Settings:					Settings where Partial Plan participants live will be assessed to evaluate if there are provider-owned and controlled settings applicable to these standards.
6. A specific place that can be owned, rented or					
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same					
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or					
living unit:					
-- units have entrance doors lockable by the					
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of					
roommates in that setting;					
-- Individuals have the freedom to furnish and					
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their					
choosing at any time.					
10. The setting is physically accessible to the					
individual.					
Heightened Scrutinv: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide					See above statement.
inpatient institutional services?					
12. Are any settings in facilities on the grounds of,					
or immediately adjacent to a public institution?					
13. Do any of the settings serve to isolate individuals in					
receipt of Medicaid-funded HCBS from the broader					
community?					

Social Adult Day Care

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the			x		Click here for Social Adult Day Care Regulations
same degree of access as individuals not receiving					We will be looking at revising Social Day Regulations to be compliant with HCBS final rule.
Medicaid HCBS.					
-- opportunities to seek employment/ work in			x		
-- engage in community life			x		
-- control personal resources			x		
-- receive services in the community			x		
2. Selected by the individual among options			x		We will be looking at revising Social Day Regulations to be compliant with HCBS final rule.
including non-disability specific settings and an					
option for a private unit in a residential setting.					
--the options are identified and documented in the			x		
person-centered service plan					
--the options are based on the individual's needs,			x		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				x	Click here for Section (E) Participant Rights of the Social Adult Day Care Regulation
Ensure an individual's rights of dignity and respect.				x	
Ensure an individual's rights of freedom from coercion				x	
and restraint.					
4. Optimize and doesn't regiment individual			x		
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				x	Click here for Medicaid Advantage Plus Model Contract
and supports, and who provides them.					
Provider Owned or Controlled Settings:					We are unsure of any provider owned and controlled settings at this time and will be assessing for this via site specific assessments.
6. A specific place that can be owned, rented or					
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same					
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or					
living unit:					
-- units have entrance doors lockable by the					
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of					
roommates in that setting;					
-- Individuals have the freedom to furnish and					
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their					
choosing at any time.					
10. The setting is physically accessible to the					
individual.					
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES**	**NO**	**How Many?**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide					TBD via Statewide Settings Assessment
inpatient institutional services?					
12. Are any settings in facilities on the grounds of,					
or immediately adjacent to a public institution?					
13. Do any of the settings serve to isolate individuals in					
receipt of Medicaid-funded HCBS from the broader					
community?					

Adult Day Health Care Programs

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					Click here for Adult Day Health Care Public Health Law ADHCP Registrant Review Click here for Nursing Home and ICF Surveillence
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			X		
-- opportunities to seek employment/ work in			X		
-- engage in community life			X		Although silent in regulations, the program model is a non-residential, community-based model and registrants are not restricted to opportunities for employment, engagement in community life and control of personal resources. The expectations for standards #1 & #2 will be incorporated into routine programmatic monitoring protocols via the ADHCP Registrant Review Tool. In addition, the Program Survey Report and Certification will be updated and revised
-- control personal resources			X		
-- receive services in the community			x		
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			x		
--the options are identified and documented in the person-centered service plan			x		ADHCP Registrant Review form and Program Survey Report/Provider Certification will be updated and revised to ensure provider compliance with individualized modifications to person centered care planning by January 2018. Click here for ADHCP Registrant Review
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			x		
3. Ensure an individual's rights of privacy.			X		See above remediation plan.
Ensure an individual's rights of dignity and respect.			X		
Ensure an individual's rights of freedom from coercion and restraint.			X		
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.			x		Update and revise the ADHCP Registrant Review Form and Program Survey Report/Provider Certification to ensure provider compliance NYCRR Title 10 Section 425.7 Registrant Care Plan; 425.6, 425.10 Update and revise ADHCP Registrant Review form and Program Survey Report/Provider Certification attestation to include specific reference to this standard http://www.health.ny.gov/professionals/nursing_home_administrator/docs/dal_nh_15-07_questionnaire.pdf
5. Facilitate individual choice regarding services and supports, and who provides them.			x		
Provider Owned or Controlled Settings:					NYCRR Title 10 Section 425.4 (3) Registrant Bill of Rights Update and revise ADHCP Registrant Review form and Program Survey Report and Provider Certification - attestation to include specific reference to this standard by January, 2018
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.					We do not know if this applies to the ADHC program. We will evaluate this beginning December, 2016.
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.					ADHCPS are a non-residential, community-based program.
7. Each individual has privacy in their sleeping or living unit:					
-- units have entrance doors lockable by the individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of roommates in that setting;					
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their choosing at any time.					
10. The setting is physically accessible to the individual.					
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES**	**NO**	**How Many?**		
11. Are any settings in facilities that also provide inpatient institutional services?	X				**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?	X				We anticipate a significant number and will assess sites, beginning December, 2016.
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?		X			

CFCO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					Click here for State Amendment Plan 13-0035
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.					All participants must live in their own home or the home of a family member, friend or neighbor to receive services.
-- opportunities to seek employment/ work in					
-- engage in community life					
-- control personal resources					
-- receive services in the community					
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.					
--the options are identified and documented in the person-centered service plan					
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.					
3. Ensure an individual's rights of privacy.					
Ensure an individual's rights of dignity and respect.					
Ensure an individual's rights of freedom from coercion and restraint.					
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.					
5. Facilitate individual choice regarding services and supports, and who provides them.					
Provider Owned or Controlled Settings:	**N/A**				
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.					
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or living unit:					
-- units have entrance doors lockable by the individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of roommates in that setting;					
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their choosing at any time.					
10. The setting is physically accessible to the individual.					

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?	N/A		
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?	N/A		
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?	N/A		

Appendix B: Summary of DOH Transition Activities

Transition Plan Activity	Time line	Deliverables
Assessment Activities		
Is State/systemic framework compliant?	Ongoing through March, 2018	See Systemic Compliance Charts– Appendix A.
Are existing residential settings compliant?		
Determine statistically significant sample for each waiver and type of setting; develop site visit schedule for applicable settings	11/2016 – 1/2017	New York will develop a statistically significant sample of social adult day settings, review all adult day health care settings for heightened scrutiny analysis, and review a statistically valid sample of licensed adult homes.
Assess DOH 1915(c) waiver programs for compliance	Completed	Waiver programs assessed, participants live in own home.
Assess 1115 Demonstration Projects for compliance	11/2016 – 3/2018	Surveillance teams will incorporate HCBS into existing survey tools for MC, MLTC.
Assess regulated Assisted Living Facilities for compliance	7/2016 – 9/2016	See ALP Transition Plan.
Are existing non-residential settings compliant?		
Determine statistically significant sample for each type of non-residential setting and develop site visit schedule	6/2016 – 1/2017	Schedule of site visits and implementation of specific remediation plans.
Develop survey tool to evaluate compliance of non-residential settings	by 12/2016	New York will modify survey tool from existing OPWDD tools; will include evidence of stakeholder input.
New York to conduct statistically significant site visits of DOH non-residential settings: ADHCs, SADCs	12/2016 – 1/2019	Anticipated start date 11/2016; outside date includes revisits to ensure remediation is appropriately implemented. Statewide compliance chart will be developed.
Are there any residential or		

Appendix B: Summary of DOH Transition Activities

Transition Plan Activity	Time line	Deliverables
non-residential settings that may be presumed institutional and therefore trigger CMS' heightened scrutiny review?		
Identify pool of settings that may be presumed institutional/subject to heightened scrutiny	7/2015 – 12/2017	List of settings including 158 ADHCs.
Develop guidance and include with both residential and non-residential survey/ evaluation tools to identify settings that may trigger the heightened scrutiny process	3/2015 – 9/2017	Guidance document(s).
New York will do heightened scrutiny analysis on ADHCs and other applicable DOH settings and assist other agencies with their heightened scrutiny processes	11/2016 – 1/2018	Rolling HS packages sent to CMS for review; Statewide Compliance Chart will be updated on a regular basis.
Communication/Outreach Activities		
Develop State-level materials that ensure that providers and waiver participants are aware of the federal rule requirements	Ongoing	State-level guidance will be developed and distributed.
Develop proposed STP; post for public comment	6/2016 – 9/2016	Proposals developed and publicized through DOH/Medicaid Redesign Team (MRT) Website, will be posted in State Register and paper versions will be sent to Regional Recourse Development Centers
Remediation Activities	‘	
Conclude any necessary regulatory changes to ensure compliance and commence	Ongoing through 10/2018	Revised state rules, regulations, practices, guidance, licensing/certification and/or provider requirements

Appendix B: Summary of DOH Transition Activities

Transition Plan Activity	Time line	Deliverables
ongoing monitoring and enforcement		
New York will develop evaluation tool to determine level of compliance in residential and non-residential settings for both assessment and remediation. Based on assessments, we will develop menu of remedial strategies to be implemented for compliance	11/2016 – 3/2017	Site-level plans with internal timelines for compliance, based on activities required to ensure the presence of all qualities and characteristics outlined in final rule; evidence of informing setting operators and recipients of HCBS services; remediation strategies will be tailored to specific setting and deficiency.
New York will gather evidence, including public input and any on-site evaluations, for submission to CMS for settings that require approval through CMS' heightened scrutiny process	By 1/2018	Evidence packages developed will be submitted to CMS on a rolling basis
Implement transition or closure plans for presumed institutional settings that are not approved through CMS heightened scrutiny process	By 3/2019	Completed site-level transition plan that amends deficiencies in meeting settings requirements; plans that arrange for transfer of individuals who reside or receive services in non-compliant settings that cannot be changed to meet the requirements; assurance that services will continue during transfer process and that service recipients are offered placement in compliant settings
Implement specific remediation activities	5/2016 – 2/2019	Compliance reports; Corrective Action Plans (if any)
Monitoring/Oversight Activities		
Develop comprehensive plan for monitoring compliance based on State's existing surveillance or review processes. Contractor will work with State staff on this	By 12/2018	Schedule of planned site visits for residential and non-residential settings

Appendix B: Summary of DOH Transition Activities

Transition Plan Activity	Time line	Deliverables
deliverable.		
Incorporate participant feedback in assessment of settings; surveys and person-centered planning process; include external survey results like those from the National Core Indicator Survey	Ongoing throughout implementation of STP	Survey results; amended assessment and planning tools

New York State Systemic Assessment Index of Rules, Regulations, Protocols and Policies Reviewed

Department of Health (DOH)-Office of Health Insurance Programs (OHIP)

Care at Home (CAH) I 1915 (c) Waiver:

1. Care at Home - A Handbook for Parents: Helping Families Care for a Physically Disabled Child at Home.
2. CAH I/II Medicaid Waiver Palliative Care Provider Application
3. New York State Department of Health 2007 Medicaid Care at Home Waivers Participant Study

CAH II 1915 (c) Waiver:

1. Care at Home - A Handbook for Parents: Helping Families Care for a Physically Disabled Child at Home.
2. CAH I/II Medicaid Waiver Palliative Care Provider Application
3. New York State Department of Health 2007 Medicaid Care at Home Waivers Participant Study

CAH III 1915 (c) Waiver:

1. GIS 15 MA/02 – Care at Home III, IV and VI Waivers: Policy Updates Regarding Waiver Eligibility
2. Care at Home Waivers Eligibility Requirements

CAH IV 1915 (c) Waiver:

1. GIS 15 MA/02 – Care at Home III, IV and VI Waivers: Policy Updates Regarding Waiver Eligibility
2. Care at Home Waivers Eligibility Requirements

CAH VI 1915 (c) Waiver:

1. GIS 15 MA/02 – Care at Home III, IV and VI Waivers: Policy Updates Regarding Waiver Eligibility
2. Care at Home Waivers Eligibility Requirements

Nursing Home Transition and Diversion (NHTD) 1915 (c) Waiver:

1. NHTD Medicaid Waiver Program
2. NHTD Diversion Home and Community-Based Services Waiver
3. NHTD Housing Subsidy Program

Traumatic Brain Injury (TBI) 1915 (c) Waiver:

1. TBI Waiver
2. HCBS NYSDOH Medicaid Waiver for Individuals with TBI Program Manual
3. NYSDOH TBI Program Housing Program Guidelines
4. TBI Housing Subsidy Program: Housing Quality Standards Checklist

1115 Demonstration Project (NY Partnership Plan) – MMMC & MLTC:

A. Mainstream Medicaid Managed Care (MMMC):

1. MMMC Model Contract

B. Managed Long Term Care (MLTC):

Fully Integrated Duals Advantage (FIDA) FIDA:

1. FIDA Model Contract

Medicaid Advantage Plus (MAP):

1. MAP Model Contract

Program of All Inclusive Care for the Elderly (PACE):

1. PACE Model Contract

Partial Plan:

1. Managed Long Term Care Partial Capitation Contract

Social Adult Day Care (SADC):

1. Newly Adopted Social Adult Day Care Regulations
2. MAP Model Contract

Adult Day Health Centers (ADHC):

1. Part 425 Adult Day Health Care (Statutory Authority: Public Health Law, section 2803(2))
2. Adult Day Health Care Program (ADHCP) Registrant Review
3. NYSDOH Nursing Home and ICF Surveillance ADHCP
4. ADHCP Bill of Rights
5. Title 10 NYCRR (Adult Day Health Care Programs and Managed Long Term Care) Amendment of Part 425

Community First Choice Option (CFCO):

1. State Plan Amendment (SPA) #13-0035 Amount, Duration, and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy

DOH-Office of Primary Care and Health Systems Management (OPCHSM)

DOH 1115 Demonstration Project Adult Homes:

New York Codes, Rules and Regulation, Title 18 (18 NYCRR):
1. 18 NYCRR 487.5 Resident protections
2. 18 NYCRR 487.7 Resident services
3. 18 NYCRR 494.7 Environmental standards
4. 18 NYCRR 494.4 Admission and retention standards
5. 18 NYCRR 488.5 Resident protections
6. 18 NYCRR 488.8 Food service
7. 18 NYCRR 488.3 General provisions

DOH-Office of Public Health (OPH)-AIDS Institute

AIDS Adult Day Health Care Program:

Amendment of Part 425 and 759 of Title 10 NYCRR (Adult Day Health Care Programs and Managed Long Term Care) (10 NYCRR):
1. 10 NYCRR 425.7 Registrant care plan
2. 10 NYCRR 759.5 Comprehensive Care Planning
3. 10 NYCRR 425.4 General requirements for operation
4. 10 NYCRR 751.9 Patients' rights

Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease

HIV/AIDS Supportive Housing:

1. HIV Supportive Housing Contracts

Office for People with Developmental Disabilities (OPWDD)

Services Transition (HCBS) 1915 (c) Waiver – Residential:

1. 14 CRR-NY 633.4 Rights and Responsibilities of Persons Receiving Services
2. 14 CRR-NY 633.15 Management of Personal Funds
3. Administrative Memorandum (ADM)-#2015-01: Service Documentation for Community Habilitation Services Provided to Individuals Residing in Certified and Non-Certified Locations
4. Amendments to 14 NYCRR Parts 633, 635, 671, & 686 Final Regulations (Person-Centered Planning)
5. 14 CRR-NY 635-10.2 Intent
6. Medicaid Service Coordination Vendor Manual
7. 14 CRR-NY 633.16 Person-Centered Behavioral Intervention
8. ADM-#201004 Program Standards: Individualized Service Plan (ISP) Format and Timeframes for Review and Distribution
9. ADM-#2012-06 Plan of Care Support Services (PCSS) Program Standards and Documentation Requirements for Billing
10. 14 CRR-NY 635-7.3 Safety and Welfare Requirements for all Facilities (except for family care homes and individualized residential alternatives [IRAs] housing eight or fewer persons)

OPWDD HCBS 1915 (c) Waiver -- Day Settings:

1. ADM 2015-08 Service Documentation for Supported Employment (SEMP) Services
2. 14 CRR-NY 633.4 Rights and Responsibilities of Persons Receiving Services
3. Administrative Memorandum (ADM)-#2015-01: Service Documentation for Community Habilitation Services Provided to Individuals Residing in Certified and Non-Certified Locations
4. 14 CRR-NY 633.15 Management of Personal Funds
5. Amendments to 14 NYCRR Parts 633, 635, 671, & 686 Final Regulations (Person-Centered Planning)
6. ADM- #2015-07- Service Documentation for Pathway to Employment Service
7. 14 CRR-NY 635-10.2 Intent
8. Medicaid Service Coordination Vendor Manual
9. 14 CRR-NY 633.16 Person-Centered Behavioral Intervention
10. 14 CRR-NY 635-10.4 635-10.4 Allowable Services
11. ADM-#201004 Program Standards: Individualized Service Plan (ISP) Format and Timeframes for Review and Distribution
12. ADM-#2012-06 Plan of Care Support Services (PCSS) Program Standards and Documentation Requirements for Billing

Office of Mental Health (OMH)

Serious Emotional Disturbance (SED) 1915 (c) Waiver:

Home and Community-Based Services Waiver Guidance Document Division of Children and Families:

1.100.1 Background, Philosophy, Goals, Target Population, Services, Stakeholders, Funding, Serious Emotional Disturbance (SED) Criteria

2. 500.4 Phase II – Steps 4, 5, and 6

Office of Mental Health (OMH) 1115 Demo Health and Recovery Plan (HARP):

1. Transition of Behavioral Health Benefit into Medicaid Managed Care and Health and Recovery Program Implementation
2. Health Home Standards and Requirements for Health Homes, Care Management Providers and Managed Care Organizations
3. Health Homes for Individuals in HARPs & HARP Eligibles in HIV SNPs
4. Federal Adult Behavioral Health HCBS Person-Centered Planning Process Requirements/Characteristics
5. New York Codes Rules and Regulations (NYCRR) Part 595 Operation of Residential Programs for Adults
6. Supported Housing Guidelines
7. New York State: Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCBS) Provider Manual
8. Medicaid Managed Care Model Contract

OMH 1115 Demo Supported Housing:

1. Supported Housing Guidelines

OMH 1115 Demo Supportive Single Residence Occupancy Programs (SP-SRO):

1. Supported Housing Guidelines

OMH 1115 Demo Community Residence Single Room Occupancy Programs (CR-SRO):

1. New York Codes Rules and Regulations (NYCRR) Part 595 Operation of Residential Programs for Adults

OMH 1115 Demo Apartment Treatment Sites:

1. New York Codes Rules and Regulations (NYCRR) Part 595 Operation of Residential Programs for Adults

Office of Children and Family Services (OCFS)

Bridge to Health (B2H) MedF 1915 (c) Waiver:

1. Administrative Directive (ADM): 15-OCFS-ADM-21 Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard
2. New York Code, Rule, and Regulations (NYCRR) 18 CRR-NY 441.25 Reasonable and Prudent Parent Standard
3. 15-OCFS-ADM-18 New York State Bill of Rights for Children and Youth in Foster Care
4. 88-INF-40 The 1988 Model Foster Parent Manual
5. 18 CRR-NY 443.3 Certification or Approval of Foster Family Homes
6. 18 CRR-NY 430.11 Appropriateness of Placement
7. 18 CRR-NY 441.25 Reasonable and Prudent Parent Standard
8. 18 CRR-NY 441.10 Work Experiences for Children
9. 18 CRR-NY 430.10 Necessity of Placement
10. 06-OCFS-INF-10 Meeting the Clothing Needs of Foster Care Youth Ages 12 through 20 Years in Out of Home Placement
11. 18 CRR-NY 441.12 Money and Personal Property
12. 18 CRR-NY 441.15 Special Services
13. 18 CRR-NY 428.6 Family Assessments and Service Plans (content)
14. 13-OCFS-ADM-08 Revised Model Contract for Purchase of Foster Care Services
15. 12-OCFS-INF-04 Educational Stability of Foster Children: OCFS, State Education Department and NYS Uniform Court System Field Guidance
16. 90-INF-43 Foster Care: Department Policy on Educational Information Related to Foster Children
17. NYCRR Part 428 Standards for Uniform Case Records and Family and Child Assessments and Service Plans
18. 82-ADM-16 Implementation of Departmental Regulation 441.18 on Children's Privacy Rights
19. 18 CRR-NY 441.18 Children's Privacy Rights
20. 18 CRR-NY 441.19 Appropriate Custodial Conduct
21. 18 CRR-NY 441.17 Restraint of Children in Care
22. 18 CRR-NY 430.12 Diligence of Effort

23. 18 CRR-NY 428.9 Service Plan Review for Foster Care and Other Out-of-Home Placement Cases
24. 18 CRR-NY 442.6 Sleeping Accommodations
25. 18 CRR-NY 447.2 Requirements for Each Agency Boarding Home
26. 18 CRR-NY 448.3 Requirements for Each Group Home
27. 18 CRR-NY 443.3 Certification or Approval of Foster Family Homes
28. 18 CRR-NY 303.1 Social Services District Policy

Bridges to Health Developmental Disabilities B2H DD 1915 (c) Waiver:

1. Administrative Directive (ADM): 15-OCFS-ADM-21 Supporting Normative Experiences for Children, Youth, and Young Adults in Foster Care: Applying a Reasonable and Prudent Parent Standard
2. New York Code, Rule, and Regulations (NYCRR) 18 CRR-NY 441.25 Reasonable and Prudent Parent Standard
3. 15-OCFS-ADM-18 New York State Bill of Rights for Children and Youth in Foster Care
4. 88-INF-40 The 1988 Model Foster Parent Manual
5. 18 CRR-NY 443.3 Certification or Approval of Foster Family Homes
6. 18 CRR-NY 430.11 Appropriateness of Placement
7. 18 CRR-NY 441.25 Reasonable and Prudent Parent Standard
8. 18 CRR-NY 441.10 Work Experiences for Children
9. 18 CRR-NY 430.10 Necessity of Placement
10. 06-OCFS-INF-10 Meeting the Clothing Needs of Foster Care Youth Ages 12 Through 20 Years in Out of Home Placement
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12. 18 CRR-NY 441.15 Special Services
13. 18 CRR-NY 428.6 Family Assessments and Service Plans (content)
14. 13-OCFS-ADM-08 Revised Model Contract for Purchase of Foster Care Services
15. 12-OCFS-INF-04 Educational Stability of Foster Children: OCFS, State Education Department and NYS Uniform Court System Field Guidance
16. 90-INF-43 Foster Care: Department Policy on Educational Information Related to Foster Children
17. NYCRR Part 428 Standards for Uniform Case Records and Family and Child Assessments and Service Plans
18. 82-ADM-16 Implementation of Departmental Regulation 441.18 on Children’s Privacy Rights
19. 18 CRR-NY 441.18 Children's Privacy Rights
20. 18 CRR-NY 441.19 Appropriate Custodial Conduct
21. 18 CRR-NY 443.3 Certification or Approval of Foster Family Homes
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23. 18 CRR-NY 430.12 Diligence of Effort
24. 18 CRR-NY 428.9 Service Plan Review for Foster Care and Other Out-of-Home Placement Cases

25. 18 CRR-NY 442.6 Sleeping Accommodations
26. 18 CRR-NY 447.2 Requirements for Each Agency Boarding Home
27. 18 CRR-NY 448.3 Requirements for Each Group Home
28. 18 CRR-NY 303.1 Social Services District Policy

New York State HCBS Programs and Services Index

Department of Health (DOH)-Office of Health Insurance Programs (OHIP)

A. 1915(c) Waiver Programs:

1. Care at Home (CAH) Waivers I & II
2. Nursing Home Transition and Diversion (NHTD) Waiver
3. Traumatic Brain Injury Waiver (TBI)

Services Provided Under 1915(c) Waiver Programs:

1. Home Care, including Aide Services, Nursing, and Therapy Services
2. Personal care
3. Personal Emergency Response Systems (PERS)
4. Home and Community-Based Support Services (Discrete Supervision and Cueing)
5. Home-Delivered/Congregate Meals
6. Transportation
7. Assistive Technology
8. Environmental Modifications
9. Respite Care
10. Community Integration Counseling
11. Community Transition Services
12. Structured Day Program
13. Substance Abuse Programs (TBI only)
14. Service Coordination
15. Independent Living Skills Training (TBI only)
16. Positive Behavior Interventions and Supports
17. Respiratory Therapy Services (NHTD only)
18. Moving Expenses (NHTD only)
19. Peer Mentoring (NHTD only)
20. Nutritional Counseling (NHTD only)
21. Wellness Counseling (NHTD only)
22. Home Visits by Medical Personnel (NHTD only)
23. Bereavement Services (CAH only)
24. Expressive therapy (CAH only)
25. Family Palliative Care Education (CAH only)
26. Vehicle Modification (CAH only)
27. Massage Therapy (CAH only)
28. Pain and Symptom Management (CAH only)

B. 1115 Demonstration Project (NY Partnership Plan) (OHIP):

B1. Managed Long Term Care (MLTC):

1. Medicaid Advantage Program (MAP)
2. Partial Capitation (Partial Cap)
3. Fully Integrated Duals Advantage (FIDA)
4. Program of All Inclusive Care for the Elderly (PACE)

Services Provided Under MLTC:

1. Home Care
2. Personal Care, (including Consumer Directed Personal Care)
3. Adult Day Health Care (ADHC)
4. Social Adult Day Care (SADC)
5. Personal Emergency Response Systems (PERS)
6. Home-Delivered/Congregate Meals
7. Social and Environmental Supports
8. Assistive Technology (FIDA only)
9. Structured Day (FIDA only)

B2. Mainstream Medicaid Managed Care (MMMC):

Services Provided Under MMMC:

1. Private Duty Nursing
2. Home Health Services
3. Personal Care Services
4. Personal Emergency Response System
5. Consumer Directed Personal Assistance Services
6. Adult Day Health Care
7. AIDS Adult Day Health Care
8. Home Delivered Meals

C. Community First Choice Option (CFCO) (1915 (k)) (OHIP)

Services Provided Under CFCO:

1. Assistive Technology
2. Community Habilitation
3. Community Transitional Services
4. Durable Medical Equipment/Medical Supplies
5. Environmental Modification
6. Supervision and/or Cueing
7. Home Delivered/Congregate Meals

8. Home Health Care (Aide)
9. Homemaker/Housekeeper
10. Moving Assistance
11. Personal Care/Consumer Directed Personal Assistance Program
12. Personal Emergency Response
13. Transportation - Non-Emergency, Medical
14. Transportation - Non-Emergency, Social
15. Vehicle Modification

DOH-Office Primary Care Health Systems Management (OPCHSM)

D. Adult Care Facilities (ACFs):

1. Adult Homes
    - Assisted Living Programs (ALPs)

Services Provided Under ALPs:

1. Personal Care
2. Room
3. Board
4. Housekeeping
5. Supervision
6. Home Health Aides
7. Personal Emergency Response Services
8. Nursing
9. Physical Therapy
10. Occupational Therapy
11. Speech Therapy
12. Medical Supplies and Equipment
13. Adult Day Health Care
14. A Range of Home Health Services
15. Case Management Services of a Registered Professional Nurse

DOH- Office of Public Health (OPH)-AIDS Institute

E. AIDS Adult Day Health Care (ADHC) Program:

Services Provided in AIDS ADHC Program:

1. Treatment Adherence Support
2. Nursing Care

3. Rehabilitative Services
4. Nutritional Services
5. Case Management
6. HIV Risk Reduction
7. Substance Abuse
8. Mental Health Services

F. HIV/AIDS Supportive Housing Program

Services Provided in the HIV/AIDS Supportive Housing Program:

1. Independent Living Skills Training
2. Health Education, (including Nutrition)
3. Vocational Readiness Education
4. Care Coordination, (including Case Conferencing involving other Community-Based Medical and Social Service Providers)

Office for People with Developmental Disabilities (OPWDD)

G. Care at Home (CAH) Waivers III, VI & VI

Services Provided Under CAH Waiver:

1. Assistive Technology and Environmental Modifications
2. Respite Care
3. Case Management

H. Congregate Care and Group Homes

1. Individualized Residential Alternatives (IRAs)
2. Community Residences (CRs)
3. Family Care Homes

OPWDD Comprehensive Home and Community-Based Services (HCBS) Waiver Services under the OPWDD Comprehensive HCBS Waiver:

1. Residential Habilitation
2. Day Habilitation
3. Community Habilitation
4. Plan of Care Support Services
5. Prevocational Services
6. Supported Employment (SEMP)
7. Pathway to Employment
8. Intensive Behavioral Services
9. Respite

10. Assistive Technology – Adaptive Devices
    11. Environmental Modifications (Home Accessibility)
    12. Live-in Caregiver
    13. Community Transition Services
    14. Individual Directed Goods and Services
    15. Family Education and Training
    16. Fiscal Intermediary (FI)
    17. Support Brokerage
    18: Vehicle Modifications

I. Fully Integrated Duals Advantage (FIDA) – Intellectually Disabilities/Developmental Disabilities (IDD) Program

See above list of services, under Comprehensive HCBS Waiver

J. Day Habilitation Facilities

OPWDD Comprehensive Home and Community-Based Services (HCBS) Waiver Services under the OPWDD Comprehensive HCBS Waiver:

1. Residential Habilitation
2. Day Habilitation
3. Community Habilitation
4. Plan of Care Support Services
5. Prevocational Services
6. Supported Employment
7. Pathway to Employment
8. Intensive Behavioral Services
9. Respite
10. Assistive Technology
11. Environmental Modifications
12. Live-in-Caregiver
13. Community Transition Services
14. Individual Directed Goods and Services
15. Family Education and Training
16. Fiscal Intermediary Services
17. Support Brokerage

Office of Mental Health (OMH)

K. Apartment Treatment Programs

L. Community Residence Single Room Occupancy Programs (CR-SRO)

M. Supportive Single Residence Occupancy Programs (SP-SRO)

N. Supportive Scattered-Site Housing, formerly known as Supported Housing

Behavioral Health Home and Community-Based Services (BH HCBS):

1. Psychosocial Rehabilitation
2. Community Psychiatric Support and Treatment
3. Habilitation
4. Family Support and Training
5. Short-term Crisis Respite
6. Intensive Crisis Respite
7. Education Support Services
8. Empowerment Services- Peer Supports
9. Pre-vocational Services
10. Transitional Employment
11. Intensive Supported Employment (ISE)
12. Ongoing Supported Employment

*Community-based agencies apply for a designation in order to provide BH HCBS. The designation confirms that an agency has attested to provide BH HCBS within the agency's scope of practice and consistent with the criteria articulated in the BH HCBS manual.

Office of Alcoholism and Substance Abuse Services (OASAS)

O. Permanent Supportive Housing (PSH)

Health and Recovery Plan (HARP) Services provided under HARP:

1. Psychosocial Rehabilitation (PSR)
2. Community Psychiatric Support and Treatment (CPST)
3. Habilitation Services
4. Family Support and Training
5. Short-term Crisis Respite
6. Intensive Crisis Respite (ICR)
7. Education Support Services
8. Empowerment Services – Peer Supports
9. Pre-vocational Services
10. Transitional Employment
11. Intensive Supported Employment (ISE)
12. Ongoing Supported Employment

Office of Children and Family Services (OCFS)

P. Bridges to Health (B2H) Waiver Programs:

1. B2H Serious Emotional Disturbance (SED) Waiver (#0469)
2. B2H Developmental Disabilities (DD) Waiver (#0470)
3. Medically Fragile (MedF) (#0471)

Bridges to Health (B2H) Waiver Services:

1. Health care integration
2. Family and Caregiver Supports and Services
3. Skill Building
4. Day Habilitation
5. Special Needs Community Advocacy and Support
6. Pre-Vocational Services
7. Supported Employment
8. Planned Respite
9. Crisis Avoidance, Management, and Training
10. Immediate Crisis Response Services
11. Intensive In-Home Supports
12. Crisis Respite
13. Adaptive and Assistive Equipment
14. Accessibility Modifications

NEW YORK STATE DEPARTMENT OF HEALTH ASSISTED LIVING PROGRAMS (DOH - ALP) HCBS SETTINGS TRANSTION

I. INTRODUCTION

The New York State Department of Health's (DOH, Department) mission is to improve and promote the health, productivity and well-being of all New Yorkers, in part through effective public health and health care system oversight. In its health care system regulatory oversight role, the Department licenses, inspects, and investigates complaints it receives against health care providers, including Adult Care Facilities (ACF), which operate Assisted Living Programs (ALP).

As of March 2016, New York had licensed 540 adult care facilities with the ability to provide temporary or long-term residential care and services to potentially over 47,000 frail New Yorkers. These residents, although not requiring continual medical or nursing care as would be provided by skilled nursing homes, are, by reason of physical or other limitations, unable or substantially unable to live independently.

According to the Department's most recent (2015) annual census collection, an estimated 12,774 ACF residents were deemed Medicaid eligible and in receipt of Supplemental Security Income (SSI), and therefore could potentially qualify for enrollment with a Medicaid Managed Care plan. The vast majority of the over 12,700 Medicaid-eligible residents are currently receiving Assisted Living Program services, which are required to comply with the HCBS Rule. However, for the small cohort of Medicaid-eligible residents not receiving ALP services within the setting, the State will continue to monitor the appropriateness of any services delivered above and beyond the licensure requirements.

In New York State, 130 ALPs serve persons who are determined to be medically eligible for nursing home placement in a less medically intensive, less restrictive and lower cost setting. The ALP is New York's aging-in-place program for low-income residents.

The ALP provides a bundled package of services including: personal care, room, board, housekeeping, supervision, home health aides, personal emergency response services, nursing, physical therapy, occupational therapy, speech therapy, medical supplies and equipment, adult day health care, a range of home health services, and the case management services of a registered professional nurse. In order to provide the comprehensive package of services, the ALP contracts with a Licensed Home Care Services Agency (LHCSA) and a Certified Home Health Agency (CHHA).

To qualify for the ALP, both Medicaid recipients and private-pay individuals must be medically eligible for, and would otherwise require, placement in a nursing home due to the lack of a home or suitable home environment. Eligible ALP residents must not require continual nursing care, be chronically bedfast, or be impaired to the degree that they endanger the safety of themselves

or other ALP residents. Approximately 85 percent of all NYS eligible ALP residents are Medicaid recipients.

NYS regulations require that the appropriateness of ALP services be determined by initial and periodic reassessments provided by the ALP. Licensed operators are required to provide sufficient staff to perform case management functions for assisted living residents and to ensure their ongoing health, safety and well-being. ALPs are required to provide a staffing plan for review by the Department. The licensed program must also meet prescribed environmental standards, which include standards for the installation of fire prevention systems and the space provided for various types of administrative activities.

II. OVERVIEW OF THE ALP TRANSITION

New York's ALP Transition Plan was developed through the efforts of the New York State interagency workgroup and significant outreach to and input from multiple stakeholders. It includes the following components:

- Assessment of ALP provider current compliance with HCBS Rule requirements
- Training and education to providers on HCBS Rule requirements
- Amendments to align NYS regulations with HCBS Rule requirements
- Development and implementation of survey tools and protocols, and surveyor training, to ensure appropriate DOH surveillance of provider compliance with HCBS Rule requirements

DOH has already begun specific tasks to execute its plan. The plan's timeline ensures that providers will have the knowledge and tools to be compliant with HCBS Rule requirements by January 1, 2019, and that the Department will have its surveillance protocols in place to be able to evaluate provider compliance.

Over the last few decades, there are several licensed adult care facilities with ALPs that have been developed in close proximity to and/or adjacent to private institutional-like settings, such as nursing homes, partly as a way to provide for a continuum of care and thereby allowing persons to age in place with the least disruption possible. It remains unclear to the State what the exact CMS "test" is for overcoming the presumption that settings in these circumstances are "institutional and/or isolating". That being said, the Department remains committed to guide all of the State's licensed ALPs into substantial compliance with the HCBS Rule.

Based on work done thus far, the State believes that there are only a small number of ALPs that do not and cannot, by definition, fully comply with the settings rule. Those facilities are known as Special Needs Assisted Living Programs, and by definition provide services consistent with their license to individuals with cognitive and dementia-related concerns in a "protective" environment.

III. ASSESSMENT METHODOLOGY, PROCESS AND REMEDIATION

The Department's transition planning team has worked thoughtfully over the past year to develop a series of comprehensive training and oversight activities that will help further promote the State's ability to fully comply with the federal HCBS requirements.

The first step the State will take is to measure compliance of its existing licensed ALPs with the HCBS Rule requirements. This will be accomplished through provider self-assessment, using a standard tool developed by DOH with input from provider and patient advocate partners. In addition to "self-assessing" their compliance with the Federal requirements, providers will submit pertinent information needed by the State to make a determination of their level of compliance.

DOH will require all newly established ALPs to demonstrate full compliance with the HCBS rule prior to the receiving an operating certificate and DOH approval to begin offering services.

If a provider indicates they do not fully meet the new requirements, the State will work with the ALP to implement remediation strategies in the key areas affecting compliance including care planning, resident choice, freedom within the facility, access to supports and services within the community and overall enhanced resident rights.

In addition, the State will conduct periodic site-specific evaluations for a statistically significant sample of ALPs using the Federal requirements as a basis for the evaluation. Such evaluations will be conducted by State personnel. To compliment this effort, a survey protocol for annual unannounced on-site licensure inspections is under development. Upon completion, the survey protocol will be utilized by survey teams across the State to access each ALP provider's efforts towards full compliance.

The State further recognizes that assessment of individual settings is not a substitute for ensuring that State standards, regulations, policies, and other requirements are consistent with Federal requirements. To address ALP regulations that may be "silent or partially compliant", the State will continue its work with internal and external stakeholders within its established workgroup forum revising regulations to more closely align with the final rule. **Table 1** (below) details the activities and timelines necessary to ensure timely compliance by all ALP providers.

NEW YORK STATE ASSISTED LIVING PROGRAM TRANSITION ACTIVITIES

TABLE 1

Activity	Completion Date	Comments
Meet with Provider Associations to Discuss HCBS Requirements and Future Transition Activities	June 8, 2016	None
Solicit Provider Association Comments on Self-Assessment Tool	June 16, 2016	Comments received June 15, 2016, analyzed and incorporated as appropriate
Resident Advocacy Agencies to provide comments on ALP HCBS Self-Assessment Tool	June 17, 2016	Comments received June 17, 2016, analyzed and incorporated as appropriate
Dear Administrator Letter with 2016 ALP HCBS Self-Assessment Sent to Adult Care Facilities	July 5, 2016	To be issued electronically
Division of Adult Care Facilities Webinar for ALPs on Quality Assurance and HCBS Requirements	July 19, 2016	None
2016 ALP HCBS Self-Assessment Due to DOH	July 29, 2016	None
Regional Division of Adult Care Facilities Webinar for ALPs on Quality Assurance and HCBS Requirements	July 27, 2016	Open to all adult care and assisted living providers
State's Analysis of Self-Assessment Completed	September 23, 2016	Analysis will determine statistical sample to conduct on-site assessment
Outreach and Education Activities to Individual ALPs Begins	October 3, 2016	Site visits to a sample of ALPs
Regional Division of Adult Care Facilities Webinar for ALPs on Quality Assurance and HCBS Requirements	October, 2016	Open to all adult care and assisted living providers

Regional Division of Adult Care Facilities Webinar for ALPs on Quality Assurance and HCBS Requirements	TBD	Open to all adult care and assisted living providers
Develop and implement HCBS survey protocol	March 31, 2017	Conduct statewide surveyor training.
Revise Adult Care Facility and Assisted Living Regulations	January 1, 2019	Work group will continue to convene routinely over the next two years with goal of enhancing compliance with the HCBS requirements.

HEIGHTENED SCRUTINY ACTIVITY

The Department has identified 13 ALPs which, by definition of the Rule, are presumed institutional due to the isolation of some ALP residents from the greater community. In Table 2, the number of beds are identified:

TABLE 2

All Bed Types in 13 ALP Facilities	**Available ALP Beds**	**Available Special Need Beds**
1,491	**517**	**398**

The total number of ALP residents in these 13 facilities is no greater than 517 at any one time. Each of these 13 facilities has a subset of beds (total of 398) that are available to individuals with cognitive and dementia-related concerns in a protective environment. The program is called Special Needs Assisted Living described in **Section II**. Some of the 398 individuals may be receiving ALP services, if their medical condition qualifies them for ALP services. This modest subset of ALP individuals who are receiving ALP services are isolated from the greater community, consistent with the facility's license to care for individuals with cognitive and dementia-related concerns in a protective environment.

In addition, the Department has identified two ALPs located in facilities that also provide inpatient institutional services. These two ALPs will require the heightened scrutiny of the Department.

As stated in **Section II**., post Self-Assessment, the Department will conduct an on-site heightened scrutiny review of these 15 facilities and, if necessary, educate the provider on methods to comply with the HCBS Rule. In turn, the Department will present evidence to the Secretary of Health and Human Services that the setting has the qualities and characteristics of an appropriate home and community-based setting, and none of the qualities of an institutional setting.

IV. CONCLUSION

The State is confident that all Assisted Living Programs will work to transition into full compliance with the HCBS Rule and support the basic premise that compliance will enhance the lives of thousands of people with disabilities, improve their health, and raise their overall quality of life while residing in adult care facilities and receiving ALP services. The State recognizes the value of ongoing monitoring both prior to, and following, full compliance with the HCBS requirements. The State is committed to carrying out oversight activities to ensure timely and sustained compliance.

DOH 1115 Demo Adult Homes

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
All Settings:						
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			X		No barriers identified. Supported by Resident Rights and Responsibilities and Regulations set forth in 18NYCRR Parts 487 and 488, which serves as the licensed entity for which the Assisted Living Program (ALP) resident actually resides.	
					487.5(a)(1)/ 488.5(a)(1) shall be amended to include the statement "Each operator shall adopt a statement of the rights and responsibilities of residents, which is also consistent with the Home and Community-Based Settings standards, and shall treat each resident in accord with the principles contained in the statement". Forum: ACF Regulatory Work Group/ expected date of completion January 1, 2019.	Click here for link to 18 NYCRR 487.5
-- opportunities to seek employment/ work in			X		Forum: ALP policy guidance document to be issued 12/31/2016	
-- engage in community life			X		Forum: ALP policy guidance document to be issued 12/31/2016	
-- control personal resources				X	487.5(a)(3)(vi) states "A resident shall have the right to manage his or her own financial affairs".	Click here for link to 18 NYCRR 487.5(a)(3)(vi)
-- receive services in the community				X	Case management regulations facilitate resident access to services in the community. Forum: ALP policy guidance document to be issued 12/31/2016.	Click here for link to 18 NYCRR 487.7(g)(1)
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		X			Regulations support resident's choice to be admitted to the facility of their choosing; however, the option of a private room and a choice of roomate may be limited to what is available in the facility. Not all facilities will have private rooms but the resident is made aware of this prior to their decision to enter the facility. Licensing of AH/EHP requires specific architectural standards that may be in conflict with the non-disability specific setting (487.11). Resident choice is supported by Resident Rights and Responsibilities and Regulations set forth in 18NYCRR 487 and 488 (Case Management, Personal Services, Admission Agreement, etc.). Also refer to 18NYCRR Part 494.4 (c)(5).	Click here for link to 18 NYCRR 494.7
					Forum: ALP policy guidance document to be issued 12/31/2016.	
--the options are identified and documented in the person-centered service plan				X	The regulations support an individualized person-centered care plan, which is based on a medical evaluation and a comprehensive assessment tool that is currently the UAS NY.	Click here for link to 18 NYCRR 494.4
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.				X	The regulation states that a resident "voluntarily chooses to participate in an assisted living program after being provided with sufficient information to make an informed choice". Further guidance will be issued to ALPs to expand on the HCBS requirements pertaining to individual needs and preferences. Forum: ALP policy guidance to be issued 12/31/2016.	Click here for link to 18 NYCRR 494.4(5)
3. Ensure an individual's rights of privacy.				X	18 NYCRR487.5(a) and 488.5(a): Resident Protections	Click here for link 18 NYCRR 487.5(a)(3)
Ensure an individual's rights of dignity and respect.				X	Same as above	Click here for link to 18 NYCRR 488.5(a)(3)
Ensure an individual's rights of freedom from coercion and restraint.				X	The regulation supports individual rights of privacy, dignity, respect and freedom from coercion and restraint. Further guidance will be issued to reinforce the HCBS standards. Forum: ALP policy guidance to be issued 12/31/2016.	Click here for link to 18 NYCRR 487.5(a)(3)
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.			X		The regulations support individual initiative, autonomy and independence as referenced in 18 NYCRR 487.5(a) and 488.5(a): Resident Protections, 487.5(b) Resident Organization, 487.7 and 488.7 Resident Services, 487.7 (g) and 488.7(e) Case Management (including choice of provider). However, the regulatations will be amended to include specific language to address each element of the HCBS standard. Forum: ACF regulatory workgroup expected date of completion 1/1/2019.	Click here for link to 18 NYCRR 487.5
						Click here for link to 18 NYCRR 488.5
						Click here for link to 18 NYCRR 487.7

DOH 1115 Demo Adult Homes

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
All Settings:						
						Click here for link to 18 NYCRR 488.7
5. Facilitate individual choice regarding services and supports, and who provides them.		X			18NYCRR Part 487.5(a) and 488.5(a): Resident Protections, 487.5(b) Resident Organization, 487.7 and 488.7 Resident Services, 487.7 (g) and 488.7(e) Case Management (including choice of provider). ALP must have licensure as a home care services agency, long term home-health care program, or certificate of approval as a Certified Home Health Agency (CHHA) as per 485.6 (n)(1)(ii)(a-c).	Click here for link to 18 NYCRR 487.5
					Residents needs and services are determined by a physician medical evaluation and a comprehensive assessment, which are documented in the person-centered care plan. Policy guidance will be issued to ALPs to assist them in integrating support access to the greater community. Forum: ALP policy guidance to be issued 12/31/2016.	Click here for link to 18 NYCRR 487.7
Provider Owned or Controlled Settings:						
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.		X			Supported by 18 NYCRR Part 487.5(d)(3) Residency Agreement, which states that any modification or provision of the agreement that is not in compliance with law or regulation shall be null and void. Also states in (4) any waiver by the resident of any provision of the admission agreement required by law or regulation shall be null and void. 487.5(f) Termination of the Admission Agreement. See also 488.5(c -d) and 488.5 (e). Regulations will be amended to require that each facility guarantees residents the same protections comparable to individuals not receiving HCBS services living in their jurisdiction. Forum: ACF regulation workgroup, expected date of completion 1/1/2019.	Click here for link to 18 NYCRR 487.5
						Click here for link to 18 NYCRR 488.5
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.			X		Our regulations provide resident protections from eviction. Forum: legal review before any further recommendations can be made. Expected date of completion is 11/30/2016.	
7. Each individual has privacy in their sleeping or living unit:		X			It is the State's expectation that all ALPs will promote resident choice and document this choice in the person-centered service plan. Policy guidance will be issued expanding on the HCBS standards as it applies to room living arrangements. Forum: ALP policy guidance to be issued by 12/31/2016.	
-- units have entrance doors lockable by the individual with only appropriate staff having keys;		X			18 NYCRR 487.11(4)(vii) requires a hinged entry door. Does not state that it has to be lockable. Also see 487.11(h)(4) Environmental Standards stating doors may be secured by the resident…… See also 488.11(e)(2) Environmental Standards for Enriched Housing Programs (EHP). State oversight agency has significant concerns related to the safety of the individual resident and of the other residents specifically related those with cognitive impairment, disposition for falls and unsafe/unhealthy social behaviors. Policy guidance on the HCBS standards as it applies to lockable doors if upon further evaluation regulatory amendment is required, will refer to regulatry workgroup. Forum: HCBS self-assessment tool review for guidance. Results to be tabulated from the self - assessments by 11/30/2016.	Click here for link to 18 NYCRR 487.11
						Click here for link to 18 NYCRR 488.11
-- individuals sharing units have a choice of roommates in that setting;		X			Regulations support resident's choice to be admitted to the facility of their choosing; however, the choice of a roomate may be limited to what is available in the facility. It is the State's expectation that all ALPs will promote resident choice and ensure individual privacy, diginity, respect and freedom from coercion and restraint. Forum: ALP policy guidance to be issued by 12/31/2016.	

DOH 1115 Demo Adult Homes

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
All Settings:						
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the setting;		X			Within the regulations, compliance is imited to requirements in the Environmental Standards Regulation 18NYCRR 487.11 and 488.11 and local building code standards. Regulations will be amended to be consistent with other comparable opportunities provided to individuals not receiving HCBS services and to facilitate resident choice in furnishing their sleeping or living unit. Forum: ACF Regulatory workgroup expected date of completion 1/1/2019.	Click here for link to 18 NYCRR 487.11
						Click here for link to 18 NYCRR 488.11
8. Individuals have the freedom and support to:						Click here for link to 18 NYCRR 488.8
--control their own schedules and activities;		X			Regulations support individual autonomy, personal schedules may be impacted by medication times; meal times, etc. Policy guidance will be issued to reinforce individual rights and autonomy. Forum: ALP policy guidance to be issued 12/31/2016.	Click here for link to 18 NYCRR 487.5(a)(3)
--have access to food at any time.	X				This is an area of noncompliance as current regulations are specific to the number of meals and snacks provided, but do not facilitate 24-hour access to food. 487.8 requires three meals a day at regularly scheduled times and a nutritious evening snack. 488.8(b) requires the operator to serve at a minimum, one hot midday or evening meal per da,y seven days a week in a congregate setting, but does not specifically state that a resident has access to food at any time. Regulations will be amended to provide residents 24-hour access to food. Forum: ACF regulatory workgroup expected date of completion is 1/1/2019. Additonal guidance will be provided 12/31/16 in ALP policy guidance document.	
9. Individuals are able to have visitors of their choosing at any time.	X				This is an area of noncompliance as current regulations are not specific to residents having their choice of visitors at any time. Facilities may have policies regarding access/visiting hours (admission agreement). 487.5(a)(xiii) Resident Rights: A resident shall be permitted to leave and return to the facilty and grounds at reasonable hours (this may impact visitors as well). Reasonable hours defined by facility. See also 488.5 Resident Rights. Regulations will be amended to provide residents with the ability to have visitors of their choosing at any time. Forum: ACF regulatory workgoroup, expected date of completion is 1/1/2019.	
						Click here for link to 18 NYCRR 488.5
10. The setting is physically accessible to the individual.				X	General Provisions: 487.3 (b) The operator shall operate and maintain the facility in compliance with the regulations of the department and with applicable statutes and regulations of other State and local jurisdictions. This assumes local laws and ordinances related to handicap assessibility. See also 488.3 General Provisions.	Click here for link to 18 NYCRR 487.3
						Click here for link to 18 NYCRR 488.3
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**	
11. Are any settings in facilities that also provide inpatient institutional services?	Yes (2)				DOH has identified a minimum of two (2) Assisted Living Programs that may have the effect of isolating individuals receiving HCBS from the broader community.	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			X		488.11(b)(2) states not be located within existing adult care, health-related, skilled nursing or mecdical facilities, single room occupancy buildings (SRs) or hotels. Per the Regional Office Program Managers, to there knowledge, ther are no facilities located immediately adjacent to a public institution. Future action will be determined based on findings from the ALP self-assessment tool.	Click here for link to 18 NYCRR 488.11

DOH 1115 Demo Adult Homes

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
All Settings:						
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?	Yes (13)				This is an unintentional consequence of the Dementia residents who require heightened supervision as a result of their unsafe wandering behavior. The number will fluctuate based on services at any point in time person-centered needs and plan, based on individual. Future action will be determined, based on findings from the ALP self-assessment tool.	

Questions 1 - 10 does not include those individuals receiving Medicaid who reside in a SNALR.

[1]Regulations will be updated by January 2020 to reflect resident freedoms and choice

NEW YORK STATE DEPARTMENT OF HEALTH (DOH) - AIDS INSTITUTE HCBS SETTINGS TRANSITION

I. INTRODUCTION

The AIDS Institute was created within the New York State Department of Health (NYSDOH) in 1983 to support a comprehensive public health and health care response to an emerging crisis. Public Health Law Article 27-E specifies the AIDS Institute's responsibilities, powers and duties.

The AIDS Institute is one of four centers in NYSDOH's Office of Public Health. In recognition of the synergy among HIV, sexually transmitted diseases (STDs), and viral hepatitis, these services are aligned within the AIDS Institute in order to improve prevention efforts and health outcomes along with HIV/AIDS and STD surveillance.

The AIDS Institute strives to eliminate new HIV, STD, and hepatitis C virus (HCV) infections; ensure early diagnosis and linkage to quality care, support and treatment for all infected New Yorkers; provide support for those affected; and eradicate stigma, discrimination, and disparities in health outcomes.

The AIDS Institute also has major responsibilities for overall sexual health and Lesbian / Gay / Bisexual / Transgender (LGBT) and drug-user health and wellness. Although many of the health and human service needs of LGBT individuals and drug users are similar to the population at large, these individuals experience worse health outcomes than others in society. Discrimination and societal rejection based on sexual identity, gender identity, gender expression and drug use uniquely impact access to and interaction with the health and human services system.

II. OVERVIEW OF AIDS INSTITUTE SERVICE SYSTEM

The AIDS Institute's achievements in fighting the HIV, STD, and hepatitis epidemics and serving those infected are notable and include the development of HIV financing mechanisms and client-centered service programs that serve as national models. The AIDS Institute established an HIV service delivery system that is unmatched in the nation. The continuum of services developed in New York State (NYS) includes prevention, education, outreach, screening, partner services, health care, harm reduction, and a range of support services, as well as medications and insurance continuation for persons with HIV/AIDS. The continuum includes direct services provided by NYSDOH staff, State support of local health department services, service contracts, Medicaid-supported services, and HIV care programs for the uninsured and underinsured (e.g., AIDS Drug Assistance Program).

Major Initiatives Managed within the AIDS Institute include:

- HIV/STD/HCV Prevention and Client Support: Initiatives, Programs & Special Projects Programs
- HIV/STD/HCV Prevention and Support Services for Priority Populations

- New York State Condom Program
- Drug User Health
- HIV/STD Field Services
- Outreach and Health Promotion Campaigns
- Surveillance
- Prevention of Perinatal Transmission
- Community Support Services
- Supportive Housing
- Education/Training Programs
- HIV/AIDS Materials Initiative
- Quality of Care Programs
- Linkage, Retention and Treatment Adherence
- Confidentiality and Human Rights
- Coordination/Community Planning
- Systems and Program Support
- New York State Hotlines (English and Spanish)
- Health Care Services, which include the following:
    - HIV Uninsured Care Programs: ADAP, ADAP Plus, HIV Home Care, ADAP Plus Insurance Continuation, Pre-Exposure Prophylaxis Assistance Program (PrEP-AP)
    - AIDS Nursing Facilities
    - AIDS Adult Day Health Care Programs
    - Community-Based HIV Prevention and Primary Care Services
    - Designated AIDS Centers
    - HIV Special Needs Plans (SNPs) / Managed Care
    - HIV Enhanced Fees for Physicians Program
    - HIV Primary Care Medicaid Program
    - HIV Primary Care and Prevention Services for Substance Users
    - Family-Focused HIV Health Care for Women
    - Adolescent/Young Adult HIV Specialized Care Centers
    - Adolescent and Young Adult Youth Access Programs
    - Viral Hepatitis Program
    - Health Home Care Management

III. HCBS RULE TRANSITION PLAN

While the AIDS Institute has developed an extensive continuum of services, the vast majority of services under the AIDS Institute's purview are community based services that are compliant with the HCBS settings rule.

Management staff have identified two program areas that require further review to ensure full compliance with the HCBS settings rule, specifically, supportive housing and AIDS Adult Day Health Care Programs. The transition plans for each program area are outlined below.

AIDS ADULT DAY HEALTH CARE PROGRAMS (ADHCP)

These programs provide a range of services in a community-based, non-institutional setting. General medical care including treatment adherence support, nursing care, rehabilitative

services, nutritional services, case management, HIV risk reduction, substance abuse and mental health services are provided. ADHCPs complement/enhance the existing continuum of medical services through ongoing coordination with primary care and other service providers. Health maintenance/wellness activities such as supervised exercise and structured socialization are adjunct components, but cannot be the sole reason for admission/continued stay in the program. The program model is grounded in a comprehensive, interdisciplinary patient-centered care planning process that serves as the basis for service utilization.

Currently there are eleven programs with a daily capacity to serve 730 registrants/day. The total number of individuals currently enrolled in ADHCP is approximately 1100. The programs routinely receive on-site programmatic monitoring by the AIDS Institute (at least every 2 years but most receive annual on-site monitoring), which includes medical record reviews. It is worth noting that AIDS ADHC, unlike other ADHC, are not required to be located on grounds of nursing homes – they are almost all (except for 2) free-standing Article 28.

The transition plan for ensuring compliance with HCBS Settings rule for AIDS Adult Day Health Care Programs consists of the following action steps:

- Convene a meeting with all ADHCP providers of requirements of HCBS Setting Rule and its implications for ADHCP services and expectations. (Anticipated date – October, 2016).
- Update “Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease” to explicitly state all HCBS Rule standards/requirements as a means of further ensuring programs adhere to these requirements. (Anticipated date – November, 2016)
- Develop and administer an annual provider survey/attestation in which providers will confirm compliance with the HCBS Rule. Any indications of non-compliance will require a detailed explanation and a corrective action plan from the provider addressing the non-compliance (Anticipated date - December, 2016).
- Incorporate HCBS Rule requirements routine programmatic on-site monitoring protocols. Any indications of non-compliance will require a detailed explanation and a corrective action plan from the provider addressing the non-compliance (anticipated date – April, 2017).

SUPPORTIVE HOUSING

The AIDS Institute funded supportive housing programs provide housing rental subsidies in conjunction with housing retention services to homeless or unstably housed individuals living with HIV/AIDS with the intent of assisting these individuals to develop the skills needed to empower them to live independently and to remain in an apartment of their choice which is fully integrated into the broader community. Tenants of AIDS Institute funded supportive housing sign a legal lease document (a lease or sub-lease), and rental subsidies are provided based on a determination of financial need consistent with HUD/HOPWA guidance. Supportive services are provided/arranged for based on individual needs and preferences, and may include but is not limited to independent living skills training; health education, including nutrition; vocational readiness education; and care coordination, including case conferencing involving other community-based medical and social service providers.

Currently there are fourteen contracts with eight different community-based supportive housing provider agencies under the direct management of the AIDS Institute. These contracts provide supportive housing (rent subsidy and housing retention services) serving approximately 375 individuals annually.

IV. SUMMARY OF AIDS INSTITUTE TRANSITION ACTIVITIES

The transition plan for ensuring compliance with HCBS Settings rule for Supportive Housing consists of the following action steps:

- Convene a meeting with all supportive housing contractors under contract with the AIDS Institute, to inform the contracting agencies of requirements of HCBS Setting Rule and its implications for supportive housing services administered within the AIDS Institute. (Anticipated date – October, 2016).
- Revise contract language for supportive housing contracts managed within the AIDS institute that explicitly states all HCBS Rule standards/requirements as a means of further ensuring programs adhere to these requirements. (Anticipated date – November, 2016 for contract renewals to be effective July, 2017)
- Develop and administer an annual provider survey/attestation in which providers will confirm compliance with the HCBS Rule. Any indications of non-compliance will require a detailed explanation and a corrective action plan from the provider addressing the non-compliance (Anticipated date – Initiate survey/attestation January, 2017; corrective action plans to be implemented March, 2017).
- Incorporate HCBS Rule requirements into routine programmatic on-site monitoring protocols. Any indications of non-compliance will require a detailed explanation and a corrective action plan from the provider addressing the non-compliance (anticipated date – July, 2017).

AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
All Settings: AIDS ADHCP						
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			x		Note: Although silent in reguations, the program model is a non-residential community-based model, and registrants are not restricted with respect to opportunities for employment, engagement in community life, and control of personal resources. "Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease (May 2013)" will be updated within the next couple of months to explicitly state expectations of Standard #1 and Standard #2. The expectations of Standard #1 and #2 will be incorporated into routine programmatic monitoring protocols. Additionally, a survey and/or attestation will be developed and completed annually by all providers to further ensure compliance with these standards.	
-- opportunities to seek employment/ work in			x			
-- engage in community life			x			
-- control personal resources			x			
-- receive services in the community			x			
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			x		A survey and/or attestation will be developed and conducted annually to ensure provider compliance with Standard #2.	
--the options are identified and documented in the person-centered plan		x			NYCCR Title 10, Section 425.7 - Registrant Care Plan; and Title 10, Section 759.5 Comprehensive Care Planning and the "Guidelines for Adult Day Health Care Programs…AIDS or HIV Disease" - Interdisciplinary Care Planning, pg 2. Note: We will revise the aformentioned "Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease" to include specific reference to the standard listed here.	Click here for Section 425.7 Click here for Section 759.5 Click here for Guidlines for Adult Day Health Care Programs
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		x			NYCCR Title 10, Section 425.4(3) - Registrant Bill of Rights; and Title 10, Section 751.9 Patient Rights and "Guidelines for Adult Day Health Care Programs…AIDS or HIV Disease" - Interdisciplinary Care Planning, pg 2 Note: We will revise the aformentioned "Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease" to include specific reference to the standard listed here.	Click here for Section 425.4 (3) Click here for Section 751.9 Click here for Guidlines for Adult Day Health Care Programs

AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
3. Ensure an individual's rights of privacy.				x	NYCCR Title 10, Section 425.4(3) - Registrant Bill of Rights; and Title 10, Section 751.9 Patient Rights	Click here for Section 425.4 (3)
Ensure an individual's rights of dignity and respect.				x		Click here for Section 751.9
Ensure an individual's rights of freedom from coercion and restraint.		x			Note: We will revise the aforementioned "Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease" to include specific reference to this standard.	
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to daily activities, physical environment, and with whom to interact.			x		NYCCR Title 10, Section 425.7 - Registrant Care Plan; and Title 10, Section 759.5 Comprehensive Care Planning and the "Guidelines for Adult Day Health Care Programs…AIDS or HIV Disease" - Interdisciplinary Care Planning, pg 2. A survey and/or attestation will be developed and completed annually to ensure provider compliance with Standard #4.	Click here for Section 425.7
					Note: We will revise the aforementioned "Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease" to include specific reference to this standard.	Click here for Section 759.5
5. Facilitate individual choice regarding services and supports, and who provides them.			x		NYCCR Title 10, Section 425.4(3) - Registrant Bill of Rights; and Title 10, Section 751.9 Patient Rights and "Guidelines for Adult Day Health Care Programs…AIDS or HIV Disease" - Interdisciplinary Care Planning, pg 2	Click here for Section 425.4 (3)
					Note: We will revise the aforementioned "Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease" to include specific reference to this standard.	Click here for Section 751.9
						Click here for Guidlines for Adult Day Health Care Programs

AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
Provider Owned or Controlled Settings:					None of the AIDS adult day health care program are residential. Registrants live in their own home and have tenancy rights via their lease. We will assure that, within the person-centered plan of care that clients receive and approve, that their housing status is addressed to assure compliance.	
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.			x		Guidelines for Adult Day Health Care Programs Caring for Patients with AIDS or HIV Disease (May 2013) will be updated within the next couple of months to explicitly state expectations of Standard #6 - #10. It is intended that these standards will be addressed as a part of the required patient-centered comprehensive care planning process. The expectations of these standards will be incorporated into routine programmatic monitoring protocols. Additionally, a survey and/or attestation will be developed and completed annually by all providers to further ensure compliance with these standards.	
The individual has, at a minimum, the same			x		See above response regarding Standard #6 - #10.	
responsibilities and protections from eviction that						
tenants have under the jurisdiction's						
landlord/tenant law or equivalent.						
7. Each individual has privacy in their sleeping or			x		See above response regarding Standard #6 - #10.	
living unit:						
-- units have entrance doors lockable by the			x		See above response regarding Standard #6 - #10.	
individual with only appropriate staff having keys;						
-- individuals sharing units have a choice of			x		See above response regarding Standard #6 - #10.	
roommates in that setting;						
-- Individuals have the freedom to furnish and			x		See above response regarding Standard #6 - #10.	
decorate their sleeping or living units within the						
lease or other agreement.						
8. Individuals have the freedom and support to:						
--control their own schedules and activities;			x		See above response regarding Standard #6 - #10.	
--have access to food at any time.			x		See above response regarding Standard #6 - #10.	
9. Individuals are able to have visitors of their			x		See above response regarding Standard #6 - #10.	
choosing at any time.						
10. The setting is physically accessible to the			x		See above response regarding Standard #6 - #10.	
individual.						
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES**	**NO**	**How Many?**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**	
11. Are any settings in facilities that also provide inpatient institutional services?	x			**1**		
	NOTE: One AIDS ADHC program operates in space in a private non-profit nursing				Richmond Center for Rehabilitation and Healthcare AIDS ADHCP	

AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
	home. However, registrants of this program are *not* residents of the nursing home and are served in the same manner as registrants served in any of the programs located in freestanding clinic settings and are not isolated from the broader community.					
12. Are any settings in facilities on the grounds of,		x				
or immediately adjacent to a public institution?						
13. Do any of the settings serve to isolate individuals in		x				
receipt of Medicaid-funded HCBS from the broader						
community?						

HIV/AIDS Supportive Housing

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					DOH/ AIDS Institute will revise contract language for all HIV supportive Housing contracts managed by the AIDS Institute so that contract language specifically references compliance with each of the HCBS standards listed in this compliance chart. In addition, the AIDS Institute will develop and complete a provider survey/assessment and/or attestation that will be distributed to all HIV-specific supportive housing providers managed under contract by the AIDS Institute to ensure compliance with the HCBS Federal Settings Rule. Upon initial assessment and attestation providers will be required to complete the survey and attestation annually. Programmatic monitoring protocols relative to compliance with the HCBS standards identified in this document will be implemented as a part of routine contract monitoring for all supportive housing contracts managed by the AIDS Institute.
1. Fully integrated into the broader community to the			x		See above
same degree of access as individuals not receiving					
Medicaid HCBS.					
-- opportunities to seek employment/ work in			x		See above
-- engage in community life			x		See above
-- control personal resources			x		See above
-- receive services in the community			x		See above
2. Selected by the individual among options			x		
including non-disability specific settings and an					
option for a private unit in a residential setting.					
--the options are identified and documented in the			x		See above
person-centered service plan			x		See above
--the options are based on the individual's needs,			x		See above
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.			x		See above
Ensure an individual's rights of dignity and respect.			x		See above
Ensure an individual's rights of freedom from coercion			x		See above
and restraint.					
4. Optimize and doesn't regiment individual			x		See above
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services			x		See above
and supports, and who provides them.					
Provider Owned or Controlled Settings:					

HIV/AIDS Supportive Housing

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.			x		Of the 14 contracts currently managed within the AIDS Instittute there are two providers who may hold the lease with the landlord, and sublease the apartment unit to the tenant. We will conduct further review to ascertain if the sublease agreement meets the HCBS Setting Rule. If such tenancy agreements are determined to be less than fully compliant, a transition plan will be developed with the provider(s) to ensure complete compliance with the setting rule. The transition plan will incorporate all actions noted in reference to Standards #1 - #5 above.
The individual has, at a minimum, the same			x		
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or			x		See response for Standards #1 - #5
living unit:					
-- units have entrance doors lockable by the			x		See response for Standards #1 - #5
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of			x		See response for Standards #1 - #5
roommates in that setting;					
-- Individuals have the freedom to furnish and			x		See response for Standards #1 - #5
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;			x		See response for Standards #1 - #5
--have access to food at any time.			x		See response for Standards #1 - #5
9. Individuals are able to have visitors of their			x		See response for Standards #1 - #5
choosing at any time.					
10. The setting is physically accessible to the			x		See response for Standards #1 - #5
individual.					

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide		**x**	
inpatient institutional services?			
12. Are any settings in facilities on the grounds of,		**x**	
or immediately adjacent to a public institution?			
13. Do any of the settings serve to isolate individuals in		**x**	
receipt of Medicaid-funded HCBS from the broader			
community?			

New York State Office for People With Developmental Disabilities (OPWDD) HCBS Settings Transition

EXECUTIVE SUMMARY

The Office for People With Developmental Disabilities (OPWDD) submits this amended Statewide Transition Plan, dated January 2016, as required by the Centers for Medicare and Medicaid Services' (CMS) Home and Community-Based (HCBS) Settings Rule. Our purpose in drafting this revised Plan is to convey with greater specificity OPWDD's methodology, process for assessing compliance with the HCBS Settings Rule, outcomes of the assessment, and the extraordinary array of policies, programs, and outreach initiated by OPWDD in the past two years to drive greater person-centeredness in the design and conduct of residential and non-residential programs for which we are responsible.

We, in New York, have developed a large and complex network of community residences, non-residential programs and individually controlled residential supports across the state, in both urban and rural localities. The OPWDD Comprehensive HCBS Medicaid Waiver now supports more than 72,719 people, approximately 40,000 of whom reside in their own homes or the home of a family member, relative or friend. More than 50,000 individuals are supported through day habilitation services. OPWDD itself employs nearly 22,000 people. Throughout the OPWDD system, the values of integration, individual choice, and independence are increasingly infused throughout OPWDD's regulatory and service structures, and we are committed to achieving the national vision of home and community-based services, as conveyed in OPWDD's transformation and the HCBS settings requirements.

OPWDD's Transition Plan is organized sequentially. First, we describe the methodology OPWDD is using to ascertain how its overall system and more than 7,000 service settings meet the standards within the HCBS Final Rule. We then describe the process undertaken to assess HCBS compliance and offer our findings, to date. Finally, we describe the extensive set of strategic activities undertaken towards remediation and quality improvement.

OPWDD, led by Counsel's Office and the Division of Person-Centered Supports, collaboratively designed and carried out a plan to assess all State rules, regulations policies, protocols, authorities and practices to ascertain gaps and regulatory standing with respect to OPWDD's authority to intervene in the service delivery system to accomplish HCBS settings objectives. This extensive review was critical, given the complexity of New York State's Mental Hygiene laws and the sophistication of the agency's stakeholder community. OPWDD also developed a plan to assess how the agency – at all levels – embraces person-centered thinking and decision-making.

OPWDD engaged in a multi-year structured process to capture the perspectives and insights of multiple expert and active stakeholders, including people supported, as we initiated and are implementing transition planning efforts. A multitude of stakeholder Work Groups were formed to advise on how to best approach moving the system to greater HCBS compliance and person-centered thinking. While these stakeholders offered many varied perspectives, they are united in their purpose to sustain and improve the system of community-based services and supports in New York and to ensure that all individuals served with developmental disabilities enjoy the highest quality of life possible based on individualized needs, goals, and preferences.

OPWDD designed a methodology to assess the extent to which residential settings in the state comply with the HCBS setting criteria. We developed residential and non-residential assessment tools, sampling methods, and comprehensive guidance and training for Division of Quality Improvement (DQI) surveyors to implement the assessment. For each setting type where HCBS Waiver services are delivered, a unique assessment process was carried out or is in the process of implementation.

OPWDD conveyed, through extensive communication with providers, the HCBS settings standards and criteria for heightened scrutiny and the process that OPWDD is implementing to assess and review HCBS standards and to meet CMS expectations for heightened scrutiny settings. OPWDD has been comprehensive and transparent in our efforts by facilitating two separate public input processes for our Transition Plan, building an HCBS Settings Toolkit available on our website, and posting the actual statewide aggregated residential assessment results by HCBS settings standard. We also developed agency specific reports for people and settings in the overall sample so that each provider agency could focus on quality improvement initiatives towards full compliance. Additionally, we provided informational tools and suggestions on using the data for site specific and systemic quality improvement across provider agencies.

OPWDD's remediation efforts are targeted at not only the systemic and provider levels but also individual by individual. OPWDD has embraced the Council on Quality and Leadership (CQL) Personal Outcome Measures (POMs) as a key method of enhancing our system to focus on quality from the perspective of each individual served. OPWDD's partnership with CQL has yielded expert advice in helping us to transition our system through the assistance and advice of key experts in the development of our assessment tools, survey methods, and quality indicator domains and standards. In addition to personal outcome measures, quality improvement and remediation efforts to date have focused on: rule/regulatory revisions; HCBS Waiver supports service enhancements; training, outreach, communication and workforce strategies; infrastructure improvements; provider remediation efforts; and others.

OPWDD's Division of Quality Improvement (DQI) has a strong system in place for ongoing compliance monitoring that includes annual site visits for virtually every waiver setting operated throughout New York State. These systems too are being strengthened through collaboration with stakeholders to develop system-wide quality indicators upon which to redesign survey tools and processes and to ultimately rate

agency performance in the delivery of individualized person-centered supports and services.

We welcome continued collaboration with CMS on our transformation goals. It is OPWDD's expectation that, over time, we will not only achieve full compliance with the HCBS settings rules, but we will have accomplished systemic transformation of the service system by becoming a national leader in person-centered service delivery; integrated residential supports, self-direction, competitive employment supports, and continuous quality improvement.

I. INTRODUCTION

The Office for People With Developmental Disabilities (OPWDD) submits this amended Statewide Transition Plan, as required by the Centers for Medicare and Medicaid Services' (CMS) Home and Community-Based (HCBS) Settings Rule dated January 16, 2014. Our purpose in drafting this revised Plan is to convey with more specificity the agency's methodology and process for assessing compliance with the HCBS Settings Rule, and the extraordinary array of policies, programs, and outreach initiated by OPWDD in the past two years to drive greater person-centeredness in the design and conduct of residential and non-residential programs for which we are responsible.

We, in New York, have developed a large, complex and statewide network of community living and day services, including community residences and individually controlled residential supports. The initiation of OPWDD's Comprehensive HCBS Waiver in 1991 was the foundation that propelled tremendous growth in community-based service options and enabled the system to develop capacity to serve people in their own homes in the community. Medicaid Waiver funds now support over 72,719 people, approximately 40,000 of whom reside in their own homes or the home of a family member, relative or friend. Indeed, New York State has been a national leader in de-institutionalization of persons with developmental disabilities and, as a result, has significantly reduced the number of people living in institutional campuses from 20,062 people (1975) to 356 people (at the close of 2015).

OPWDD's nearly 40 year history demonstrates the agency's commitment to the delivery of home and community-based services and achieving the vision of the Americans with Disabilities Act (ADA), the Olmstead decision and, more recently, the HCBS Settings requirements. The values of integration, individual choice and independence are increasingly evident in OPWDD's regulatory and service structures. Yet, New York faces enormous challenges in attempting to transform its entire service system by March 2019. The sheer breadth and scope of our service system, serving more than 130,000 people through a network of over 700 providers and more than 7,000 certified residential settings employing over 110,000 direct support professionals, should help to put this challenge in perspective.

The substantial progress described throughout this Transition Plan and the strategies that are underway substantiates OPWDD's commitment to system transformation and

compliance with the HCBS settings rules, yet much of this comprehensive transformation can be expected to extend beyond March 2019.

OPWDD is committed to working in partnership with our sister New York State agencies and CMS to make even more progress in the coming three years towards a system that is as person-centered as it can be for each of the 130,000 persons served. We welcome a dialogue with CMS on these strategies and how the federal government can best assist us to reach our mutual transformation goals.

II. OVERVIEW OF THE OPWDD TRANSITION

The purpose of this Transition Plan is to describe how OPWDD intends to bring its pre-existing 1915(c) program of services and supports into compliance with the 2014 Department of Health & Human Services requirements for home and community-based settings.

This section begins with an overview of New York's delivery system for individuals with intellectual and developmental disabilities. This context is important as it helps the reviewer to comprehend the sheer magnitude of required tasks that must be undertaken to bring New York's system into compliance and the challenges we face in terms of program design, regulatory oversight, and widespread education and training.

A. OPWDD SERVICE SYSTEM

1. Congregate Care Group Homes

OPWDD's system contains 6,153[1] Individualized Residential Alternatives (IRAs) and Community Residences (CRs) serving over 30,000 people with developmental disabilities in the HCBS Waiver. Of these group homes, 54% (3,312) are designed to serve more than four unrelated individuals and 11% (677 homes) serve ten or more people. The homes that serve more than four people (3,312 homes) comprise 78% of the total people residing in certified IRA group homes (over 30,000). While OPWDD recognizes that CMS has not specified a limit on the size of settings, the national data and OPWDD's assessment data indicates that people have better outcomes in smaller settings. The agency's baseline systemic residential assessment data indicates that the smaller the residential setting size, the higher the degree of overall HCBS settings compliance.

OPWDD and many provider agencies recognize the benefit of downsizing larger group homes (which under OPWDD regulations have a maximum capacity of 14 unrelated people). Yet, property costs, staffing availability, and the ever increasing number of people (many of whom are aging) that need this level of support suggests the impracticality of extensive downsizing in the current budget environment.

[1] According to DQI operating certificates as of 5/5/16.

OPWDD providers have indicated through workgroups and the public comment periods that substantial staffing increases and other significant operational changes will be needed to ensure that every person has the level of meaningful and individualized interaction with the broader community that he/she chooses in these larger homes and facilities.

2. Day Habilitation Facilities

Day Habilitation: activities are provided at either a site-based location or directly in the community ("without walls"). OPWDD's system includes over 860 certified day habilitation facilities across the state. More than 50,000 people are supported through day habilitation services. These day habilitation facilities have certified capacities ranging between 1 and 282 people, with 64% of them having maximum capacities of 26 people or more. More than 73 facilities, or 8%, have a maximum certified capacity of 100 or more people at any given time.

OPWDD has been working extensively with providers and families to continue to develop "without walls" service delivery models for day habilitation services where day habilitation facilities can serve as "hubs" where needed. We have recently instituted a policy for new people in the system where day habilitation without walls is considered as a first option and facility based/certified day habilitation is authorized only when it is a demonstrated need based on individualized planning. We do recognize that much of our facility based programming will need to evolve to ensure that the majority of supports are provided in everyday community settings rather than a segregated facility. However, for some programs, particularly those serving very complex people, this evolution will take time beyond March 2019 and will likely result in increased costs for staffing and transportation, etc.

3. Waiver Services and Settings Where Services Are Delivered

To provide context to this Transition Plan, the following 17 services are offered to participants through the OPWDD Comprehensive HCBS Waiver:

- Residential Habilitation
- Day Habilitation
- Community Habilitation
- Plan of Care Support Services
- Prevocational Services
- Supported Employment
- Pathway to Employment
- Intensive Behavioral Services
- Respite
- Assistive Technology
- Environmental Modifications
- Live-in-Caregiver

- Community Transition Services
- Individual Directed Goods and Services
- Family Education and Training
- Fiscal Intermediary Services
- Support Brokerage

The settings in which HCBS Waiver services can be offered, depending upon the specifications for each Waiver service, include:

- Integrated community settings;
- Peoples' own home and apartments[2] or the home of a relative, friend or shared living arrangement;
- In certified group homes, including IRAs and CRs;
- Certified Family Care Homes; and,
- Certified day habilitation, day training, and prevocational settings.
-

4. Closure of ICFs by October 2018 and Sheltered Workshops by April 2020

At the same time that OPWDD is addressing compliance challenges related to the HCBS settings rules, the agency has committed itself to accomplishing major transformational initiatives that predate the finalization of the HCBS settings rules, including the ICF Transition Plan (click here for ICF Transition Plan) which requires the closure of all OPWDD ICFs by October 2018) and the New York State Plan to Increase Competitive Employment (which requires the closure of all Sheltered Workshops by April 2020).

For ICFs serving 14 people or less, converting to community integrated residential settings is one way to help achieve the OPWDD ICF Transition Plan within this timeframe. Some ICFs may also downsize as a part of the conversion process and others may close and develop or find alternative community integrated waiver services and settings to meet individual needs and choices. This issue is further compounded by the reality that ICF community homes in the past were often developed in the near vicinity to and/or adjacent to institutional settings and are, in many cases, clustered together/collocated with other ICF community homes and IRAs for maximum efficiency in use of resources, staffing, transportation, etc. It is unclear what the CMS 'test" is for overcoming the presumption that settings in these circumstances are institutional and/or isolating.

Nevertheless, OPWDD has decreased the development of large residential settings over time resulting in a smaller number of people residing in larger residential settings system-wide ***(Figure 1).***

[2] Short term respite services of 30 days or less can be provided in an ICF/institutional setting.

Figure 1: OPWDD Residents of Group Residential Settings[3]			
Persons	**2005**	**2013**	**Percent Change**
1-3	3,234	3,366	+4%
4-6	8,769	11,784	+ 34 %
7-15	19,039	18,533	-3%
16+	3,348	1,408	-6%

5. Workforce Shortages

Challenges confronting the direct support professional (DSP) workforce in New York State are on the rise with increasing turnover rates, unfilled positions and rising overtime costs. All of these factors raise concerns about quality supports for people receiving services, particularly as the system transforms to greater individualized and community-based supports through the HCBS settings requirements.

B. COLLABORATIVE APPROACH TO DEVELOPING INITIAL TRANSFORMATION PLAN

OPWDD's initial HCBS setting efforts began in early 2013, prior to the publication of the January 2014 Final Rule, as part of OPWDD's Transformation Plan. OPWDD began by forming a HCBS Settings Stakeholder Steering Committee comprised of parents, individuals supported, provider representatives and other groups, including the Self-Advocacy Association of New York State (SANYS) and Parent to Parent, to seek input relative to the development of implementation guidance to operationalize the qualities and characteristics that were then outlined in CMS's May 2012 Notice of Proposed Rulemaking (NPRM).

These efforts were coordinated with the development of New York State's Olmstead Plan developed through the Olmstead Development and Implementation Cabinet created by Governor Cuomo's Executive Order number 84. The Report and Recommendations of the Olmstead Cabinet published in October 2013 incorporated the work of OPWDD's transformation stakeholder teams as well as the HCBS Settings Stakeholder Workgroup. This report is available on OPWDD's website via the following link: (click here for Olmstead Report).

After the HCBS Final Rule adoption, OPWDD collaborated with its stakeholder workgroups to develop an initial five year OPWDD Transition Plan for its HCBS 1915 c Waiver. At that time, the OPWDD's 1915 (c) People First Comprehensive Waiver was to be submitted in July 2014 for an October 1, 2014 renewal. Hence, OPWDD published its initial waiver-specific Transition Plan in May 2014 for the 30 days of public input and

[3] ICFs are included in this data. Source: University of Minnesota Residential Information Systems Project, June 30, 2013.

updated it again in February 2015 for non-residential settings with an additional 30+ days of public input: (click here for Announcement for Public Comment on the Waiver/HCBS Transition Plan). A summary of public input received through these waiver-specific plans is found in ***Appendix A.***

Collaboration continues with OPWDD's stakeholder community and the public as we seek their expertise and insights in developing a feasible path to achieving structural, process and outcome modifications that can lead to a more compliant delivery system that serves people with developmental disabilities.

C. TRANSITION PLAN CONTENTS SUMMARY

This Transition Plan includes an assessment of the extent to which OPWDD's standards, rules, regulations, and licensing requirements comply with the Federal HCBS settings requirements; a description of the assessment methodologies and processes that OPWDD is undertaking for settings where HCBS Waiver services are delivered; the results and outcomes from completed assessment processes; OPWDD's oversight process to ensure ongoing continuous compliance; and, a description of the quality improvement and remediation actions that form the basis for implementation of this Transition Plan.

In accordance with the CMS Content Review Tool, the required elements of the Transition Plan (except for I. Introduction and II. Overview outlined above), is organized as follows:

III. Assessment Methodology
IV. Assessment Process
V. Assessment Results
VI. Remediation and Quality Improvement Activities
VII. Public Input
VIII. Conclusion

III. ASSESSMENT METHODOLOGY

This section describes the multiple methods employed by OPWDD to assess compliance with HCBS Settings requirements at both the system and provider levels. These methods include:

A. Legal Analysis of Rules/Regulations
B. Comprehensive and Structured Stakeholder Engagement
C. Site Specific Review of Settings and Visits to Assess Each Setting Type

Each of these methods is described below.

A. LEGAL ANALYSIS OF RULES, REGULATIONS, AND POLICIES

Led by OPWDD's Counsel's Office, a plan was developed to assess all State rules, regulations, policies, protocols, authorities and practices relative to CMS' Final Rule. As a component of OPWDD's systemic assessment, current rules, regulations and policies were analyzed to gauge their level of compliance with the Final Rule. This extensive legal and regulatory review was critical, given the complexity of NYS's Mental Hygiene Laws and the sophistication of our stakeholder community.

Through this analysis, OPWDD determined that HCBS Waiver regulations contained in 4 NYCRR Part 600 should be updated and restructured. As a first step, OPWDD promulgated Person-Centered Planning regulations that mirror the Federal Final Rule. Following stakeholder input and public comment, the regulation was adopted effective November 1, 2015. Text of the regulation can be found at (click here for Final Regulations Person Centered Planning).

A comprehensive analysis resulting in a crosswalk of OPWDD regulations vs. the federal requirements for full alignment was undertaken (***Appendix C***). Based on this work, a summary timeline of regulatory and policy changes was developed; it is included in ***Appendix D.***

OPWDD also developed a plan to review how the agency -- at all levels -- embraces person-centered thinking and decision-making. At the agency's executive level, "person-centeredness" was to be reviewed on an ongoing basis to identify opportunities and strategies for improvement, as well as areas where further training is warranted. OPWDD employs nearly 22,000 individuals in many different roles. Over the past two years, nearly every division has reviewed its policies and practices to identify how to foster increased person-centeredness and HCBS compliance in every part of the agency's operations.

B. COMPREHENSIVE AND STRUCTURED STAKEHOLDER ENGAGEMENT

OPWDD began a structured process to capture the perspectives and insights of multiple knowledgeable and active stakeholders who have spent much of their lives building or being served by the current system of community services and supports that enrich the lives of individuals with intellectual and developmental disabilities in New York. While they offer many varied perspectives, they are united in their purpose: to protect the system of community based services and supports and the individuals who are served.

OPWDD has a long history of engaging stakeholders in multiple ways. Given the significant collaboration that will be required to fully achieve an approved HCBS Settings Transition Plan, stakeholder engagement is a foundational methodological step in developing and implementing effective compliance strategies. This structured process informed the design of OPWDD's initial review of its policies and practices; how person-centeredness in residential settings is assessed; clarified regulatory and financing

issues, identified vulnerabilities and forged a path for implementing OPWDD's Transition Plan.

This stakeholder engagement also provided an opportunity to educate valued and diverse constituents and train different organizations, staff and advocates about the elements within and value of achieving an approved Plan for the State's HCBS settings and services. Through ongoing dialogue, stakeholders can collaborate as partners with the State in the culture change of system transformation, sharing best practices and successful service delivery models.

CMS has long emphasized the importance of multi-faceted stakeholder processes, including those with people supported, in program implementation and evaluation. The expertise of New York's stakeholder community will continue to be harnessed to achieve transparency in system-wide HCBS assessment and to help assure the views of numerous actors are considered. This collaboration and continuing engagement will be encouraged over the next several years; OPWDD intends to incorporate stakeholder input throughout the process of HCBS assessment, quality improvement and remediation, as is feasible.

OPWDD's stakeholder engagement methods, including the specific stakeholder groups established and those contributing to systemic transformation of OPWDD's service system of which HCBS settings compliance is a major component, is described below.

1. HCBS Settings Specific Workgroups

The following **HCBS Settings Stakeholder Workgroups** were formed; they have been instrumental in system and provider level assessment contributing to the development of OPWDD's Transition Plan. These Workgroups continue to participate in ongoing activities related to HCBS settings assessment and remediation and quality improvement efforts.

a. **HCBS Settings Stakeholder Steering Committee**: This group was formed in 2013 to advise and guide OPWDD's transition planning efforts and to make recommendations to OPWDD's Leadership. Most recently, this Committee has made recommendations concerning OPWDD's methods for assessing system and provider level compliance and the development of guidance and tools. See "Review of Residential Settings" below for more information and the following link to the HCBS Settings Toolkit: HCBS Settings Toolkit.

b. **Heightened Scrutiny Stakeholder Subgroup**: The purpose of this group is to provide written recommendations clarifying the criteria that triggers heightened scrutiny in the OPWDD system; guidance to the field; the tools/method for determining whether settings triggering heightened scrutiny can meet the HCBS requirements; and evidence for overcoming the presumption that the settings do not meet HCBS.

Accomplishments to date include: Heightened Scrutiny review process and Provider Communication Memo issued in October 2015 (see: http://www.opwdd.ny.gov/node/6252); and recommendations for an evidence package to overcome institutional presumption for affected settings.

c. **Non-residential/Day Settings Subgroup**: This group's purpose is to make recommendations for the development of standards/expectations for Day Habilitation services that integrate the concepts of the HCBS Settings regulations and subsequent federal guidance. Accomplishments to date include recommendations for enhancements to Prevocational Services and a draft Day Habilitation guidance memo integrating the HCBS settings standards (under review).

Each workgroup is comprised of individuals who receive services, parents and other advocates, provider representatives, and representatives from other groups such as the Self Advocacy Association of New York State (SANYS) and Parent to Parent. For more information on stakeholder workgroup activities: (click here for Stakeholder Workgroup Resources). A list of workgroup meetings is delineated in the Training and Outreach Chart in ***Appendix B.***

2. Commissioner's Transformation Panel

In early 2015, OPWDD's Acting Commissioner Kerry Delaney convened a Transformation Panel to address the future of New York State's systems of support for people with disabilities. The Panel was tasked with providing OPWDD with recommendations on how to fine-tune its system transformation. This diverse group of stakeholders included: people receiving services, parents, agency and provider association representatives, union representatives, and experts in the field. The implications of the HCBS Settings rule on OPWDD's system of supports was examined during several meetings, where participants grappled with families' advocacy for increased residential settings, Medicaid and State budget policies, care coordination, preferences for implementing managed care and system sustainability.

The Transformation Panel Report and Recommendations was published in early 2016 and further informs the OPWDD HCBS Settings Transition Plan and system remediation activities. The report can be found at: Transformation Panel Report and Recommendations.

3. Developmental Disabilities Advisory Council (DDAC)

The DDAC is established by Mental Hygiene Law (13.05) to function as an advisory body to the Commissioner of OPWDD. The DDAC's purview is the State's overall system of care and supports for individuals with developmental disabilities. The DDAC is the only advisory council established by law for this purpose. A subgroup of the

DDAC is currently engaged in informing HCBS compliance strategies for working with people with complex needs.

4. Agency Quality Performance Stakeholder Workgroup

The purpose of this group is to make recommendations for system wide expectations for quality supports and services that go beyond regulatory compliance; determine the standards and/or indicators that will be used to rate agency performance, including HCBS settings quality indicators; and to make short- and long- term recommendations for the integration of the quality standards and ratings into OPWDD DQI's protocols and business processes. This workgroup is a significant contributor to OPWDD's methods for initial and ongoing HCBS settings compliance monitoring and quality improvement at the provider level.[4]

5. Other Stakeholders that Contributed to the OPWDD HCBS Settings Transition Plan

a. Regional Employment Forums: Ten regional forums were held across the state (October 2015) to provide feedback to OPWDD on guidance for sheltered workshop providers to transition into integrated businesses that comply with HCBS settings requirements. For final guidance see: (click here for Sheltered Workshop Guidance).

b. **November 5, 2015 Symposium, "Strategies for the Future on Supporting People with Complex Needs":** This symposium was designed to educate stakeholders about how person-centered outcomes can be realized by everyone, including those with complex medical and behavioral support needs, in the community. For more information see: (click here for Strategies for Future on Supporting People with Complex Needs Symposium).

c. OPWDD formed a Statewide Interagency Occupancy Agreement Workgroup comprised of multiple agencies, including the Division of Housing and Community Renewal, and stakeholders from provider agencies, housing developers, provider associations and NY Lawyers for the Public Interest. The purpose of the workgroup was to create occupancy agreement templates for use by providers in conformance with the requirements of 42 CFR 441.301 (c)(4)(vi).

[4] This workgroup has completed its Phase I deliverables (articulation of the quality domains and standards that will be the basis for assessing agency performance in the delivery of supports and services) known as the quality indicators matrix. This matrix includes person centered planning and process indicators as well as HCBS settings compliance indicators and can be found at: (click here for Agency Quality performance Standards).

C. SITE SPECIFIC REVIEW OF SETTINGS

1. Residential

OPWDD, in conjunction with the HCBS Settings Stakeholder Steering Committee, and further advised by the Agency Quality Performance Stakeholder Workgroup, designed a methodology to assess the extent to which residential settings' complied with the HCBS settings criteria.[5]

As a first step in the assessment methodology, OPWDD developed **Administrative Memorandum Number 2014-04, "HCBS Settings Preliminary Transition Plan Implementation" for certified residential settings.** This document described expectations for residential providers in meeting HCBS settings standards and was the foundation for the development of assessment tool standards.

Next, OPWDD developed its residential assessment tools, sampling method, and a comprehensive Guidance Document for Division of Quality Assurance surveyors. Two tools and two types of samples were devised to ensure that OPWDD's residential assessment was capturing the spirit and intent of the HCBS Settings Regulations (including the experience and outcomes of people in the setting) and to ensure that the assessment was not solely based on physical and locational setting characteristics. OPWDD contracted with the Council on Quality and Leadership (CQL) to assist and advise OPWDD on the establishment of these tools and the Guidance Document to ensure that we were doing the best job we possibly could with this assessment. The following describes each methodology component in more detail:

a. Person Centered Assessment Tool (Part I): This assessment tool was designed to assess the person's experience in the setting from each person's perspective, interests, and goals and how well the setting supports each person's individualized goals and preferences. Each assessment survey represents a sample of one person and is similar to and based upon how CQL evaluates Personal Outcome Measures.

b. Site Specific Assessment Tool (Part II): This assessment tool was designed to be used in conjunction with the Part I Person- Centered Review Tool for each setting. This review tool assessed the overall characteristics of the setting from its location; physical setting and community characteristics; operational practices that promote the HCBS settings rules; and staff competencies and training that promote HCBS Setting requirements. Basically, this site review seeks to answer: does the home have the effect of isolating people; and does the home have institutional qualities instead of HCBS qualities?

[5] As established in the HCBS Final Rule and CMS Exploratory Questions for Residential Settings.

c. **Sampling Method:** In accordance with CMS's Transition Plan Toolkit Correspondence (September 5, 2014), OPWDD developed a random sampling approach for its residential settings (IRAs and CRs) that ensured the representativeness of the sample. The number of IRAs/CRs reviewed totaled 2,059 separate settings, representing approximately 34% of all IRAs/CRs operating throughout the system. Within a subset of the IRA/CR sample, at least two individuals were randomly chosen by the surveyor based on a consistent sampling methodology for the employment of the Part I, Person Centered Review, resulting in a sample of over 1,000 people served across the subset of IRAs/CRs.

d. **Guidance Document Developed to Guide Decision Making During Administration of the Assessment:** This 100+ page document was designed as interpretative guidance to be used in conjunction with the Part I and Part II Assessment Tools. It provided direction to surveyors (and guidance to providers) on how to assess each standard and what is specifically required for decision making on whether each standard is met or not met. It also contains background and guidance that provides context to the HCBS settings standards.

All of these tools can be found on the HCBS Settings Toolkit Web Page at the following link: (click here for HCBS Settings Toolkit Web Page).

The assessment method employed for residential settings resulted in baseline systemic level data that OPWDD is using to inform its remediation and quality improvement strategies (described in Section V, Assessment Results and Section VI, Remediation and Quality Improvement Strategies), as well as provider-specific compliance information for those settings included in this initial sample.

2. Non-Residential Settings

The following outlines the methodology that OPWDD is employing to assess non-residential settings, including pre-vocational and day habilitation:

a. Site reviews of non-residential settings is underway with the October 2015-September 2016 Division of Quality Improvement (DQI) survey cycle where all setting types are being reviewed for whether heightened scrutiny is triggered. The foundation for this review is based upon the work of the Heightened Scrutiny Workgroup, described above, and the resulting Provider Communication Memo on Heightened Scrutiny issued in October 2015 describing the criteria triggering heightened scrutiny.

b. OPWDD DQI has designed site review and person-centered review tools that will include HCBS settings requirements; the tools will be

used beginning October 1, 2016 for the initial compliance review of each specific setting and for the ongoing monitoring of compliance across all setting types.

c. Guidance has been drafted to educate providers about: the steps to adopt HCBS settings standards; how to address any impediments to a facility-based Day Habilitation program; and how to assure that programs become fully integrated for individuals served. The standards within this guidance is based upon the CMS Exploratory Questions for Non-residential settings. Provider training on this Guidance is scheduled for July 11, 2016.

The methodology for Employment transformation follows a different calendar. OPWDD was already making substantial changes to its non-residential settings through its "New York State Plan to Increase Competitive Employment Opportunities for People with Developmental Disabilities (Final Approved Plan - May 1, 2014)" when the final HCBS settings rules were published. This Plan, which should be considered an element of OPWDD's systemic method for assessment of non-residential settings, includes the closure of OPWDD Sheltered Work Shops by April 2020. Further information on Employment transformation is described throughout this Plan.

IV. ASSESSMENT PROCESS

This section summarizes OPWDD's assessment processes conducted to date (as of May 2016) and those that are pending implementation.

A. SYSTEMIC ASSESSMENT

As described in Part III, Assessment Methodology, OPWDD conducted a review of its rules and regulations and also worked with its stakeholders to determine the policies and guidance that could help further the intent of the HCBS settings rules in OPWDD's service system. Internal and external stakeholders are involved in informing the development of new policies and regulation that will contribute to a system that is more integrated and person-centered. These assessment activities are summarized below with further details on each described in Section V, Assessment Results and Section VI, Remediation and Quality Improvement activities.

1. Regulatory Assessment Processes

A review of existing rules and regulations was conducted by Counsel's Office with agency-wide input, to identify areas where changes are necessary to ensure full compliance with the CMS HCBS settings regulations. A detailed crosswalk of all relevant OPWDD regulations was compared to HCBS requirements of the Final Rule and summarized in ***Appendix C***. The review especially focused on person centered planning; determination of the individual choice and risk; rights

and protections (including visitors, freedom to control schedule; occupancy agreements); and other elements.

A list of regulatory initiatives underway in OPWDD to support its authority to enforce HCBS Settings standards is outlined in ***Appendix D.***

OPWDD's systemic regulatory assessment was a time-consuming and arduous task. Provisions relevant to Home and Community-Based Services and Settings were contained in numerous sections of the NY Code and under multiple regulations. For ease of use, a new regulatory section 14 NYCRR, Part 630, was created to house OPWDD HCBS Waiver regulations.

2. Policy Assessment Processes

OPWDD's leadership, in conjunction with the stakeholder workgroups, made recommendations and reviewed numerous policy and systemic strategies that would help move the State's home and community-based services towards desired transformation. At this time, OPWDD anticipates setting a maximum capacity for new residential development no later than year-end 2019. OPWDD is also designing, in conjunction with its stakeholders, an occupancy agreement template that can be adopted by residential providers to meet new expectations and to ensure that every person served has protection of rights and due process in his or her living arrangement. As described earlier in this Plan, OPWDD has engaged in Regional Forums to seek input on guidance to transform sheltered workshops to integrated employment settings, a process well on its way, and is working with the Non-Residential/Day Services Workgroup to establish expectations and compliance strategies for Day Habilitation services. Additional policy guidance that has come out of this assessment includes updated Sexuality Policy Guidance and ADM on volunteerism and community natural supports. See Section VI Remediation and Quality Improvement Activities below for additional details.

3. Assessment of OPWDD Supports and Services

Through the Workgroup activities described in Section III, Assessment Methodology and OPWDD transformational activities, OPWDD is engaging in strengthening and enhancing its array of supports and services to facilitate community integration and greater person-centeredness throughout the service system. Tables 5 and 6 outline new and enhanced waiver supports and services and activities and service enhancements contributing to a more integrated and person-centered system.

B. SITE SPECIFIC ASSESSMENT PROCESSES FOR EACH SETTING TYPE

In accordance with Section III, Assessment Methodology, ***Table 1*** details the assessment process for each setting type where HCBS Waiver services are delivered.[6] OPWDD chose assessment processes that are independently administered by Division of Quality Improvement (DQI) surveyors (except in Family Care) instead of relying on provider self-assessment. Independent assessment by OPWDD state staff will help to ensure that results are valid and contribute towards integration with licensing and certification standards.

C. OPWDD HEIGHTENED SCRUTINY PROCESS AND TIMELINE

In its regulations and guidance, CMS indicated that certain settings are presumed to be institutional in nature and, thus, do not meet HCBS settings standards unless the State can justify through evidence and a public input process that such settings are not institutional and do not isolate people receiving HCBS from the broader community of people who do not receive HCBS.

1. Heightened Scrutiny Settings in OPWDD's Service System

In conjunction with the Heightened Scrutiny Stakeholder Workgroup and using CMS's guidance on "Settings that Isolate," OPWDD developed a Provider Communication Memo that outlines the criteria for heightened scrutiny in OPWDD's service system and the process that OPWDD will implement to complete CMS requirements for heightened scrutiny processing.[7] This memo can be found at the following link under "Heightened Scrutiny": (click here for HCBS Settings Toolkit Web Page).

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[6] Setting types include Individualized Residential Alternative (IRA)/Community Residences (CR), Family Care Homes, Private Homes; Day Habilitation and Sheltered Workshops.

[7] Criteria for Determining Whether a Setting is Subject to the Heightened Scrutiny Process:

a. The setting/site is located in a building on the grounds of a public institution
b. The setting/site is located in a building that is also a publically or privately operated facility that provides inpatient institutional treatment
c. The setting/site is immediately adjacent to a public institution (i.e. the setting/site is next to and abuts the public institution)
d. The setting/site has been converted from an Intermediate Care Facility (ICF) on or after March 17, 2014
e. The setting/site is part of a group of multiple settings co-located and operationally related such that the co-location and/or cluster serves to isolate and/or inhibit interaction with the broader community, including any of the following scenarios:
    1) Setting/site is situated on a private campus where there are multiple group homes and/or facilities for people with intellectual and/or developmental disabilities (I/DD) on the same property (e.g., private campus, community, or village specifically for people with I/DD/disabilities; co-located sites such that people who participate do not leave the site/participate in the broader community and/or a large number of people with disabilities are congregated and this structure inhibits interaction with the broader community); and/or,
    2) Other circumstances that meet the criteria (for multiple settings collocated and operationally related such that the co-location isolates people with disabilities and/or inhibits individuals from interacting with the broader community).

V. ASSESSMENT RESULTS

Through OPWDD's comprehensive stakeholder engagement processes, transformational activities, analysis of systemic compliance, and on-site review of specific settings, we have learned much about how OPWDD fares with person-centeredness and HCBS settings compliance. This section summarizes what OPWDD has learned to date through the activities previously described in Sections III and IV.

A. SYSTEMIC ASSESSMENT RESULTS

1. Agency Regulations

a. ***Appendix C*** includes OPWDD's analysis of its regulations compared to federal regulations and describes whether OPWDD's regulations are silent, compliant, non-compliant, or partially compliant with each regulatory component.

b. Based upon this analysis, OPWDD is revising the infrastructure of its HCBS Waiver regulations to fully align with HCBS settings requirements.

c. ***Appendix D*** summarizes the OPWDD's regulatory redesign timeline.

2. Agency Policies

OPWDD, in conjunction with its stakeholders, determined that certain policy revisions and guidance are necessary to assist the system in moving towards greater person-centeredness and HCBS settings compliance including:

a. First and foremost, Person-Centered Planning is continually emphasized in all program endeavors, as the concept anchors a philosophy and, now, requirements about how services should be arranged – with the individual at the center. OPWDD promulgated Person Centered Planning Regulations that mirror the Federal Final Rule. The new regulation is compliant in that the individual leads the person centered process. A person-centered planning rights notice was developed and can be found at: (click here for Person Center Planning Rights Notice).

b. New Policy Guidance on "Supporting Individuals with Developmental Disabilities in the Community: Clarifying Roles of Community and Agency Volunteers and Persons who Provide Natural Supports" (described in Section VI, Remediation).

f. The setting/site's design, appearance and/or location appears to be institutional and/or isolating (as determined by numerous criteria).

c. New Policy Guidance on Intimacy and Sexuality for Individuals with I/DD (described in Section VI, Remediation).

3. Increasing Employment and Transforming Sheltered Workshops

OPWDD's "New York State Plan to Increase Competitive Employment Opportunities for People with Developmental Disabilities", Final Approved Plan dated May 1, 2014 (click here for the Final Approved Plan) is incorporated into this Transition Plan by reference and is the result of an assessment of employment supports and services in the OPWDD service system. The document establishes New York State's strategies and plans toward increasing competitive employment.[8]

The main components of OPWDD's sheltered workshop transformation are: (1) strategies for provider agencies to convert to alternative business models; and (2) strategies for workshop participants to transition to integrated employment, retirement or other community inclusion options. OPWDD estimates that 50% of workshop participants could successfully transition to competitive employment over six years. OPWDD will work with providers interested in converting to affirmative businesses or social enterprises. A workgroup has been convened to make recommendations regarding the type of technical assistance and support that are needed to encourage and incentive workshop conversion. The ultimate goal of workshop conversion is to establish models of integrated employment for all people who choose to work. The guidelines for converting a Sheltered Work Shop to an Integrated Employment Setting can be found here: (click here for Sheltered Workshop Guidance).

4. Select Publications and Resources Addressing OPWDD's *System*

OPWDD spent much of 2015 initiating significant public outreach, data collection and analyses to help address stakeholder concerns about a myriad of issues and to plan for a sustainable future. The following reports provide a summary of this outreach and analysis in areas such as improving quality outcomes, workforce training, and additional topics directly connected to systemic transformation of which HCBS systems compliance is a significant component. Examples of the reports on NYS' *system* include:

- ✓ **DSP Credentialing Report**: emphasizes how to strengthen the direct care workforce, with a focus on skills that support self-determination, choice and person-centeredness, key indicators for HCBS settings compliance. (Click here for DSP Credentialing Report).

[8] It describes specific strategies to: increase the number of individuals engaged in competitive employment; increase the number of students that transition from high school to competitive employment; collaborate with the educational system to ensure that stakeholders are aware of employment services; and transition sheltered workshop participants to competitive employment or other meaningful community activities.

- ✓ **Transformation Panel Final Report and Recommendations**: covers many topics, including self-determination and meaningful community activities (Click here for Transformation Panel - Final Report and Recommendations).

- ✓ **Quality Indicators Matrix:**
  New standards have been developed to assess agency performance across six domains each of which include HCBS settings compliance indicators: Person Centered Planning and Service Delivery; Rights, Health and Protections; Natural Supports, Community Connections and Integration; Workforce; Leadership and Accountability; and Quality Improvement. Each domain is broken down by sub-domain and includes discrete quality indicators that are becoming part of OPWDD's provider survey process and are rated in accordance with agency performance. This initiative is the result of assessment processes begun in 2011 through the People First Waiver Stakeholder Committee, Quality Design Team, and took on new energy after the HCBS Settings final rule was published. (Click here for the Agency Quality Performance Standards).

- ✓ **HCBS Stakeholder Resource Page:** contains the findings and recommendations that have been made to date from system assessment efforts through the HCBS Settings Steering Committee and its subgroups. (Click here for the HCBS Stakeholder Resource Page)
- ✓

5. Systemic Results from the Residential Assessment of IRAs/CRs Through Site Review

OPWDD aggregated the percentage of compliance for each HCBS settings standard reviewed (e.g., access to food, physical accessibility, etc.) across the 1,005 Person Centered Reviews and the 2,059 Site Reviews completed (for a total of 3,064 Assessments completed).

The Statewide aggregated residential results is based upon an assessment start date of January 15, 2015 through September 30, 2015. Assessments between October 1, 2014 through January 14, 2015 were considered pilot assessments and, therefore, OPWDD did not count this data in the aggregated results.

Table 2 highlights a summary of the statewide aggregated compliance data and systemic observations resulting from this analysis. It includes number of sites reviewed and percent of compliance across all assessments.

This information has assisted OPWDD in identifying areas for targeted systemic remediation strategies. It indicates that smaller settings had a higher average rate of compliance, and the overall site review scored higher on average than the person-centered review. Targeted remediation strategies emerged.

- ✓ **Increase Focus on What is Meaningful to Each Person**: One key observation from the aggregated analysis is that the results of Person-Centered Reviews from the Part I Assessment Tool generally drive a lower compliance rate for the same setting than the Part II Site Review. We believe this means that a greater focus is needed in service delivery on the preferences and outcomes that are meaningful to each unique person. We are facilitating this approach through our strong partnership with the Council on Quality and Leadership (CQL) to use personal outcome measure training workshops to train OPWDD staff and to encourage voluntary provider agencies to embrace the POMs by incorporating these standards and this approach into our DQI survey and survey redesign activity. CQL POMs and philosophy have also been integrated into the Quality Indicators matrix described above that will ultimately be used to rate the performance of all agencies. At this time, only about 10 percent of agencies in the OPWDD system are CQL-certified; we will focus on increasing that percentage over time, as such training leads to greater person-centeredness in care planning and service delivery.

- ✓ **Residential Setting Size:** The preliminary aggregated analysis indicates that smaller settings have a higher rate of baseline compliance. This is also the case when comparing supervised 24 hour settings to supportive settings—the supportive settings have a higher overall rate of compliance by 10 percentage points. These results align with national data trends. As a result, OPWDD has decided to limit the size of group homes for new development to no more than 4 persons by the end of 2019 and continues to make progress in increasing the number of new settings that are smaller, as well as “supportive” (not staffed 24 hours).

- ✓ **Target Specific Standards in Quality Improvement**: An additional example of how OPWDD is applying this preliminary assessment data is that it clearly indicated a low rate of compliance with the HCBS Settings standard requiring protections equivalent to those under the tenant-landlord law. As a result, OPWDD is working with our state agency partners through the Occupancy Agreement Workgroup to develop model Occupancy Agreement templates and practice guidelines in this area for each type of provider operated/controlled residential setting to help the OPWDD Regional Offices and HCBS providers statewide comply with this component of the HCBS Settings regulations.

Table 3 identifies the specific and detailed standards that were included in OPWDD’s HCBS Assessment Tools (Part I Person-Centered Review and Part II Site Review) where the aggregated results indicated a compliance rate of lower than 85% aggregated across each sample.

The results for the statewide aggregated averages for all of the residential standards reviewed, including those aggregated at 85% or above, can be found on OPWDD’s

website. OPWDD also included information for providers on how to target quality improvement efforts under Residential Assessment Final Data and Quality Improvement Resources: click here for Residential Assessment Final Data and Quality Improvement Resources).

B. SITE SPECIFIC SETTING RESULTS

1. Compliance Estimates

Table 4 summarizes the number of residential settings and number of people supported in each setting type. It also summarizes compliance *estimates* for IRAs and CRs as follows based upon the residential assessment conducted by OPWDD's DQI surveyors that is described under Assessment Process above. We do not yet have assessment data for non-residential settings.

a. **Settings that comply:** The number of residential settings that currently comply/meet HCBS Settings characteristics is estimated at 2,218 sites (approximately 37% of all IRAs/CRs). This estimate is based upon the percentage of settings that scored 100% on the Part II Site Review (94% of supportive IRAs/CRs and 20% of supervised IRAs/CRs) extrapolated to the total IRAs/CRs at the time of completion of the assessment (5,942). We do not yet have estimates for the number of day settings that fully comply.

b. **Settings that do not comply but may with modifications**: The number of residential settings that do not meet HCBS Settings characteristics but may with modifications is 3,917. This estimate is based upon all other settings that did not score 100% on the Part II Site Review for the residential sample assessed extrapolated to the total residential settings in this category. We are estimating that all 864 Day Habilitation settings do not yet comply but may in the future with modifications.

c. **Settings presumed to have the effect of isolating individuals but may be subject to heightened scrutiny:** The residential settings that may be subject to heightened scrutiny is estimated at approximately 266; this was determined (and updated as of 5/10/16) based upon the percentage of the residential settings reviewed by DQI for the period 10/1/15-5/10/16 subject to heightened scrutiny (4.4%) extrapolated across all IRAs/CRs (n = 6,153). If we back out the total settings that are supportive (not staffed 24 hours), the total subject to heightened scrutiny would be approximately 206 residential settings. For day habilitation settings, based upon settings reviewed by DQI for the period 10/1/15-5/10/16, 13% (42) of the 312 day settings reviewed are subject to heightened scrutiny. By

extrapolating this across all day settings we estimate approximately 112 day habilitation settings to be subject to heightened scrutiny.

d. **Settings that cannot meet the HCBS characteristics:** OPWDD is now transitioning all sheltered workshops so none of the 82 sheltered workshops currently operating will be able to comply with the setting requirements unless these settings convert to a fully integrated employment setting, as specified in OPWDD guidance at (click here for the Work Settings Report).

At this time, OPWDD does not anticipate that there will be any other residential or day settings that cannot meet the HCBS settings requirements if appropriate modifications and operational changes are implemented, as may be necessary.

2. Heightened Scrutiny Estimates

As OPWDD continues to move forward with assessing NY's system, we realize that there may be a large percentage of settings subject to heightened scrutiny primarily due to being clustered and/or collocated. From OPWDD's residential assessment of over 1,750 group homes, we found that approximately 17 percent of them (about 299 sites) are part of a group of multiple settings co-located and/or clustered and operationally related (i.e. operated by the same provider).

As of May 10, 2016, OPWDD DQI reviewed 38% of certified settings for the 10/1/15-9/30/16 and 148 of these settings (18%) have been identified as subject to heightened scrutiny. By breaking this down further by type of setting, 36% of day settings have been reviewed resulting in 42 subject to heightened scrutiny and 40% of residential has been reviewed to date resulting in 106 heightened scrutiny settings. If the estimates outlined above are the same across all group homes and day settings, there may be approximately 378 settings subject to heightened scrutiny and potentially another 392 settings that could convert from an ICF to a Waiver setting for a total of between 378 to 770 settings subject to heightened scrutiny[9].

Given this reality, for NYS OPWDD the requirements of the heightened scrutiny process as described in CMS's June 26, 2015 memo (requiring site by site documentation and public input), drives a tremendous workload in staff time and resources for both OPWDD and our providers with uncertain value in our progression towards a more person centered system in full compliance with the intent of the HCBS settings rules.

Nevertheless, OPWDD has been purposefully decreasing the development of large residential settings over time which has resulted in a decrease in the number of people residing in larger residential settings system-wide. In 2014, more than 70% of the newly certified group homes serving Waiver participants were designed for four persons or

[9] As of 4/26/16 there are 392 ICF settings under 14 person that could convert to a Waiver setting.

less[10]. In 2015 the percent of newly certified group homes serving four people or less was 78%. OPWDD intends to continue the trend to develop the majority of newly certified homes to serve four people or less and, by the end of 2019, all newly developed/certified group homes will be designed for four persons or less unless there is an exception approved by the Commissioner based on justification for a larger size.

VI. REMEDIATION AND QUALITY IMPROVEMENT STRATEGIES

Despite the enormity of challenges and resistance in some quarters, OPWDD has achieved notable progress since CMS' HCBS Final Rules were published. This section highlights progress that OPWDD is making to improve choice and integration in home and community based services and decisions being made to increase overall compliance throughout the system of services supported by OPWDD's HCBS Waiver. Following the CMS "Statewide Transition Plan Toolkit for Alignment with the Home and Community-Based Services (HCBS) Final Regulation's Setting Requirements" (September 5, 2014), this section describes the remedial and quality improvement actions that OPWDD will use or is using to assure full compliance with the HCBS Settings requirements including timelines, milestones, and monitoring processes. This Plan utilizes CMS specified systemic and provider level remediation and quality improvement strategies.

A. RULE/REGULATION REVISIONS AND POLICY CHANGES / ENHANCEMENTS – SYSTEMIC

1. Rule/Regulation Revisions

As previously described in this Plan, OPWDD embarked on a regulatory review process, led by OPWDD's Counsel's Office, to improve and strengthen existing regulations governing HCBS Waiver services and ADMs to ensure alignment and systemic compliance with the HCBS settings requirements. A summary of the regulations that will be changed and the anticipated timeline is included in ***Appendix D***. In addition, OPWDD has accomplished the following remediation to date:

- ✓ Promulgated Person Centered Planning (PCP) regulations in November 2015 that mirror the federal PCP regulations: (click here for Person Centered Planning).

- ✓ Implemented Administrative Memorandum (ADM) Number 2014-04, "OPWDD HCBS Preliminary Transition Plan Implementation" for residential settings (October 2014) describing the expectations and standards that residential settings must comply with. (Click here for the

[10] Based on data from the DQI system.

OPWDD Home and Community Based Settings Preliminary Transition Plan Implementation).

In order to fully align with federal requirements, OPWDD has scheduled regulatory projects that represent a culmination of the specific regulatory provisions that were assessed as part of the agency's crosswalk with the Final Rule (**See Appendix C**).

2. Policy Guidance

a. Policy Guidance on Supporting Individuals with Developmental Disabilities in the Community: Clarifying Roles of Community and Agency Volunteers and Persons Who Provide Natural Supports: This policy guidance provides information about how agencies can work with natural supports vs. volunteers. These additional supports do not take the place of provider managed services, but can and should be used to broaden and enhance an individual's opportunities and experiences. Promoting the use of natural supports, community supports and volunteers will help to ensure individuals' successful participation in community living.

As more people with intellectual and developmental disabilities choose to live, work and participate within their communities, we must explore the various options available to help them achieve goals they consider to be important. Fostering new relationships and other community connections are often achieved by interacting with community members on a consistent basis. As these community connections become more important to individuals' lives, agencies must explore the use of various supports to be included in the plan based upon the individual's desired level of interest in community participation.

This policy guidance is expected to be published at the end of 2016.

b. Draft Policy Statement on Intimacy and Sexuality for Individuals with Intellectual and Developmental Disabilities: OPWDD is committed to supporting people with developmental and intellectual disabilities to have the same rights as all citizens and this includes rights related to sexual expression and social relationships. Simultaneously OPWDD is also committed to supporting the rights of all people, including people with developmental and intellectual disabilities, to be free from unwanted sexual advances and safe from the threat of sexual exploitation or abuse. OPWDD supports the right of all people to develop and sustain meaningful relationships that may be companionable or intimate. Supporting the rights of individuals with intellectual and developmental disabilities to develop intimate and sexual relationships is a critical activity to support them as active citizens in their communities.

Therefore, OPWDD has been working on policy guidance related to sexuality for people we support and this guidance is expected to be published at the end of 2016. It is expected that organizations supporting individuals will implement person- centered planning processes and support models that afford the rights and expectations that will be identified within this policy statement.

c. As previously noted in this plan, OPWDD developed Assessment Tools and Guidance Document for residential settings and an HCBS Settings Toolkit. These resources are being used throughout the system to provide valuable guidance and insight on what is required for HCBS Settings compliance (click here for HCBS Part I, HCBS Part II, and HCBS Guidance).

d. OPWDD developed system-wide quality indicators that will be foundational to OPWDD's survey redesign process which incorporate HCBS Settings requirements. (Click here for Final Agency Quality Performance Standards)

B. HCBS WAIVER SERVICE ENHANCEMENTS AND NEW WAIVER SERVICES - SYSTEMIC

Table 5 identifies Waiver service enhancements and new Waiver services that have been developed and/or are in progress that are designed to contribute towards OPWDD transformation, greater person-centeredness and choice throughout the system, and ultimately contribute towards HCBS Settings compliance. The table captures an exciting array of program improvements that are underway. These include: supported employment, day habilitation, START (nationally recognized model for therapeutic intervention), sheltered workshop conversion, community transition services, and live-in caregiver.

C. ACTIVITIES AND SERVICE ENHANCEMENTS – SYSTEMIC

Table 6 includes important activities and service enhancements to enable inclusion (related to HCBS Waiver services) as they facilitate system transformation, transitions for people in the Waiver and to cultivate increased community integration and person-centered community supports. These include programs such as: expansion of OPWDD's integrated supportive housing, state-funded housing subsidy, senior companion, and faith based initiative.

D. TRAINING, COMMUNICATIONS, AND WORKFORCE STRATEGIES – SYSTEMIC AND PROVIDER LEVELS

OPWDD has undertaken an extensive and multi-year effort to train and inform both internal and external stakeholders and staff who work directly with individuals about the HCBS settings requirements. Our training commitment is geared ultimately to changing

organizational culture (both among provider agencies and state staff) and develop skills that can lead to enhanced person-centered planning and delivery of needed services. Examples of OPWDD's extensive training that informs a culture of learning and quality improvements in person-centered planning, service delivery, and HCBS Setting compliance, includes:

1. **Training and Outreach Sessions for Stakeholders**

OPWDD is committed to engaging all key stakeholders and soliciting open and diversified stakeholder input on OPWDD's HCBS Transition Plan. To demonstrate its commitment towards accessibility and transparency, OPWDD has conducted significant outreach since the last public comment period. A summary of HCBS outreach and training can be found in ***Appendix B.***

2. **HCBS Principles Reflected in All OPWDD Training Curricula**

By the end of 2017, OPWDD will incorporate HCBS settings principles and standards in all OPWDD approved training curricula and development of new training curricula where gaps are identified. The timeline/milestones for this activity are shown in ***Table 7.***

3. **Development of Guidance and Materials for Stakeholders on HCBS Settings**

Webpage Toolkit and Tools: OPWDD, in conjunction with its stakeholders, developed a number of tools to assist the service system with the HCBS Settings rules, including a web page—the HCBS Settings Toolkit located at: (click here for HCBS Settings Toolkit).

Tools have been developed to date:

a. **Administrative Memorandum Number 2014-04**, "HCBS Settings Preliminary Transition Plan Implementation" for certified residential settings.

b. **Part I: Person Centered Review Assessment Tool** for certified residential settings.

c. **Part II: Site Review Assessment Tool** for certified residential settings

d. **Guidance Document for Assessment Tool Administration** for certified residential settings.

e. **Strengths and Risks Inventory Tool** (can be used in delivery of all waiver supports and services).

f. **Communication to Providers on the HCBS Heightened Scrutiny Process and Requirements** issued October 13, 2015.

g. **Q and As** on various topics will be created several times per year—the first one, "When honoring a person's right to choose their living arrangement, what is expected of providers" can be found here: (click here for Q&A on honoring a person's right to choose) on the HCBS Settings Toolkit.

h. **Crosswalk of HCBS Settings Requirements, Person Centered Planning, Personal Outcome Measures, DSP Core Competencies, etc.:** To assist our stakeholders to see and understand that the various OPWDD initiatives including the HCBS settings rules are focused on the same concepts and rights enjoyed by everyone else, a cross walk of these various concepts and standards has been developed (see: (click here for Crosswalk POMs Comps Ethics HCBS PCP Promote) to demonstrate that the philosophy and intent across these initiatives is the same and these are not separate and disparate concepts and requirements.

4. Communication Materials and Strategy for People Supported and Their Circles of Support

OPWDD is engaged in a project in partnership with CQL on HCBS Communications Materials and Strategies for People Supported and Family Members/Advocates. The purpose of the project is to develop communications materials directed to people supported and their circles of support on the new PCP and HCBS settings requirements to ensure that people supported, their advocates and family members/guardians have a full understanding of Waiver participants' rights under these regulations.
The project objectives include: a multi-media communications strategy and materials in plain language/accessible (written, video, social media, workshops). This will be a collaborative effort with people supported, self-advocates (i.e., Self Advocacy Association of NYS (SANYS) will be a key partner), parents (i.e., Parent to Parent will be a partner), provider representatives, and other stakeholders. The anticipated timeline for this project is in ***Table 8***.

5. Transitions Video Series

OPWDD developed off of its webpage a video series titled "Transitions" depicting heartwarming stories of community transition and the profound positive changes that community living makes in the lives of people with developmental disabilities and the lives of the people around them.

The video segments portray, through personal stories, the successful transition of individuals receiving OPWDD services from segregated, institutional settings to integrated, community-based opportunities. The stories focus on their living situations,

workplace, daily activities, relationships, and how OPWDD supports and services are assisting them with their move to the community. In addition to the Transitions video, OPWDD also released an informational brochure "Community..Get Into It!" for people interested in making the transition from an Intermediate Care Facility (ICF) to a smaller, community-based setting that offers more personal attention, quieter settings, and more chances to enjoy the community. See: (click here for Stories of Transition).

6. Partnering with the Council on Quality and Leadership (CQL) to Train on Personal Outcome Measures and to Provide Technical Assistance to OPWDD

a. OPWDD partnered with CQL to offer Personal Outcome Measure Work Shops to OPWDD state operations service delivery staff and OPWDD DQI surveyors. The CQL POMs approach aligns with HCBS Settings rules and there is frequent reference to these rules during the workshops. By undergoing POMs workshops, staff are more prepared to deliver supports in accordance with individual preferences and outcomes and to review the quality of supports delivered through the waiver based on the degree to which people have choice, autonomy, and their personal outcomes addressed. Information regarding the validity and reliability of CQL POMs as well as the crosswalk of CQL POMs to HCBS Settings Requirements can be found at the following link: (click here for HCBS Advocacy National Resources). See "CQL Toolkit for States-CMS Crosswalk".

b. As of December 2015, 418 OPWDD staff were trained in CQL POMs and more workshops are planned in 2016-17. See ***Appendix B*** for a listing of POMs workshops to date.

c. Through this partnership with CQL, OPWDD currently has five CQL certified trainers and two certified interviewers to help build capacity within OPWDD's staff in order to further the intent of the new rules.

d. OPWDD continues the partnership with CQL through additional training at regional and state operations offices throughout the state with CQL POM's workshops as well at the CQL 1-day workshops.

e. OPWDD will continue to cascade the POMs training throughout the service system.

f. For additional information on OPWDD's collaboration with CQL see this link: (click here for Outcome Driven In State Systems).

7. Implementation of Direct Support Professional Competencies (DSP) and Regional Centers for Workforce Transformation

Since 2011, OPWDD has sought to enhance the workforce that supports individuals from direct care to direct support professionals. Direct care implies taking care of an individual, while a support professional empowers an individual to realize increased independence, learn new skills, think and problem solve, participate meaningfully in the community, realize increased self-esteem, and achieve desired personal outcomes.

OPWDD adopted the National Association of Direct Support Professionals (NADSP) Code of Ethics and the NYS DSP Core Competencies to which all DSPs will be required to adhere at some future date. Starting in 2016, Direct Support Professionals across New York State will be evaluated based on standards of the NYS DSP Core Competencies that focus on person-centered services and are grounded in ethical practice. These competencies and accompanying performance evaluations will bring a level of consistency and quality throughout New York State's system. The Core Competencies guide direct support professionals in seven goal areas: Putting People First, Building and Maintaining Positive Relationships, Demonstrating DSP Professionalism, Supporting Good Health, Supporting Safety, Having a Home, and Being Active and Productive in Society.

OPWDD's Administrative Memorandum #2014-03 outlines requirements, beginning April 1, for implementation of the Core Competencies, the Code of Ethics and performance evaluations. Refer to the OPWDD website link for information and resources on the DSP competencies: (click here for Core Competencies).

OPWDD's goal is to facilitate and fully implement this workforce transformation by May of 2017.

As of Oct. 1, 2017, OPWDD surveyors will include integration of DSP competencies in their review process of service providers. These Competencies are consistent with and support implementation of the HCBS standards.

E. INFRASTRUCTURE IMPROVEMENTS - SYSTEMIC

Any new initiative or program that is supported by OPWDD does now and will continue to reflect contemporary HCBS standards and the values that the Final Rule embraces. These infrastructure improvements, in turn, will promote ideals in service delivery, such as person-centeredness, by imbedding HCBS standards in organizational practices that are adopted. Three significant innovations include:

1. FIDA-IDD

The Fully Integrated Duals Advantage Plan for individuals with intellectual and developmental disabilities (FIDA-IDD), launched in April 2016, is a national demonstration project intended to improve and integrate Medicare and Medicaid

services for individuals who receive long-term care and IDD services. The FIDA-IDD followed an extensive planning and development process through which Medicare-Medicaid enrollees, caregivers, beneficiary advocates, and other stakeholders partnered with New York State and CMS to help shape the design of the new program.

The FIDA-IDD program aligns financial incentives to enable improved person-centered care planning, care coordination, quality measurement (including POMS) and opportunities to live independently in the community. Individuals´ Medicare and Medicaid benefits are provided through an integrated benefit design that also includes a dedicated interdisciplinary team to address each individual´s medical, behavioral, long-term supports and services, and social needs.

New York and CMS have contracted with Partners Health Plan to coordinate the delivery of covered services for individuals who are eligible and who elect to voluntarily enroll. Up to 20,000 Medicare-Medicaid IDD individuals in the New York downstate region (New York City, Long Island, Rockland, and Westchester Counties) are eligible to participate.

2. Implementation of a Comprehensive & Coordinated Assessment System (CAS)

OPWDD is implementing the interRAI Intellectual/Developmental Disability (ID/DD) individual assessment tool which was selected as the core instrument of the Coordinated Assessment System (CAS), after input from stakeholders across the State and extensive research. The CAS will be used to identify and assess each person's strengths, needs and interests and help OPWDD and providers create a more person-centered care plan that reflects individual strengths, needs and interests.

OPWDD is committed to an improved assessment process that is person-centered, respectful and responsive to the needs of people receiving supports and their families. Re-assessments will be completed at defined intervals and in response to a person's changing needs. *The CAS supports HCBS Settings objectives, as it triggers resources that are aligned with individuals' needs and desires, rather than with program models.*

3. Improvement of Data Collection Systems

OPWDD has acquired licenses for the use of Fluid Surveys, an online survey system which supports the acquisition and reporting of data. This system will enable OPWDD to develop, on an as needed basis, various survey tools that will allow the systematic and efficient collection of data relating to HCBS Settings. This tool will be used to collect data from both internal and external sources. Additionally, Fluid has a robust, user-friendly report building mechanism making the analysis and comprehension of data a much more expedited process.

In addition to Fluid Surveys, OPWDD is also improving its internal data collection systems. This includes an overhaul of the current DQI database. The new system, currently under development, will allow users to access various reports, data points, and

to view information in real time. The system will enhance OPWDD's ability to utilize information gathered through OPWDD's various protocols as well as report on the various elements within these protocols, thus enhancing the agency's ability to focus on quality improvement activities at the systemic and provider levels on HCBS Settings transformation and compliance.

F. PROVIDER REMEDIATION AND ONGOING COMPLIANCE MONITORING – PROVIDER LEVEL

The following are activities that OPWDD is currently engaged in for *provider-specific remediation* activity.

1. CQL POMs and CQL Accreditation

As OPWDD has publically embraced the Council on Quality and Leadership's (CQL) Personal Outcome Measures (POMs) as the person centered quality of life measurement (see: (click here for Personal Outcome Measures), 51 provider agencies, as of April 2016 have chosen to seek CQL Accreditation and another 8 are in progress. A growing number of agencies are administering CQL POMs within their waiver programs and agencies and these numbers are growing. Information regarding CQL accreditation, the validity and reliability of CQL POMs, and the utility of these mechanisms for HCBS settings compliance can be found at the following link: (click here for National Resources). See "CQL Toolkit for States-CMS Crosswalk".

2. HCBS Settings Assessment Reports for Providers

In December 2015, OPWDD gave each of the provider agencies that had sites and/or people included in the HCBS Settings Assessment Residential Sample an aggregated report of the results of the Assessment. These reports have site specific information for each setting by operating certificate. As outlined in a communication to providers about these reports, OPWDD informed providers on how to use the HCBS Settings Assessment Reports relative to quality improvement and compliance activities. In addition to agency specific report results, the following resources were also provided and are available on the HCBS Settings Toolkit: (click here for the HCBS Settings Toolkit).

- HCBS Settings Assessment Reports Letter
- Suggestions for Using the HCBS Settings Assessment Reports
- Summary Report: Person Centered Review
- Summary Report: Site Review
- Quality Improvement Road Map

3. Provider/Setting Work Plans

OPWDD is requiring that all settings presumed to be institutional and/or isolating under the heightened scrutiny criteria must develop and implement an acceptable HCBS settings work plan to bring the setting into compliance. All settings are encouraged to develop a work plan but only those settings subject to heightened scrutiny are being required to develop one.

4. 1. Bi-annual DQI Provider Training

OPWDD holds DQI Provider Training twice per year, approximately every 6 months. HCBS settings standards and training for providers is a standing agenda topic.

5. Provider Association Monthly Meetings

OPWDD conducts monthly meetings with its provider associations who then deliver the information to their member agencies. HCBS Settings standards and Transition Plan standards and activities are covered frequently at these meetings. OPWDD representatives also attend these provider association meetings to provide training and information on HCBS Settings. See Training and Outreach Chart in ***Appendix B*** for further information.

6. Ongoing Monitoring

OPWDD regularly has also adopted interventions that support ongoing monitoring.

a. Beginning in October 2016, HCBS Waiver providers and certified settings in the HCBS Waiver will be reviewed annually for HCBS Settings compliance.

b. OPWDD will review a sample of Waiver participants including people who do not receive services in certified settings through a Person Centered Review Tool. Sample selection will be statistically valid, wherever possible. OPWDD may also choose to identify individuals to be part of a sample to ensure representativeness of the service population based on certain criteria as well as employ other generally accepted sampling strategies. The Person Centered Review tool is intended to assess compliance with federal PCP requirements as well as HCBS Settings standards, such as choice of living arrangement including non-disability specific settings.

c. Through survey/certification activity, a determination will be made whether each HCBS Standard is met or not met. Standards not met will be reviewed with the agency at the end of the survey.

d. The data from these surveys will be compiled within a database, such that compliance information will available to OPWDD and allow for monitoring progress towards compliance and ensuring that

full compliance is achieved no later than October 1, 2018 for each setting.

e. Effective October 1, 2018, OPWDD will enforce the HCBS settings requirements. Provider agencies will be expected to make corrections and attest to Division of Quality Improvement (DQI), that a correction has been made. Using established standardized practices, findings are provided to the agency and corrective actions are required within specified timelines.

f. Providers/settings that are unresponsive will be referred to OPWDD Regional Offices and the Division of Quality Improvement for additional action or for other monitoring/remedial action deemed to be appropriate by OPWDD.

Failure of an agency to achieve compliance within timeframes determined by OPWDD, and consistent with CMS guidance, may result in the suspension of waiver funding. Other remedial action may include fines, change of auspice, and revocation of operating certificates.

G. TRANSITION TO A COMPLIANT SETTING, IF NECESSARY (I.E., RELOCATION)

If an agency fails to achieve compliance within the timeframes determined by OPWDD, then people who choose to continue services through the HCBS Waiver must transition to a setting that meets compliance. Transitions would occur through the following process:

1. Due process: In accordance with federal and state laws, OPWDD will provide affected individuals with as much advance written notice as possible that outlines the reason for the transition and the due process procedure. OPWDD will ensure that sufficient time is provided to safely complete any needed transitions and to assure continuity of services and supports.

2. The person and his/her program planning team will be provided with information on the variety of settings that are available and compliant with the HCBS Settings rule in which to make an informed choice of another setting.

3. The person will receive any needed support and assistance in making transition choices.

4. Once the person has chosen a new setting a person centered planning meeting will take place to outline a transition plan to include specific

transition timelines as well as supports needs to ensure the transition and the person's health, safety and welfare.

5. Supports and services will be required to be in place with the new provider agency prior to the transition.

It is OPWDD's intent to provide training, technical assistance and other support to enable a fully compliant HCBS system of care in New York. Often, individuals have lived in their residences for many years – it is home – and disruption to any individual's life for "relocation" purposes is not a policy that OPWDD recommends.

H. REDUCING RELIANCE ON INSTITUTIONAL MODELS OF CARE/ ICF TRANSITIONS

OPWDD developed a plan for its system transformation in partnership with CMS and the NYS Department of Health. This Transformation Agreement is based on furthering OPWDD's mission and vision for individuals with developmental disabilities through a service system that is more person-centered and which reduces OPWDD's reliance on institutional models of care.

Within the Transformation Agreement is an ICF Transition Plan which will, over time, shift OPWDD's reliance on the ICF institutional model of care to more integrated, community-based supports. Through the ICF Transition Plan, OPWDD will offer person-centered, community based supports to individuals living in ICFs over the next several years through October 1, 2018. The ICF Transition Plan can be found at: (click here for the ICF Transition Plan) and includes the following:

- ✓ OPWDD will decrease the number of people supported in ICF/DDs each year through October 1, 2018.

- ✓ After October 1, 2018, Children's Residential Projects will be the only remaining community-based ICF/DDs. Campus based capacity will be reduced to 150 people designated for intensive assessment and treatment for individuals who require transitional services before moving to a community-based setting.

- ✓ In accordance with OPWDD's ICF Transition Plan Implementation Strategy, achieving this significant transformation within the short timeframe requires several strategies including the conversion of some ICFs to community integrated waiver settings. The implementation strategy can be found at: (click here for ICF Transitions).

- ✓ These conversions are authorized only through a stringent review process to ensure that high quality person-centered planning occurs for each person affected that results in an individualized plan of service that truly reflects the person's informed choice of where to live, his or her unique goals and ambitions, and the greatest degree of community integration,

choice and autonomy possible. The format for this person-centered review is located at the following link: (click here for ICF Transitions); (see Person Centered Planning Review Form).

- ✓ The stringent review process for ICF conversions also requires that the ICF provider submit a detailed HCBS Settings Compliance Action Plan with timelines and milestones for how the setting will meet the HCBS settings requirements as soon as possible and no later than October 1, 2018 -- which is when OPWDD will begin enforcing HCBS Settings compliance. OPWDD reviews this Compliance Action Plan to ensure that all necessary areas are addressed before authorizing a conversion.

In addition, OPWDD is seeking to identify best practices in ICF conversion in order to support successful downsizing and closure or conversion of ICF/DDs to HCBS Waiver settings throughout the state and fulfill the ICF Transition Plan. To that end, OPWDD has provided extensive consultation and technical assistance to three providers, who operate large ICFs. These providers are working to develop strategies that will help them meet the State's goal of deinstitutionalization and ICF closure. Ensuring that individual's lives are positively affected and that they are living in homes they choose and are engaged in activities they consider meaningful and productive will require strong and effective person-centered practices.

OPWDD's consultation team, consisting of representatives from the Division of Quality Improvement, the ICF Conversion team, and leadership in HCBS Settings implementation also included representatives from the Division of Person Centered Supports (DPCS) who are knowledgeable of best practice approaches for person-centered planning (PCP) and use of various PCP tools such as the Personal Outcome Measure interview process. DPCS involvement was designed to help evaluate quality of life and person-centered practice indicators from the perspective of individuals receiving supports from the providers. The technical assistance was geared to assist the organizations to individualize supports and facilitate compliance as the agencies prepare to support individuals who currently reside in these ICF settings in smaller, community based waiver settings.

1. ICF Conversions and Heightened Scrutiny

Providers have been advised that all ICF's converting to a waiver setting after March 17, 2014 will be subject to heightened scrutiny. Evidence and documentation indicating how the setting meets the requirements and is not institutional in character is required to be submitted, and will be subject to public input and submittal to CMS for approval. ***Table 9***reflects ICF conversion proposals submitted by providers and their status as of June 3, 2016.

VII. PUBLIC INPUT

As discussed in the Assessment Methodology Section III, OPWDD conducted substantial public input and outreach to its stakeholders on its original OPWDD-specific

Transition Plan which was initially published in May 2014 and revised in February 2015 for the 1915 (c) HCBS Waiver. (OPWDD also has engaged extensively with its individual, family and provider stakeholders in considering how to improve overall HCBS Waiver services to achieve the goals of the HCBS Settings rule.) During the most recent public comment period in February 2015 - April 2015, OPWDD received 71 written comments and 27 verbal comments. A summary of the public comments and OPWDD's responses can be found in ***Appendix A*****.**

OPWDD used various strategies to ensure the full engagement of our many and diverse stakeholders. These include: providing notice in the New York State Register; e-mailing the opportunity for public input to the OPWDD ListServ; requesting that Medicaid Service Coordinators (MSCs) throughout the State provide the information and discuss with the people they support; publishing the opportunities on OPWDD's website; and sharing other announcements by our Regional Offices throughout the State. Three public webinars were held on the revised draft Transition Plan published on February 13, 2015 (2/23/15; 2/24/15; 3/10/15) to discuss it and accept public comments; and OPWDD also published a telephone number to accept verbal comments during the 30 day period for people who do not have access to the internet.

Public input will again be sought, this time by New York State Department of Health, for all NYS agencies' Transition Plans. Public communication is expected during the Summer of 2016.

VIII. CONCLUSION

This revised OPWDD Transition Plan includes HCBS compliance methodologies, assessment activities and results, and implementation plans to date. Even before the Final Rule, OPWDD worked intensively with our diverse groups of stakeholders for over six years to transform OPWDD's system of support to a high quality sustainable system that serves people with developmental disabilities. The themes and specific activities imbedded in this Transition Plan incorporate significant stakeholder input and, we trust, clarifies our path forward for systemically improving services and supports that are tailored to individual needs that foster integration in the communities of choice for each person served.

The federal HCBS settings requirements reinforce OPWDD's transformation direction and philosophy. We ask that CMS understand that a system as complex and large as New York's requires a thoughtful and deliberate transition and more time than the five year deadline allows. OPWDD's objective is to ensure the implementation of the HCBS requirements to assure maximum integration and choice for every person served within the spirit and intent of the requirements, while we collaboratively assist providers in the compliance and quality improvement process.

TABLES

Table 1: Assessment Process by Setting Type	
Setting Type	**Assessment Process**
Residential Individualized Residential Alternative (IRA)/Community Residences (CR) (**Assessment COMPLETED**)	OPWDD DQI surveyors performed on-site reviews between 11/1/14-9/30/15. The total sample reviewed was of 2,059 IRAs/CRs and interviews with 1,005 people residing in these IRAs/CRs. The total sample of 2,059 reviewed, represents 34% of all certified IRAs/CRs. [11] See link for OPWDD Part I and Part II and Guidance for Assessment Tools based upon the CMS Exploratory Questions. [12] These tools outline in detail the way the assessment was conducted and the particular standards reviewed as well as the criteria leading to a met or not met answer. Every assessment standard required a detailed rationale to be included in the survey tool to indicate how the met/not met was arrived at. Every assessment completed was reviewed by the DQI Area Director and a DQI central office team knowledgeable in the HCBS settings standards to ensure that the rationale supported the met/not met answers thus ensuring a high degree of face validity. During 2015-16 survey cycle, OPWDD DQI will be visiting certified IRA/CR and day settings (over 7,000 sites) to determine which settings are subject to heightened scrutiny in order to have as complete an inventory as possible. Beginning in October 2016, OPWDD DQI will be incorporating HCBS settings standards for initial and ongoing compliance monitoring within its site review and person-centered review tools.
Residential Family Care Homes (**Pending**)	OPWDD plans to conduct an assessment of Family Care providers in 2016-17. This survey is expected to be completed by the Family Care Home Liaison, a staff person of the sponsoring agency, who acts as a direct link between the Family Care Provider (FCP) and the sponsoring agency through required monthly home visits. The survey tool will be similar to that used in the assessment of IRAs/CRs that is based upon the CMS Exploratory Questions. A statistically valid sampling methodology will be used.
Private Homes (Person's Own Home/Apartment or the Home of a Family Member, Friend, etc. where the person or those they reside with have control over the home). **(Pending)**	Beginning with the 2016-17 survey cycle, OPWDD will be reviewing a sample of waiver participants who do not reside and/or receive services in a certified setting. A Person Centered Review Tool is being developed that will include HCBS settings standards to ensure that people residing in their own homes/non-certified settings are not isolated from the broader community and have choice of where they live and receive services including the choice of a non-disability specific setting.
Non-Residential: Day Habilitation and Prevocational settings (**In progress**)	During the 2015-16 survey cycle, OPWDD is visiting non-residential settings where waiver services are delivered to determine which settings are subject to heightened scrutiny. Beginning on 10/1/16, HCBS Settings standards will be reviewed as part of routine survey activity for certified IRAs/CRs and Day settings in which waiver services are delivered.
Non-Residential: Sheltered Workshops	No assessment method necessary; sheltered workshops will no longer be in operation as a Waiver setting in accordance with the Transformation Agreement between OPWDD and

[11] In accordance with CMS Transition Plan Toolkit Correspondence dated, September 5, 2014, 'states may also perform statistically valid sampling…. CMS strongly encourages, at a minimum, a sampling approach to on-site reviews.'

[12] (Click here for HCBS Settings Toolkit).

(**No Assessment as program model will be discontinued)**	CMS. Sheltered Work as a program model/setting will be eliminated no later than April 2020. See Remediation Section VI for further information. Sheltered Work Shops that convert to Integrated Employment Settings will be subject to ongoing monitoring for compliance by OPWDD DQI.

Table 2:

OPWDD Residential Assessments, Compliance Summary for the Period January 15, 2015 through September 30, 2015.

	Total Reviewed	**Aggregated Average Percent of Compliance Across All Assessments**
Total Agencies Included	227	N/A
Total IRAs/CR Sites Sampled	1,750	86.7%
Total Participants Sampled	855	80.9%
Total Supervised Settings (24 hour staffed)	1,395	84.81%
Total Supportive Settings (not 24 hour staffed)	351	94.18%
Capacity of Settings (includes Supportive Settings)		
One to Four Persons	736	91.52%
Five to Six Persons	479	85.13%
Seven to Nine Person	301	84.83%
Ten and Above	234	77.22%

Table 3:

Average Statewide Aggregated Compliance by Assessment Standard for Standards Below 85% from the HCBS Settings Residential Assessment of IRAs/CRs

(See (click here for HCBS Settings Toolkit) for the Part I and Part II Assessment Tool Standards)

Standard and Numbering from Assessment Tool	Total Yes/Met	Total Reviewed	% Compliance	Remediation Strategy/Actions for Systemic Improvement (See Remediation Section VI for more information)
Part I Assessment Tool: **Person Centered Review, Person Centered Planning**				
1b. The person's Habilitation Plan (or alternative documentation incorporates the meaningful community based activities that the person wants including desired frequency and the supports needed.	655	855	76.61%	Issuance of OPWDD person centered planning regulations and guidance; Day Habilitation standards development Training and Communications: DQI Bi-annual provider training; MSC training Communication Strategy for People Supported and Their Family Members Ongoing monitoring
1D The person's habilitation plan is written in plain person-centered language and is understandable to him/her; it is written in his/her preferred language which included Braille, if necessary.	721	855	84.33%	
1e. The person has been made aware of and knows that he/she can request a plan change and how to do so and any related plan changes are made within a reasonable timeframe.	661	855	77.31%	
1f. The person reports that the planning process is reflective of his/her choices and priorities for meaningful goals/activities.	692	855	80.94%	
Housing Protections and Due Process				
2a. The person has a lease or other written occupancy agreement that provides eviction protections and due process appeals and specifies circumstances when he/she could be required to relocate.	141	855	16.49%	Development of an Occupancy Agreement Template Communication Strategy for People Supported and their advocates Training Ongoing Monitoring
2b. There is evidence that the person and/or their representative knows/understands their right to due process/appeals and when he/she could be required to relocate.	362	855	42.34%	
Part I: Rights				

3a. The person is provided with information on his/her rights in plain language and in a way that is accessible to him/her	679	855	79.42%	Training Communications Strategy for People Supported Ongoing compliance monitoring
3b. The person knows who to contact and/or the process to make an anonymous complaint	340	855	39.77%	
3e. The person controls his/her resources and decides how to spend his/her personal discretionary funds.	642	855	75.09%	
Community Access and Support				
4a. The person is encouraged and supported to have full access to the community based upon his/her interests/preferences/priorities for meaningful activities to the same degree as others in the community.	607	855	70.99%	Training Communications Strategy for People Supported Guidance and Tools for Providers Ongoing compliance monitoring Creation of a Rights/Rights Modification Curriculum Incorporation of HCBS settings into Praise Training and within DSP orientation
4b. The person regularly participates in unscheduled and scheduled community activities in the same manner as individuals not receiving HCBS	572	855	66.90%	
4c. The person is satisfied with his/her level of access to the broader community as well as the support provided to pursue activities that are meaningful to him/her for the period of time desired.	660	855	77.19%	
5b. The person regularly interacts with people who are important to him/her (who are not paid to spend time with him/her) and he/she is satisfied with the type and frequency of interactions.	663	855	77.54%	
Privacy 7b. The person has privacy in his/her sleeping and/or living unit including the right to lock his/her bedroom/unit door if he/she chooses.	563	855	65.85%	
The person has privacy in the bathroom and can close and lock the bathroom door; assistance is provided in private when needed by the person.	716	885	83.75	
Schedule 10b. The person is encouraged and supported to make his/her own scheduling choices according to his/her preferences and needs.	715	855	83.63%	
Food 11b. The person has access to food 24/7 and is supported to purchase and store his/her own	669	855	78.25%	

food/snack choices and keep this food available for his/her use at any time.				
Setting Accessibility				
12a. The person has a key to the front door of the residence and he/she can come and go from the setting whenever he/she chooses.	278	855	32.51%	See above
12 b. The person has full/unrestricted access to typical spaces in a home including a kitchen with cooking facilities and the refrigerator, dining area, laundry, and comfortable seating in shared areas and is supported to use these typical spaces and appliances in the home when he/she chooses.	707	855	82.69%	
Part II Site Review **Full Access to the Community**				
2d. There is sufficient transportation capacity to support peoples' choice of activities and schedules; and/or staff facilitates the use of public transportation to support peoples' choice of activities and schedules	1,434	1,750	81.94%	See above
2e. The homes staffing schedules and operations (and their use of natural/peer supports) is sufficient to support peoples' choice/participation in meaningful community activities according to their preferences/priorities in their plans	1,379	1,749	78.85%	
Policies/Procedures and Practices Promote HCBS Settings Rights				
3a. There are no blanket house rules (or policies/procedures) or practices that limit individuals' rights, independence, choices or autonomy, included but not limited to: the right to choose own' s own schedule, to come and go for their home at any time, the right to have visitors at any time, and the right to have access to food 24 hrs./day, etc.	1,361	1,749	77.82%	
3c. People have access to the typical facilities in the home.	1,469	1,749	83.99%	
3d. The home has a mechanism to assess roommate/living arrangement choice and satisfaction and takes timely action if a person is dissatisfied.	1,302	1,749	74.44%	
3e. The home has a mechanism to offer and provide keys to peoples' bedrooms/front doors if desired.	940	1,749	53.74%	

3j. There is evidence that the home optimizes community/natural resources including public transportation (if applicable) to ensure that individuals have full access to the community according to their preferences.	1,389	1,749	79.42%	
4a. Staff receives training in HCBS Settings Requirements including individual rights and how to support individuals to exercise choice and control in their own lives.	1,347	1,749	77.02%	

Table 4: Setting Types, People Supported and Compliance Estimates							
Setting Type[13]	**Number of Settings (based on DQI data as of April 2016)**	**Number of People Supported (based on TABS data as of 1/31/16**	**Complies**	**Modification Needed**	**Can't Comply**	**Heightened Scrutiny**	**Institutional[14]**
Individualized Residential Alternative (IRA)/ Community Residences (CR)	6,135	30,232	2,218 estimate	3,917 estimate	TBD	266 estimate (also included in number where modification are needed)	*0*
Family Care Homes	1,064	1,842	TBD	TBD	0 anticipated	0 anticipated	*0*
Day Habilitation	864	50,095	TBD	864 (using total of settings at this time as we do not have estimates for how many settings fully comply with setting requirements) .	TBD	112 estimate	*0*
Sheltered Work Shops (scheduled for closure no later than April 2020)	82	8,100	0	0	0 Workshop participants will transition to a variety of integrated settings	0	*0*

[13] Information depicted for number of people supported is current as of 1/31/16. Data on settings compliance disposition is estimated based on final residential assessment data and updated based on results to date from the DQI Heightened Scrutiny review that began 10/1/15 and concludes 9/30/16. .
[14] OPWDD does not have nursing facilities, institutions for mental diseases, ICFs, or hospitals in its waiver.

Table 5: HCBS Waiver Service Enhancements and New Waiver Services			
Timeline /Target Date	**HCBS Waiver Service Enhancement/Changes**	**Description of Enhancement/Changes**	**Status as of May 9, 2016**
July 1, 2014	**Pathway to Employment**	Pathway to Employment is a new person-centered, comprehensive career planning and support service that provides assistance for participants to obtain, maintain or advance in competitive employment or self-employment. This furthers HCBS transformation and compliance by providing another support option to help people in Day Habilitation move to competitive employment.	**Completed**
July 1, 2015	**Supported Employment**	OPWDD and the Department of Health worked on the redesign of Supported Employment services to incentivize employment, address challenges related to job retention and more adequately fund employment supports. The redesign was modeled after the 2011 CMS Informational Bulletin on Employment and Employment Related Services. In accordance with HCBS Settings rules requiring competitive employment, OPWDD has been working to increase participation in this program. **In 2013 there were 7,362 individuals receiving SEMP services who were competitively employed. In November 2015 there were 7,935 individuals competitively employed.**	**Completed**
July 1, 2015	**Prevocational Services**	Beginning July 1, 2015 there are two separate types of prevocational services. Community prevocational services are prevocational services that are delivered in the most integrated setting appropriate to the needs of the individual, except under limited circumstances specified in the regulations (e.g. when service delivery in the community may jeopardize the health and safety of individuals). Site based prevocational services are prevocational services that are delivered in non-residential facilities certified by OPWDD; however as of May 1, 2020 such services are prohibited from being delivered in a sheltered workshop. These programmatic enhancements expand choices and options for people supported.	**Completed**
Summer 2016	**Development of Day Habilitation Expectations**	OPWDD recognizes that programmatic changes will be needed to traditional Day Habilitation programs to achieve full compliance with the settings requirements. The timeline to develop programmatic standards that comply with the HCBS settings requirements is outlined below: Winter 2015/Spring 2016: Reconvene Non-residential settings workgroup to begin developing guidelines and requirements for compliance First workgroup meeting held on 12/11/15 By April 1, 2016: Draft of requirements for Day Habilitation completed.	**In progress**

Table 5: HCBS Waiver Service Enhancements and New Waiver Services			
Timeline /Target Date	**HCBS Waiver Service Enhancement/Changes**	**Description of Enhancement/Changes**	**Status as of May 9, 2016**
		By July 1, 2016: Finalize Day Habilitation requirements By September 2016: Training/Information Sessions By October 1, 2016: OPWDD DQI incorporates requirements into its HCBS settings surveys of Day Habilitation sites for initial and ongoing compliance monitoring.	
2014 - 2017	**START Implemen-tation**	Systemic Therapeutic Assessment, Respite and Treatment (START) is a nationally recognized model for the prevention and response to behavioral health crises which often impacts on a person's capacity to benefit from community based supports and services and which may create risk for the person or other community members. The START model is focused on effective treatment strategies for people with developmental disabilities who have dual behavioral health needs which supports their opportunities for active participation in community based supports. The START model creates a consistent, evidence based model for NYS and further HCBS Settings transformation and compliance by enabling community based crisis supports rather than hospitalization. The timeline related to START implementation throughout NYS, by region, is 2014 -2016. More information on START can be found on OPWDD's website at: (click here for the NY START webpage).	**In progress**
April 2020	**Sheltered Work Shops Transfor-mation /Conversions to Integrated Employment Settings**	OPWDD is closing or converting sheltered workshops no later than 2020. The main components of OPWDD's workshop transformation are strategies for workshop participants to transition to competitive employment, retirement or other community inclusion options. OPWDD has been working with provider agencies interested in creating integrated community businesses that are consistent with HCBS waiver standards related to "community settings". In 2014, OPWDD entered into a Transformation Agreement with CMS that included a six year time frame for the elimination of funding for workshops. This multi-year strategy has enabled OPWDD to educate workshop participants, families and providers about competitive employment options, begin person-centered transition planning and identify individuals who are interested in competitive employment. Families are actively involved in the discovery, assessment and planning process for workshop participants transitioning to competitive employment. Since 2013, OPWDD has engaged in a public outreach process to insure that stakeholder input is incorporated throughout the planning process. Prior to issuing draft guidance on workshop transformation in September 2015, OPWDD had hosted approximately 40 public forums and will have	**In progress**

Table 5: HCBS Waiver Service Enhancements and New Waiver Services			
Timeline /Target Date	**HCBS Waiver Service Enhancement/Changes**	**Description of Enhancement/Changes**	**Status as of May 9, 2016**
		spoken to or solicited comments, testimony, and/or feedback from over 2,000 individuals, self-advocates, family members and providers. OPWDD has also used Balancing Incentive Program funds to support efforts to transition individuals with developmental disabilities from sheltered workshops to competitive employment. OPWDD released Final Workshop Transformation Guidance (pending CMS approval). See: (click here for the Sheltered Workshop Guidance). January 15, 2016: Statewide Video Conference with Workshop Providers to address questions related to the guidance and the proposal requirements. February 1, 2016: Statewide Video Conference with Workshop Providers Technical Assistance on Developing an Integrated Business January 6, 2017: Proposals are due no later than January 6, 2017.	
2014	**Community Transition Services (CTS)**	In 2014, OPWDD implemented Community Transition Services (CTS). This service offers a one-time opportunity to access up to $3,000 towards the cost of establishing an apartment for an individual moving from a certified setting into a non-certified home where the individual has control of the setting (e.g., the individual's name is on the lease). The $3,000 can be used for items such as cleaning, purchasing of furniture, linens, dishes, etc. The service is designed to remove a major barrier for individuals interested in moving out of a group home setting into their own apartments.	**Completed**
Ongoing	**Live-in-Caregiver**	OPWDD continues to support and grow its array of non-certified housing options, including options such as Live-in Caregiver for individuals who self-direct care, and shared living arrangements.	**Completed**

Table 6: Activities and Service Enhancements Contributing to HCBS Settings Transition			
Timeline /Target Date	**Service Enhancement/Activity**	**Description**	**Status as of May 9, 2016**
April 1, 2016 (beginning)	**Expansion of OPWDD's affordable integrated supportive housing program**	This program contributes to greater choice and options for where people in the HCBS waiver choose to live, a key component of the HCBS settings rules. The OPWDD Enacted 2016-17 Budget includes $15 million in expanded affordable housing capital funds to support newly created and integrated affordable supported housing units set aside for people with intellectual and developmental disabilities.	**Funding approved in the OPWDD enacted State Budget** **Program is ongoing**
Ongoing	**OPWDD State-funded Housing Subsidy Program**	In addition to its work in developing supportive housing capacity for people with developmental disabilities, OPWDD has made significant commitments to providing housing subsidies (similar to the federal Section 8 Housing Voucher Program) for those with I/DD living in non-certified settings and this program is also expanding. The OPWDD Housing Subsidy Program contributes to greater choice in housing options for people in the HCBS waiver by enabling community integrated apartments to be affordable to people on government assistance such as SSI. In addition, it enables choice of living type as OPWDD allows the housing subsidy to be used for people with I/DD who choose to own a home through the OPWDD Home of Your Own Program (HOYO).	**Ongoing**
Ongoing	**Senior Companion Program**	The Senior Companion Program is part of OPWDD's strategic efforts to engage the individuals we support in activities that foster community integration. The senior companion program sponsored by OPWDD, under the authorization of the federal Corporation for National and Community Service (Corporation), provides an opportunity for senior citizens to volunteer in the support of services for people with developmental disabilities. Seniors volunteer between 15-40 hours a week and receive a small stipend for travel and meals. Senior companion volunteers work with direct support professionals to help people with developmental disabilities in the following areas: community inclusion, socialization skills and activities of daily living. OPWDD has participated in the senior companion program since 1979. The Senior Companion Volunteers are ambassadors to the community for individuals receiving OPWDD services. These experienced elders bring wisdom and knowledge to staff, and help individuals with developmental disabilities create life-long relationships with neighbors, church members, local businesses and others in their community.	**Ongoing**

Table 6: Activities and Service Enhancements Contributing to HCBS Settings Transition			
Timeline /Target Date	**Service Enhancement/Activity**	**Description**	**Status as of May 9, 2016**
Ongoing	Faith Based Initiative	Through OPWDD's Faith Based Initiative, OPWDD, in partnership with faith communities and other interested parties, has been supporting people to make choices that help them have opportunities to attend a house of worship based on their faith and receive the supports and assistance needed for consistent access. This program further the goals of the HCBS Setting rules by facilitating community integration and choice. Goals of the project include: • Assisting people with developmental disabilities who make faith choices to have their Individualized Service Plan (ISP) reflect their choices. • Providing training and resource materials to state and voluntary agency employees that will help them create and sustain opportunities to support people with developmental disabilities who choose to belong to the faith community of their choice. • Working with faith leaders and congregants to integrate people with developmental disabilities into the faith community as valued members. • Partnering with houses of faith to create opportunities for community connections. • Promoting disability awareness forums in the community facilitated by advocacy groups. • Partner with federal, state, and local agencies and organizations to promote community accessibility. The following faith based guides and videos were developed for the purpose of providing educational and training materials for those who support people with developmental disabilities. Spiritual Indicator Guide: While the pathway to discovering spirituality encompasses many facets of a person's being (family, friends, community, service, and religion), the purpose of this guide is to assist the Medicaid Service Coordinator (MSC), Active Treatment Coordinator (ATC), and Qualified Intellectual Disabilities Professional (QIDP) and all others interested in supporting an individual with intellectual and developmental disabilities to discover the values and interests that are important to their spiritual well-being. All Are Welcome Guide: The purpose of this guide is to: Assist faith leaders and congregations by providing them the information they need to become comfortable in welcoming and providing spiritual supports for people with developmental disabilities who live in their community and	**Ongoing**

Table 6: Activities and Service Enhancements Contributing to HCBS Settings Transition			
Timeline /Target Date	**Service Enhancement/Activity**	**Description**	**Status as of May 9, 2016**
		to provide educational awareness opportunities to help faith leaders and congregations to interact with people with developmental disabilities. Support individuals, family members, friends, and caregivers to gain comfort about being "visible" in their faith community as valued, active members. Video Presentation: *Having Faith: Stories of Faith, Inclusion & Community*. The short video is available at: http://www.youtube.com/embed/f4-vXy5SUts. Video Presentation: *This is Me* The short video is available at: http://www.youtube.com/embed/dn7cGgzYLo4.	

Table 7: Timeline to Update Training Curricula		
Training Subject/Content	**Anticipated Completion Date**	**Action**
PRAISE Curriculum	COMPLETED January 2016	Incorporate HCBS settings philosophy into existing PRAISE curriculum
DSP 4 week orientation for OPWDD staff	Mid 2017	Update DSP 4 week orientation to incorporate HCBS settings philosophy and rules into DSP orientation
MSC Required Trainings	End 2017	Update all MSC required trainings as applicable to include HCBS settings philosophy, principles and rules. This includes PCP curriculum, HCBS waiver curriculum, etc.
Rights Modification Curriculum	September 2017	Develop new curriculum on how to implement rights modifications.
Incorporate HCBS settings into curricula development by RCWT	December 2016	Integrate and ensure alignment with HCBS settings rules in RCWT curricula

Table 8: Timeline for Communications Project Targeted to People Supported, Family Members and Advocates	
Timeframe	**Milestones**
October 2015	Project Charter Approval by OPWDD Leadership
November 2015	Convene first workgroup meeting and flesh out specific themes
December 2015- February 2016	Define specific deliverables and develop work plans
February 2016- Summer 2016	Formulate first drafts of all communication materials Pilot materials through workshops and solicit broad feedback
December 2016	Final draft of materials
Early 2017	Distribute materials broadly for use in the system and in the field. Schedule quarterly information sessions for people supported and circles of support using the materials.

Table 9: ICF Conversion Proposal Disposition as of 6/3/16	
Proposal Disposition	**Number**
Proposals Received to Date	106
Conversions Completed	83
Number of People Transitioned to Waiver Services Via ICF Conversion	717
Number of Conversion Proposals Under Review	219
Number of People Who Will Transition to Waiver Services Through Proposals Still Under Review	226
Total Number of People Transitioning to Waiver Services Through all Conversion Proposals Received To Date	943

APPENDICES

New York State Office for People With Developmental Disabilities (OPWDD)

Appendices to the OPWDD HCBS Settings Transition Plan

As of June 10, 2016

Appendix A: Public Comments and Response

The OPWDD revised Transition Plan (February 2015) and Announcement for Public Comment was distributed broadly to all OPWDD distribution lists and to Medicaid Service Coordinators (MSCs) who were asked to distribute the information to people supported on their caseloads. In addition, OPWDD published a notice of the opportunity for public comment in the New York State Register on February 18, 2015.

Public Webinars to describe the Revised Transition Plan and to accept verbal comment were scheduled on three occasions: February 23, February 24, and March 10, 2015. For people who do not have web access, a telephone number to listen to the webinar was provided. OPWDD also accepted public comments via telephone. Public comments were also accepted in writing through e-mail and regular mail. Further information on this process can be found at the following link: (click here for the HCBS Announcement for Public Comment).

71 written comments and 27 verbal comments were received and summarized below. Not all comments received were directly related to the HCBS Transition Plan; OPWDD has responded accordingly.

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
General Comments on the Transition Plan Framework and Stakeholder Input		
General Comments: • All stakeholders should be involved with the development and implementation of the Transition Plan and individuals and families should be more directly involved in the development of the Plan. • People with I/DD should have more representation on OPWDD's stakeholder committees. • Stakeholders need informed choice for the entire process and they should be meaningfully involved in discussions about supports and services for their loved ones. • Waiver service recipients may not be able to understand the Transition Plan • The overall Transition Plan was hastily developed, poorly executed, and that there is an overwhelming amount of material on the website that is difficult to understand. It is more of a "work plan" than a substantive Transition Plan. • The Transition Plan should focus most importantly on how it will result in increasing quality of life for people supported. • More transparency needed regarding data on achievement of goals outlined in the Transition Plan, including specific benchmarks, outcomes, and timeframes. • A commenter felt that there is fear and uncertainty in the field and that agencies may be misinformed on guidelines and expectations. • A respondent stated that the announcements for public comments and information sessions were not timely.	As a result of public comment, OPWDD established a Transformation Panel comprised of stakeholder groups including people with I/DD. OPWDD has conducted additional outreach on HCBS Settings and facilitated public forums throughout the state as part of the Transformation Panel and integrated employment initiatives. A summary of this outreach has been added to the transition plan in Appendix B. OPWDD has initiated a new communication project in partnership with CQL, stakeholders, individuals receiving supports, and their family members. Communication materials will be developed in plain language and in a manner accessible to individuals and their circle of support. Materials will address the HCBS Settings rules, the Transition Plan and waiver participants' rights under the new regulations. Timelines and milestones have been added to the Transition Plan. Based on public comment and guidance from CMS, the OPWDD Transition Plan has been restructured. Timelines, milestones, and detailed processes are now articulated. CMS has set out specific requirements regarding the content of the transition plan which may, in turn, resemble a "work plan." OPWDD has conducted extensive Training and Outreach on the HCBS Settings Rule. An outline of these activities has been added to the transition plan as Appendix B. The Final Rule and Transition Plan are complex and OPWDD will provide continuous training and updates to providers throughout the transition period.	**Yes**

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
	A minimum 30 day public comment period is mandated by CMS. Dates for Announcement of Public Comment, public webinars and the public comment period are outlined in the introduction to Appendix A above. A summary of public input has been added to the transition plan. Public input will again be sought, this time by New York State Department of Health, as part of the overall Statewide Transition Plan.	
Residential		
General Comments: • Family members want to know how OPWDD will address the limited residential options available for their loved ones. • Commenter is concerned that many people living at home with elderly caregivers will need residential placement in the near future when their caregivers are no longer able to provide support. • A commenter stated that in light of closure of residential settings, there is no plan to create new residential opportunities for people who are desperate for placement. • Respondents said there are currently thousands on waiting lists already but there is a lack of safe, quality housing options. • Respondents expressed support for developing a wider variety of housing options for people. • Respondents indicated that there needs to be more supports, services, and residential alternatives provided for people who are leaving traditional residential environments for more integrated community settings in order for people to live successfully in those settings. • Respondent recommended that OPWDD offer a range of housing options, including clusters of housing that provide medical and therapeutic services while still meeting self-determination principles. • Respondent said there should be more emphasis on ensuring that people have been given a choice of a non-disability specific setting but that largely has not happened in congregate care.	The Transition Plan has been revised to include the following information on residential settings: Residential Request List Report; BIP Transformation Fund Implementation; Transformation Panel recommendations for housing; HCBS Review of Residential Settings; and Remediation Section revised to reflect efforts to increase residential options available to individuals. OPWDD plans a marketing and outreach effort to inform all sectors of the disability community on what is available for supports and services – given personal resources, government entitlements and other resources. Through Transformation Panel recommendations, OPWDD will be developing a Five Year Housing Plan. It is a goal of OPWDD to increase options and choice so that more residential options are developed for people who want to live in the community but do not want to or are unable to continue living with their elderly parents. OPWDD understands, but does not agree with the concerns of families who believe that there would not be a residential supports available for their family member if something happened to them. This assumption appears to be based on the premise that residential options will be based on OPWDD's investment in property rather than on the utilization of residential options available to all New Yorkers with or without disabilities.	**Yes**

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondents asked about how OPWDD's vacancy management policy impacts choice of residence and choice of roommate, and feel that OPWDD is governed by administrative and functional considerations which overlook the impact of placement on others in the residence. • Respondent indicated that the suitability of someone for placement in a facility is something that should be determined by an agency's administration, with input from individuals and families, not by OPWDD. • Respondents expressed concern about what people should do if immediate placement is needed or placement within the next two years. • Respondent stated that Olmstead requires NYS to provide institutional options such as larger group homes for those not ready for community placement; some people prefer living in larger group settings while others thrive in smaller ones. • Respondent stated that although some people will be able to transition into the community, others will need to stay in group home settings, as some people truly require 24 hour/day care. • Respondents stated that the safety and well-being of people needs to be the primary focus of OPWDD; people shouldn't be placed in group homes based on priority lists alone, but rather, because they are appropriate and a good fit for the residence. • Respondents are concerned that OPWDD will end funding for facilities with more than four unrelated people residing together. • Respondents stated that one size does not fit all, and that appropriate residential placements vary by individual. • Facilities larger than four people may be the most appropriate placement for some people, particularly for people with high medical needs. • There should not be arbitrary restrictions on group home size, as CMS regulations have not specified a size limit for residential HCBS Waiver programs. • Respondent expressed support for discontinuing funding for homes larger than four people and would like more information on how OPWDD will ensure that facilities comply with the Home and Community Based Services (HCBS) Settings rules.	OPWDD recognizes that CMS' Final Rule on HCBS Settings does not specify a size limit for residential settings. National data and OPWDD's assessment data indicates people have better outcomes in smaller settings. An overview of this assessment data has been added to the Transition Plan. OPWDD has been decreasing the development of large residential settings and will continue this trend toward decreasing the size of large congregate care settings in the service system. The transition plan has been updated to reflect this strategy. By the end of 2019, all newly developed certified group homes will be designed for four persons or less unless there is a justification for a Commissioner-approved exception. CMS guidance specifically identifies farmsteads and clustered housing as settings presumed to isolate individuals with disabilities from the broader community. Such settings would be subject to heightened scrutiny to determine whether they can overcome the presumption. Settings deemed isolating/institutional by CMS cannot be funded under the HCBS waiver. The transition plan has been updated to reflect the OPWDD Heightened Scrutiny Process and Timeline.	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent suggested that the Transition Plan needs to be flexible enough to create housing and services, such as farm settings and clustered housing for those who cannot integrate.		
ICF Transitions: • Respondents expressed concern that downsizing and closing facilities will make residential waiting lists longer. • Respondents expressed support for not downsizing facilities; stated these facilities work well for people when properly staffed, supervised, and monitored. • Respondents stated that ICFs and DCs are necessary to provide adequate support for people with high needs and worry that these individuals will not have enough support if these ICF facilities are closed.	OPWDD's ICF Transition Plan (contained in OPWDD's Transformation Agreement with CMS), proposes to reduce reliance on ICFs so that by October 1, 2018, there will be only 150 people in institutional campus settings such as Developmental Centers and 456 children in ICFs known as Children's Residential Projects (CRPs). As part of this transition, OPWDD expects that some ICFs will be able to convert to IRAs by changing how each person plans for and receives person-centered Home and Community Based Services. However, any ICF where more than 14 people live will need to convert to smaller IRAs or offer other community residential options. For more information on ICF transitions, please use the following link: (click here for the ICF Transitions).	**No.** OPWDD is committed to the ICF Transition Plan. Our aggregate data does not show substantial differences between the skills, abilities and needs of people who reside in ICFs vs. people who reside in IRAs.
Service Options—General Comments		
• Respondents stated that the Transition Plan should have sufficient provisions for people who need the most care and that the proposed Plan limits options for people that have pronounced needs. Individuals with severe and profound disabilities are not being realistically served and the intended changes are poor policy decisions for vulnerable people even if they are strong economically. • Respondents stated that the Transition Plan ignores thousands who require 24 hour supervision, and eliminates options for people with more severe issues.	The OPWDD received many thoughtful comments concerning essential service options that are available and accessible in communities across NYS, both urban and rural. The Transition Plan for individuals should have sufficient provisions for those who have the most pronounced medical and behavioral needs. The OPWDD does not believe the Transition Plan ignores those who require 24 hour supervision and we recognize the implementation of the Plan is a work in progress.	Yes, some changes have been made

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent feels that group and segregated environments do not meet HCBS Waiver requirements and that it is unnecessary for OPWDD to assess whether those types of programs are compliant with the HCBS Settings requirements. • Respondents stated that eliminating institutional service options contradicts the Olmstead decision. HCBS Settings requirements and Olmstead are opportunities to create meaningful change in traditional programs, and that they should not be disposed of but instead enhanced. • Respondents quoted the Olmstead Decision, "You have to let me live in the community-but only if I am ready and only if I agree". • Respondents noted that OPWDD needs to examine supports and services that are available to people after leaving traditional environments and that there should be more non-traditional service options. Service options should be available to people on a continuum in order to meet individual needs. • Respondent stated that OPWDD should develop partnerships with other departments such as DOH, DOT, DHCR, and Access VR. • Respondent requested that OPWDD put together a reference guide on how to obtain services. Families and people with developmental disabilities need comprehensive and ongoing independent information and services, referrals, and access. Delays in implementation of services should be addressed. • Respondent feels that the Front Door saves OPWDD money by limiting service options for individuals and families. OPWDD's Front Door is bureaucratic and understaffed. • Respondent expressed support for the START model, and indicated that there must be a detailed plan that explains how OPWDD will obtain the necessary financial resources to fund this expansion, how direct service workers will be organized, and how they will be mobilized. • Respondent expressed concern that the Transition Plan fails to provide a safety net for people with severe psychiatric issues and that the transition plan should address residential needs for people who are dually diagnosed or in a crisis. • Respondent indicated that Governor Cuomo should increase services for the elderly and disabled to prevent New Yorkers from moving out-of-state to obtain services elsewhere.	OPWDD is endeavoring to make certain that the services the agency supports meet federal HCBS Waiver requirements and is collecting information to assess whether all Medicaid Waiver programs are compliant with the HCBS Settings requirements. We believe that HCBS Settings requirements and the Olmstead decisions are opportunities to create meaningful change in traditional programs. They also present opportunities to develop more non-traditional service options that meet a continuum of individual needs. OPWDD is working to expand the availability of an array of information, as families and people with developmental disabilities need comprehensive and ongoing independent information concerning services, referrals, and access. . The hallmark of a truly responsive system of care and supports for individuals with intellectual and developmental disabilities is the degree to which people achieve meaningful community integration in a way that accommodates their interests and needs, that natural support networks are utilized and effective person-centered planning occurs. This vision can be attained with careful planning and monitoring even when individuals are medically frail and need a high level of staffing support. An explanation of the Systemic Therapeutic Assessment, Respite and Treatment (START) model has been added to the Transition Plan. The START model is focused on treatment strategies for people with developmental disabilities and behavioral health needs. More information can be found on OPWDD's website at (click here for the NY START website).	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent stated that the transition process from school is overwhelming, and expressed concern over the service options that are available after graduation. • Respondent commented that it is important to consider accessibility and availability of services in rural areas for services such as housing, community transportation, and supported and competitive employment. • A respondent indicated that their loved one has been thriving in a farmstead community, and has gained a sense of freedom, independence, and purpose. The person enjoys the choices that are available in a transitional community and family members would like to see the person continue living there. • Respondents expressed support for the creation of more shared living opportunities where a non-disabled person lives with an individual with developmental disabilities for a stipend and lives rent free, combined with a service such as community habilitation. It is necessary for New York to offer more creative services. • Respondents commented on managed care and fear that it will reduce or dilute the quality of services. • Respondent stated that plans for downstate services are not represented adequately in the transition plan and that DISCOs will be unable to provide effective person-centered planning. • Respondent stated that there should be a comparison done among waiver target populations in the demonstration phase of the DISCOs that would cross-walk benefits packages, funding levels, use of self-direction, and due process rights in managed care.		
General comments regarding day programs: • It will take more than a year to develop a plan for assessing non-residential services; • Why assess group services, since we already know the day programs do not meet HCBS guidelines; • OPWDD should have outside day programs, rather than institutional in-house programs;	OPWDD is in the process of formulating Day Habilitation guidance that will help providers of day habilitation facilities comply with the rules (added to the Plan).	Yes

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Community Habilitation is forced on individuals; • Services will be inadequate; • Group and Residential day programs do not meet criteria; • 1:1 Community Habs are not economically viable or productive for agencies or individuals. • Respondents agreed that community integration options need to focus on the interests and needs of people, and that natural support networks and effective person-centered planning is critical towards achieving that. • Respondent feels that group homes and day habilitation programs do not meet the definition of community integration for people. • Respondents stated that it's hard to provide adequate community integration opportunities when people are medically frail and need a high level of staffing support and asked what the procedure should be for people who are unable to socialize in the greater community. • Respondents said total community integration is not appropriate for all people. • Respondents expressed fear that there will be problems with traffic safety, and with community members who might take advantage of people and exploit them. • Respondent recommended that the elderly and people with developmental disabilities should have more opportunities for integration with each other in order to combat depression and isolation for both groups.	A work group of the DDAC has been formed to help develop recommendations and strategies for supporting complex people in the community (added to the Plan).	
Employment Supports and Services and Sheltered Work Shops		
Sheltered Workshops: • Employment First Choice Act offers choice to individuals served in sheltered workshop to decide to move; some individuals might want to stay in current setting. Need functional assessment of education offered and opportunities to explore other options.	OPWDD made a commitment to CMS to close sheltered workshops by April 2020. Sheltered workshops, in their current design, do not meet Home and Community-Based Settings standards. Consequently, the federal government will not provide Medicaid Federal Financial Participation (FFP) to fund such workshops and the state is unable to cover the federal share. However, in response to public comment, OPWDD is currently exploring ways to transform these employment	**Yes.**

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondents disagreed with the closure of sheltered workshops regardless of people's ability to function in another environment and said this removes an option for people to choose from. • Respondents were concerned about ability of some people to succeed in competitive employment and that this transition will be traumatic for people who have to leave sheltered workshops. • Respondents commented there are no jobs even for those who want to work; individuals will end up in more restrictive day-habs; closing workshops means thousands will lose work, go into day-habs, or stay home with no work. • Respondent said CMS allows sheltered workshops and pre-vocational services in settings that encourage interaction with general public. Why end sheltered workshops when her son has no guarantee of traditional employment? • Respondents said "Fix sheltered workshops, don't shut them down." • Respondent stated that the transition plan is preventing effective person-centered planning because it eliminates sheltered workshops as a choice for people. **Supported Employment** • Respondent stated that enclave supported employment (SEMP) is not addressed in OPWDD's Plan to Increase Competitive Employment. • Respondent suggested that supported employment for a person should be phased out gradually in stages, not all at once. • Respondent felt that Supported Employment services should be an option that can be provided by companies that are non-HCBS waiver providers as long as they utilize credentialed and experienced staff to deliver job coaching services. Perhaps set standards for supervisors and limits on fees. • Respondent said SEMP initiatives and goals outlined in the Transition Plan should be based on input gathered from people receiving services as well as their family members/caregivers. • Respondents stated that the Plan for Competitive Employment needs a wider range of employment supports, and should allow for experimentation and exploration. Employment services are needed to help individuals deal with external disruptions and changing desires in their careers.	settings so they may offer integrated employment opportunities while achieving compliance with HCBS setting standards. Proposals for integration have been included in this transition plan. As part of OPWDD's Transition Plan, individuals currently employed in a workshop will have several opportunities to transition to competitive employment and/or other meaningful community activities. Guidance has been developed for providers on this option which can be found at (click here for the Sheltered Workshop Guidance). More detail has been added to the Transition Plan on the redesign of employment services. Supported Employment services have been redesigned and this is now discussed in the Plan.	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent requests SEMP to include non-waiver provider agencies that have staff with credentials and experience to provide services. .		
Self-Direction Opportunities and Options		
• Respondent disagrees with lowering funding rates for specialists in self-directed program • Respondent said OPWDD should allow person-centered non-waiver programs to be available to self-directed consumers General Comments regarding self-direction: • Why should self-directed individuals and their families get lower PRA than individual with total agency support? • Self-direction needs more time to get mechanics and process before changing it • Parents need tutorials for navigating Front Door and Self-direction • Reimbursement for financial intermediaries are excessive-how was payment plan developed? • Self-direction is not for everyone; requires lots of time; requires heavy investment of time for unpaid advocates. • Front Door and Self-directed service programs appear to save money, but at the expense of DD and families, by limiting services provided. • Families are often unaware of services and resources available. Self-directed process is therefore going to be frustrating. • Families need comprehensive ongoing independent information and services, referral and access. • Need to make self-direction more accessible for families who choose this.	OPWDD has made a commitment to ensure that self-direction is an option available to people who are accessing services so that individuals who are receiving supports can have the greatest level of control possible in how and by whom those supports and services are delivered. OPWDD's Waiver Amendment 07 reflects the changes made to Self-Direction that were agreed to in conjunction with CMS and this is carried forward into the 2014 Waiver Renewal approved in April 2016.	**No**-changes to self-direction are contained in OPWDD's waiver amendment 07.
Person Centered Planning and Processes		

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent stated that the transition plan fails to consider NYS' guardianship laws, as policies and practices may be in significant conflict with, or can be substantially undermined by article 17-A of the NY Surrogates Court Procedure Act, which provides for plenary guardianship of people with developmental disabilities. This will impact the ability to provide effective self-direction and person-centered planning practices, as guardianships can place severe limitations on the ability of people to make decisions about their own lives. • Respondent said there is a need to clarify due process for grievances in HCBS transition plan. General comments: • Need to establish clear, measureable outcomes for PCP outcomes, and training of service coordinators • DISCO's cannot provide person-centered planning • Need more financial resources to ensure compliance with HCBS PCP regulations • Circle of Support requirements will dis-incentivize people from opting for habilitation services	Legislation was submitted in 2015 at the request of OPWDD, to amend the Surrogate's Court Procedure Act in relation to guardianship and health care decisions of persons with developmental disabilities and to repeal and amend provisions of the law. OPWDD will continue to advocate for amendments in furtherance of person-centered planning and supportive decision-making. OPWDD promulgated PCP regulations that mirror the federal regulations. The OPWDD PCP regulations were effective on November 1, 2015. Details of this regulatory change have been added to the Transition Plan. Due process rights are outlined in OPWDD regulations at 14 NYCRR 633.12. These regulations require every agency and facility operated or certified by OPWDD, and every sponsoring agency providing facilities or home and community based waiver services to provide individuals with notice of their rights and develop policies and procedures to establish mechanisms to resolve objections (grievances) by individuals with disabilities and their families.	**Yes.**
Direct Support Professionals, Training and Communications		
Training and Guidance: • A respondent stated DSPs need more and better training on choice-making and in how to present choices to people. • Respondent asked for OPWDD to provide more direction to field staff to ensure that people supported are in the most integrated setting with the least amount of rights modifications. • Respondent felt that additional training and credentialing for Direct Support Professional (DSP) staff will result in excessive costs that will require increased rates.	OPWDD agrees that excellence in service provision requires excellence in staff competency. The Code of Ethics and DSP Core Competencies along with accountability in the form of DSP performance evaluations are the new mandatory base of expectations of New York's 90,000 DSPs. OPWDD has adopted a definition of competency that is the ability to apply knowledge, demonstrated skills and specific ethical principles to perform critical work functions. Information and additional detail has	**Yes**

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent stated that the HCBS settings requirements about ensuring choice and rights have been long-standing requirements that the Consumer Advisory Board has advocated for Willowbrook Class Members and the key to success requires that staff are well-trained in person-centered supports and developmental disabilities. **Staffing:** • Respondents stated that finding and retaining staff is very difficult, particularly in 24 hour residential programs and in rural areas. General Comments: • DSP staff need competitive salaries and benefits for providing direct care to people. • There should be annual Cost of Living Adjustment for DSPs each year. High turnover disrupts service delivery and results in higher costs for agencies with recruitment and training. • Respondent supports expansion of CQL training in POM quality evaluation system • Additional training for direct support workers will be counterproductive, and require excessive costs; increasing credentialing of direct support workers will require increased rates	been added to the Transition Plan on DSP competencies and training and other communication and related initiatives.	
Quality Assurance Related Topics		
Provider Performance Expectations: Respondents stated that the process being developed for heightened scrutiny needs to be transparent and fair. • One respondent asked for OPWDD to clarify the scope of its authority for enforcement of compliance with the HCBS Settings standards. • The transition plan needs to be clear in how OPWDD will determine whether a setting is compliant with the HCBS (Home and Community Based Services) Settings requirements while also ensuring that provider monitoring, compliance, and quality management are emphasized.	Heightened Scrutiny: OPWDD convened a Heightened Scrutiny Stakeholder Work Group between March 2015 through October 2015 to develop the criteria, a	**Yes.**

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Programs triggering Heightened Scrutiny need clear monitoring guidelines and vigilant oversight, and there should be strong enforcement of reporting requirements on organizations providing services. • Respondent asked for a clearer definition of what integration is versus what isolating qualities are. • Respondent stated the Transition Plan needs heavy and enforced reporting requirements on organizations providing services. • Respondents suggested that CQL's Personal Outcome Measures (POMs) and the experience of the person should be emphasized more than the physical aspects of the setting location. • Respondent expressed concern that clinical services delivered in day settings will be discontinued due to heightened scrutiny and stressed that staff benefit from learning proper techniques for clinical and behavioral interventions from clinical day staff. • Respondent felt that there should be extra resources and additional funding provided for monitoring and technical assistance related to implementation and compliance with the HCBS Setting standards. • One family member asked if caregivers can also participate in the HCBS Settings Assessment currently being conducted in certified residential HCBS waiver programs by OPWDD's Division of Quality Improvement (DQI) and would like more information about what the timeline and process for that assessment is, including what OPWDD will do with the results of the assessment once it is concluded. • Need monitoring of performance measures • The Quality Improvement Strategy (QIS) is not adequately monitoring MSC provider performance. Performance will suffer as MSC caseloads increase. • Individuals and families need a way to rate services from providers • OPWDD needs to supply extra resources for meeting deadlines for provider monitoring and technical assistance.	process, and evidence that residential settings subject to heightened scrutiny will need to demonstrate for OPWDD to support continued funding under HCBS for that setting. Consistent with the Transition Plan, OPWDD is implementing its heightened scrutiny review for residential and non-residential settings from October 2015 through September 2016. Details about OPWDD's heightened scrutiny process including activities, milestones, timelines and criteria have been added to the Transition Plan. Authority for Enforcement: CMS' Final Rule governing HCBS settings requires that the "State must ensure that the setting chosen by the individual is integrated in, and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS."	
Incident Management: • Respondents expressed concern that if there will be an increased reliance on non-agency staff, that will result in an increase in accidents and injuries for	Incident Management: OPWDD understands that our system will need to enhance its ability to help people make linkages to the community to be supported to have	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
individuals, and whether agencies will be held accountable for incidents in the community that occur when staff are not present.	full access to the broader community in accordance with each person's preferences and priorities for community inclusion activities and this may require more reliance on natural supports and volunteers. OPWDD does not plan to make changes to its Incident Management requirements. Each incident reported will have to be reviewed on a case by case basis depending upon the circumstances and factors involved.	
Funding		
Comments: • Respondents indicated that more financial resources and adequate funding streams are needed for non-profit programs to ensure compliance with the Home and Community-Based Services (HCBS) Settings rules and Transition Plan. • Respondents stated that the transition plan needs to provide more specific details related to essential funding needs and have asked how expectations outlined in the plan can be met without exorbitant increases in funding. • Respondent stated that funding is needed for ensuring compliance with the new Person-Centered Planning (PCP) regulations in order to ensure that Medicaid Service Coordinators (MSCs) have adequate resources to effectively implement these requirements. • Respondent stated that they cannot afford Board Certified Behavior Analysts (BCBAs) at current funding rates and asks that agencies with people that have higher needs receive funds to support people. • Respondents stated that the timing of the switch to managed care and Developmental Disability Individual Support and Care Coordination Organizations (DISCOs) with HCBS Settings will require increased financial support. • Respondent said that there should be funding for family assistance during the transition to managed care.	The Self-Direction re-design of 2014 brought about several changes to the budgeting and billing methodologies and infrastructure for the waiver service that was known as Consolidated Supports & Services (CSS). These changes were necessitated by guidance received from the federal Centers for Medicaid and Medicare Services (CMS). A primary directive from CMS was that self-directed services could not be "bundled" into one separate service type, rather, all self-directed services needed to align with an HCBS Waiver Service. Prior to the self-direction re-design, CSS was an HCBS Waiver Service and OPWDD had some flexibility to craft service components that could address clinical needs. When CSS was no longer an HCBS Waiver Service we lost the ability to fund many clinical services unless they were available through an existing HCBS Waiver Service. To address this, OPWDD pursued and successfully obtained a new HCBS Waiver Service called Individual Directed Goods and Services which, among other things, has allowed clinical services to remain available to individuals who are self-directing their services. However, in negotiating this new waiver service with CMS it became clear that clinical parameters would be needed. OPWDD is open to re-visiting these parameters with CMS at a later date.	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
• Respondent expressed concern that because DISCOs are being developed by traditional agencies, a two-tier system will develop in which funding gets channeled into already established and expensive systems. • Respondent stated that OPWDD funding is public money and the public should be able to find out where the money is going for all of the services that OPWDD provides. The establishment of managed care will add layers to the service system and make it even more opaque. There should be full disclosure of all public funds paid to agencies including rates paid for services to individuals (including enhanced rates) as well as other funding streams. • Respondent is opposed to the use of revenues for DISCOs until the cost-benefit ratio improves. • Respondents indicated there needs to be additional funding support for families caring for someone with a developmental disability at home. • Respondent stated that there should be more family support monies to help families through all of these service changes. • Respondents expressed concern over lack of funding for higher needs individuals, and particularly those with significant medical needs and for those who may be dually diagnosed. • Respondent stated that budget cuts have made it nearly impossible to place an individual after transitioning from school. • Respondent stated that there should have been a shift in funding for programs that require a 1:1 model while out in the community. • Respondents stated that it is financially difficult to support having enough staff that can be present for community integration activities. This leaves two choices: First, support community integration with fewer staff resources while also expecting an increase in number of incidents or second, provide as much community integration as possible while ensuring sufficient staff levels, which may not be to the degree or frequency that CMS desires. • Respondent indicated that if a stronger reliance on natural supports in the community would help to defray costs of providing additional staff while still supporting people with disabilities to take part in neighborhood activities on a	Another area where changes were mandated by CMS is Fiscal Intermediary (FI) administration. The former methodology used to calculate FI administration was determined to not be feasible going forward. OPWDD was directed by CMS to develop a new standardized methodology that is not linked to a percentage of an individuals' service budget amount. Prior discussions with CMS have indicated that reimbursement levels must be based on cost. As has been discussed in other forums, OPWDD is committed to reviewing updated cost data to determine if a change in the fee levels can be supported. As it relates to the other funding issues raised, it is important to note that spending on supports and services is expected to grow this year, given the budget's investment of $124 million to support new and/or expanded opportunities. Included in this add is $4 million to support new services for people living with caregivers who are no longer able to provide the level of supports necessary to keep their family member at home. In addition, the budget requires that OPWDD perform an assessment of the mobility/transportation needs of people with disabilities and other special populations. Following the assessment, recommendations will be developed regarding a pilot program to coordinate medical and non-medical transportation services, maximize funding sources and enhance community integration. Funding was included to support the costs of this study. With regard to managed care, there are several design elements that will support individuals and families as we move into managed care. First and foremost, OPWDD will contract for an independent ombudsman support program to support individuals who choose to	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
regular, individual or small group basis, many agencies would have to send the people they serve out into the community with non-agency supports after providing as much training as they can and accept the fact that there will be an increase in number of incidents which could result in negative consequences from OPWDD and the Justice Center. • Respondent indicated that people with developmental disabilities who go to work and make more money than their parents will lose their DAC/Adult Child Survivor classification, which entitles the person with a developmental disability to Supplemental Security Income (SSI) through Medicaid. • Respondents expressed concern regarding the implications on providers based in rural areas. Funding is not available for transportation services to prevocational programs and job sites from rural communities. General comments: • Plan expectations in rural settings cannot be met without an exorbitant increase in funding. • Regulations need to provide for rural areas with no public transportation and help support funding a workforce to employ staff from. • The change in fee structure for FMS has caused agencies to reconsider their involvement in the program and feel that the flat fee per month is not financially viable, as it does not cover staffing, accounting, and administrative costs. • There should be a more reasonable pay structure for fiscal intermediaries.	enroll with a managed care plan, or their families. There is now and will continue to be transparency of funding for provider-based services today and as we move into managed care services. Today, payment rates can be seen as part of the OPWDD Home and Community Based Services application available on the OPWDD web site ((click here for information on the HCBS Waiver). In addition, other fees and payment rates can be reviewed at the NYS Department of Health website at: (click here for the Mental Hygiene Services Rates).	

Appendix B:

HCBS Settings Rule Training and Outreach 1/20/15-6/9/16

Date	Audience	Training and Outreach
1/20/15	NYSACRA Provider Association Members	Presidents and Executives Meeting—HCBS Settings Transition Plan Updates and Moving Forward
2/4/15	Various Stakeholders including people supported, family members, etc.	Mid-Hudson region (Fishkill): HCBS Settings updates
2/11/15	OPWDD DQI staff	HCBS Steering Committee Meeting
2/23/15	Provider Association	DQI Statewide Staff Meeting, HCBS Settings Information
2/28/15	NYSARC Presidents and Executives	HCBS and Transition Plan update
3/9/15	Willowbrook CAB	
3/11/15	Stakeholders	WB Service Coordination Subcommittee Presentation on HCBS Settings Revised Transition Plan
3/13/15	OPWDD Training	Heightened Scrutiny Subgroup Meeting
3/11/15	OPWDD Training	Waiver 101 Training including HCBS Settings Rules
3/16/15	Provider Association	MSC Supervisor's Training with segment on HCBS Settings Rules
3/11/15	OPWDD Training	HCBS and Transition Plan updates and information
3/25/15	OPWDD Leadership	Family Support Services Statewide Meeting
2/23/15	Stakeholders	HCBS Settings--OPWDD Leadership Forum
2/24/15	Stakeholders	Public Webinar session 1 on Revised Transition Plan
3/10/15	Stakeholders	Public Webinar session 2 on Revised Transition Plan
3/30/15	Stakeholders	Public Webinar session 3 on Revised Transition Plan
4/8/15	OPWDD staff training	Day Services HCBS Settings Stakeholder Work Group Meeting
4/14/15	Stakeholders	NYC OPWDD DQI Bureau of Program Certification BPC Staff Training on HCBS Settings Assessment

Date	Audience	Training and Outreach
4/16/15	United Cerebral Palsy Assoc. (UCP) providers	Heightened Scrutiny Subgroup Meeting
4/27/15	OPWDD staff	HCBS Settings Information and Updates, Heightened Scrutiny process
4/29/15	OPWDD staff	HCBS Settings – OPWDD Leadership Forum
5/1/15	DDAWNY providers	Person Centered Planning federal regulations implementation
5/6/15	Stakeholders	HCBS Settings Transition Plan, OPWDD HCBS Settings Assessment, etc.
5/7/15	Providers and others	Heightened Scrutiny Subgroup meeting
5/8/15	Stakeholders	DQI provider training—with HCBS settings segments
5/15/15	OPWDD staff	Integrated Day Settings Employment Conference—with HCBS settings segments
5/18/15	OPWDD state operated service delivery staff	HCBS Leadership Forum
5/26/15	Stakeholders	Service Delivery Director's - VIDEO CONFERENCE with HCBS Settings Information presented
5/27/15	Stakeholders	Heightened Scrutiny Subgroup Meeting
6/16/15	OPWDD staff	HCBS Settings Stakeholder Steering Committee Meeting
6/17/15	Developmental Disability Advisory Council (DDAC)	DQI Statewide "In Person" Staff Meeting with HCBS settings information presented
6/19/15	NYSARC Exec Directors meeting—Providers	Presentation/update on HCBS Settings
6/22/15	Stakeholders	Exec. Director's Mtg at Gideon Putnam Hotel: HCBS Panel Presentation
6/25/15	COMPASS providers	HCBS Day Services Stakeholder Workgroup
6/29/15	NYSACRA providers (Long Island)	HCBS Settings and Heightened Scrutiny
6/30/15	Stakeholders	Overview of HCBS Settings Transition Plan activities
7/17/15	Stakeholders	HCBS Day Services Stakeholder Workgroup
7/20/15	OPWDD staff	Heightened Scrutiny Subgroup Mtg (topic: recent Q&A doc posted by CMS on HS)
7/21/15	OPWDD staff	Service Delivery Director's Meeting - HCBS Setting Standards - Regional Office
7/23/15	Providers	Leadership Agenda: HCBS Settings update and discussion

Date	Audience	Training and Outreach
8/4/15	United Cerebral Palsy Association (UCP) providers	Sunmount Provider Meeting—HCBS settings information and update
8/14/15	OPWDD staff	Quality Assurance Meeting of UCF Providers—HCBS Settings Transition Plan Updates, Heightened Scrutiny, OPWDD HCBS Assessment, etc.
8/21/15	OPWDD Deputy Commissioners	HCBS Settings Leadership Forum
8/25/15	NYSACRA Provider Association Quality Committee	HCBS Settings Strategies Meeting –Deputy Commissioners
8/26/15	Stakeholders	Presentation at NYSACRA Office for Quality Committee—HCBS Settings segments
9/15/15	OPWDD staff	Day settings/Non-residential HCBS Work Group
9/18/15	OPWDD Deputy Commissioners	DQI Statewide "In Person" Staff Meeting—HCBS Settings Info
9/21/15	OPWDD State Operations	HCBS Settings Strategies Meeting
9/23/15	Pathfinder Village provider agency and board members	Service Delivery Director's Meeting—HCBS Settings updates and discussion
9/29/15	Stakeholders	Presentation at Pathfinder Village on HCBS Settings and Heightened Scrutiny
10/2/15	OPWDD Deputy Commissioners	Transformation Panel: public forum for stakeholders in Albany
10/14/15	Providers	DQI Provider Training Webinar on HCBS Settings Standards and Heightened Scrutiny Review
10-14-15	Providers	Webinar on HCBS Settings, PCP requirements, Heightened Scrutiny
10-15-15	Medicaid Service Coordinators	CQL POMs and HCBS Settings Rules
10-22-15	Central NY Providers	HCBS Settings Rules, PCP, Heightened Scrutiny
10-26-15	UCP Conference Presentation	Quality Improvement and HCBS Settings Rules
10-27-15	UCP Conference Presentation	HCBS Settings Transition Plan and Rules and Q and A session
11-5-15	Public Invited	Complex Needs Symposium
11-16-15	NYS Day Habilitation Provider Symposium	HCBS Settings Transition Plan and Rules
11-18-15	COMPASS Providers	HCBS Settings and Heightened Scrutiny Requirements
12-6-15	New York State Association of Day Service Providers Conference Presentation	Day Habilitation and HCBS Settings Standards

Date	Audience	Training and Outreach
12-18-16	Heightened Scrutiny Work Group Stakeholders	Heightened Scrutiny Evidence Package discussion with stakeholders for recommendations
1-11-16	State Operations and Regional Office HCBS Settings Liaisons kick-off meeting	HCBS Settings Requirements
1-25-16	Provider Associations	HCBS settings plan status and implementation
1-25-16	OPWDD leadership, DDSO Directors and Deputies, Regional Office Directors and Deputies, OPWDD HCBS settings regional liaisons	HCBS settings plan status and implementation, etc.
2-25-16	Region 1 Provider Agencies in Binghamton and Regional Office staff	HCBS Settings implementation
3-17-16	Region 1 providers Finger Lakes	HCBS Settings implementation Videoconference
3-21-16	Provider Associations	HCBS Settings Overview
4-5-16	Technical Assistance to agency	HCBS Settings requirements
4-6-16	Commissioner's Developmental Disabilities Advisory Council (DDAC)	HCBS settings requirements—how to implement meaningfully for people with severe challenges and complex medical needs in a waiver environment—discussion
4-20-16	NYSACRA Conference (providers and other stakeholders)	NYSACRA Conference session on HCBS Waiver Updates and HCBS Settings
5-13-16	Parent to Parent (parents of people with I/DD)	Parent to Parent Board Meeting—Discussion on HCBS Settings requirements and what it means for parents and legal guardians.
6/8/16	Family Support Services Committee Meeting Presentation for Parents and Legal Guardians	HCBS Settings Overview and Heightened Scrutiny

Council on Quality and Leadership Personal Outcome Measures (POMS) Training for OPWDD Staff

The following is the POMs workshops that have been held to date. As of October 2015, 291 OPWDD staff have been trained in CQL POMs and more workshops are planned in 2016-2017:

POMs Work Shops for OPWDD DQI Staff	Dates	Locations	Audience
DQI Workshop 1	November 18-21, 2014	500 Balltown Rd., Schenectady	10 DQI staff, 2 state operations
DQI Workshop 2	January 13-16, 2015	NYC, 25 Beaver St., NY, NY 10004	12 DQI
State Ops Workshop 1	January 20-23, 2015	Metro-Manhattan	4 state ops staff
State Ops Workshop 2	February 10-13, 2015	Staten Island, NY	5 state ops staff
State Ops Workshop 3	February 17-20, 2015	Taconic-Poughkeepsie	7 state ops staff
State Ops Workshop 4	February 23-26, 2015	Long Island Regional Office 415A Oser Avenue Hauppauge Long Island Family Support Services Conf. Room Hauppauge, NY 11788	7 state ops staff
State Ops Workshop 5	February 24-27, 2015	Metro- Bronx 2400 Halsey St Large Conference Rm140 Bronx, NY 10461	7 state ops staff
State Ops Workshop 6	March 3-6, 2015	Metro-Bernard Fineson Queens 80-45 Winchester Blvd Queens Village, NY 11427 Video Conference Room 2 (Large Conf. Rm) Building 80-00	7 state ops staff
State Ops Workshop 7	March 10-13, 2015	Hudson Valley/TAC Westchester, sixth floor, conference room A	7 state ops staff
DQI Workshop 3	March 10-13, 2015	703 East Maple Ave., Newark, 14513	12 DQI
State Ops Workshop 8	March 16-19, 2015	Broome-Binghamton Broome Developmental Center	6 state ops staff

		249 Glenwood Road, classroom #3 Binghamton, NY 13905	
State Ops Workshop 9	March 23-26, 2015	CNY-Syracuse 187 Northern Concourse, North Syracuse NY 13212	3 state ops staff
State Ops Workshop 10	March 30-April 2, 2015	Sunmount/Wilton 3 Care Lane Saratoga, NY 12866	7 state ops staff
State Ops Workshop 11	April 13-16, 2015	Finger Lakes-Rochester Monroe Campus 620 Westfall Road Rochester, NY	8 state ops staff
State Ops Workshop 12	April 14-17, 2015	Metro-Queens/BKLYN Bernard Fineson Queens 80-45 Winchester Blvd Queens Village, NY 11427	7 state ops staff
State Ops Workshop 13	April 21-24, 2015	Broome/CNY-Rome/Utica 8163 Gore Rd, Rome, NY 13440	8 state ops staff
State Ops Workshop 14	April 27-30, 2015	Western New York- Perrysburg Western NY DDS 11754 Main Street Perrysburg, NY 14129	8 state ops staff
DQI Workshop 4	April 28-May 1, 2015	500 Balltown Rd., Schenectady, 12304	12 DQI
State Ops Workshop 15	May 12-15, 2015	Western NY-West Seneca 1200 East and West Road West Seneca, NY 14224	7 state ops staff
State Ops Workshop 16	May 18-21, 2015	Sunmount-Tupper Lake 2445 State Rte. 30 Tupper Lake, NY 12986	6 state ops staff

State Ops Workshop 17	June 1-4, 2015	Brooklyn DDSO 888 Fountain Avenue Brooklyn, NY 12208	6 state ops staff
State Ops Workshop 18	June 2-5, 2015	Hudson Valley Theills, 5 Wilbur Road, Rm 2	6 state ops staff
State Ops Workshop 19	June 9-12, 2015	Finger Lakes-Newark Talent Development and Training WAYNE FINGER LAKES BOCES EISENHOWER BUILDING, ACK LOVELESS ROOM (ED102) 131 DRUMLIN COURT NEWARK, NY 14513	8 state ops staff
State Ops Workshop 20	June 15-18, 2015	Western NY/Finger Lakes-Batavia 2a Richmond Avenue Batavia NY 14020	9 state ops staff
State Ops Workshop 21	June 22-25, 2015	Cap District Alb/Schen 500 Balltown Road, Schenectady, NY BLDG 3 RM #2	6 state ops staff
DQI Workshop 5	July 14-17, 2015	NYC, 25 Beaver St.	10 DQI
DQI Workshop 6	July 21-24, 2015	703 East Maple Ave., Newark, 14513	10 DQI
DQI Workshop 7	August 11-14, 2015	500 Balltown Rd., Schenectady	11 DQI
DQI Workshop 8	October 20-23, 2015	703 East Maple Ave., Newark, 14513	10 DQI
DQI Workshop 9	October 20-23, 2015	NYC, Bernard Fineson Bld 80, RM 1005, con. rm A	12 DQI
DQI Workshop 10	October 27-30, 2015	Schenectady, BPC office Bld 12	12 DQI
DQI Workshop 11	November 17-20, 2015	NYC, RM 364, 25 Beaver St.	11 DQI
DQI Workshop 12	December 8-11, 2015	500 Balltown Rd., Schenectady	10 DQI staff
Other CQL Training			
CQL Training on HCBS Settings	May 2-3, 2016	Syracuse	14 State Staff

POM's Overview by CQL	May 4-5	Syracuse	100 State Staff

Faith Based Initiative

Staff training and Community Education/Awareness

Date	Event	Target audience
December 1, 2015	Conference: Increasing Faith Inclusion Using Cultural Competency and Person Centered Planning	Individuals, family members, OPWDD and voluntary agencies executive and administrative staff
December 3, 2015	Conference: Increasing Faith Inclusion Using Cultural Competency and Person Centered Planning	Individuals, family members, MSC. Community Clergy, OPWDD and voluntary agencies executive and administrative staff
February 11, 2015	Spiritual Indicator Training (Sinergia)	Agency staff, and family members
January 7, 2015	Spiritual Indicator Training (Spanish Action League)	Agency staff
September 2014	Upstate Latino Summit-workshop booth	Agency, professional
	Spanish action League	
October 2014 ad 2015	Pastoral Breakfast-Faith Community inclusion	Syracuse area clergy
December 18, 2014	Spiritual indicator training (Hispanic Counseling Center)	Agency staff
December 18, 2014	Spiritual Indicator Training/All are Welcome (East End	Individuals, family members Agency staff and community clergy
October 2014	Spiritual Indicator training (Ibero)	Agency staff
October 22, 2014	Sinergia faith Community workshop	Agency staff
May 18, 2014	Webinar: Cultural Competence: Fostering Faith Connections	OPWDD Staff
October 3, 2013	Faith Community Inclusion Dinner presentation (LIDDSO	Individuals, family, MSC, local congregants
October 15, 2013	Faith Community Inclusion Workshop (Ohel Bais Ezra)	Individuals, family, project staff
September 26, 2013	Faith Community Inclusion Workshop Home Inc.	Individuals, family, project staff local clergy
September 13, 2013	Spiritual Inclusion Training (3 hr. course for credit) Capital District	OPWDD and Voluntary agency MSC's

November 6, 2013	Spiritual Inclusion Training (3 hr. course for credit)	OPWDD and Voluntary agency MSC's
October 23, 2013	Spiritual Inclusion Training (3 hr. course for credit)	OPWDD and Voluntary agency MSC's
June 26, 2013	Spiritual Inclusion Training (3 hr. course for credit) MSC's	OPWDD and Voluntary agency MSC's
March 17, 2014	State wide webinar Spiritual Inclusion Training (3 hr. course for credit) MSC's	OPWDD and Voluntary agency MSC's
September 12, 2013	State wide Faith community Inclusion	Individuals, family, State voluntary agency staff (nurses, day hab)staff, MSC, Clergy
May 29th 2013	Spiritual Inclusion Training (4 hr. course for credit) MSC's Taconic	OPWDD and Voluntary agency MSC's
July 28, 2011	All Are Welcome Seminar (Kingston area	OPWDD, Ulster Green local community and clergy
December 7, 2011	All are welcome seminar (Jewish Family Services) Syracuse	Community organization, individuals, family members
June 10, 2013	the Queens Family Supports and Services (FSS)-Faith Community Awareness	Individuals, Family Members
October 22-23, 2013	Faith, Hope and Inclusion: Believing Together" with Reverend William Gaventa from the Boggs Center of Developmental Disabilities as the Keynote speaker (including Twitter, face book and live blogging) hosted by Heritage Christian Services in Rochester and Buffalo	Individuals. Families, clergy
On-line study course	Engaging Individuals With Intellectual and Developmental Disabilities In a Faith Community of Their Choice	OPWDD staff (will be open to voluntary staff as soon as SMLS is available to external users

Transformation Panel Meeting Schedule

For All Meetings: Time: 11:00 AM to 2:00 PM

Location: 44 Holland Ave., Albany, Room 4B

Date	**Topic**
Tuesday, March 10	Self-Direction
Wednesday, March 25	Employment
Tuesday, April 7	Residential
Thursday, April 23	Managed Care
Tuesday, May 5	Managed Care
Thursday, May 21	Long-Term Sustainability
Tuesday, June 2	Long-Term Sustainability

APPENDIX C: (see separate excel attachment “OPWDD Systemic Compliance Chart”)

Appendix D: OPWDD Regulatory Changes Summary and Timeline

HCBS Settings Residential Regulations

Target Effective Date

- Adopt regulations allowing for enforcement of HCBS requirements for residential development effective October 1, 2018 — OCT 2018
- Adopt regulations allowing for assessment of Family Care Homes and enforcement of HCBS requirements — OCT 2018
- Amending ICF regulations to reflect a prohibition on further development; conversion compliance by 2018 — JAN 2017

HCBS Settings Non-Residential Regulations

- Adopt Regulations allowing for enforcement of HCBS requirements in day settings — OCT 2018

Person Centered Planning Regulations

- Amend and adopt PCP Regulations as indicated in Transition Plan cross-walk [15] (new Part 636) — OCT 2018
- Develop Interpretive Guidance for PCP Regulations — MAY 2016
- Adopt Regulations Supportive Decision-Making and Individual Rep. — OCT 2018
- Adopt Conflict of Interest Regulations — TBD
- Repeal Part 635-Case Management — OCT 2016

HCBS Waiver Services Regulations

- Update the "Key" — OCT 2018
- Certification of HCBS waiver services (including part 70 repeal) — JAN 2017

Compliance Preparation Correspondence

Develop guidance for day services/settings to meet HCBS requirements — OCT 2016

- Develop internal guidance for Regional Offices containing process for new residential development — OCT 2017
- Develop internal vacancy management guidance for Regional Offices — OCT 2017
- Guidance for Family Care Homes — OCT 2016
- Occupancy Agreement Template Project — JUNE 2016
- Update Family Care Manual — OCT 2018

[15] In addition to crosswalk items, regulation should address: rights and rights modification requirements; video camera surveillance; technology policy development

OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
All Settings:							
1. Fully integrated into the broader community to the same drgree of access as individuals not receiving Medicaid HCBS				x	No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	
-- opportunities to seek employment/ work in				x			
-- engage in community life				x	Click here to link to 633.4 Rights and Responsibilities of persons receiving services.	Click here to link to 635-10.2 Intent	
-- control personal resources				x	Click here to link to 633.15 Management of Personal Funds	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services	
-- receive services in the community				x	Click here to link to ADM #2015-01 Regulations and Guidance		
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting				x	Note: No OPWDD HCBS Settings regulations expected until 10/2018		
--the options are identified and documented in the person-centered service plan				x	lick here to link to Person- Centered Planning - Text		
--the options are based on the individual's needs, preference, and for residential settings, resources available for room and board				x	Click here to link to Person-Centered Planning - Text	Click here to link to Medicaid Service Coordination Vendor Manual	
3. Ensure an individual's rights of privacy.				x	Click here to link to Person-Centered Planning - Text	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services	
Ensure an individual's rights of dignity and respect.				x	Click here to link to Person-Centered Planning - Text	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services	
Ensure an individual's rights of freedom from coercion and restraint				x	Click here to link to Person-Centered Planning - Text	Click here to link to 633.16 Person-centered Behavioral Intervention	
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.				x	Click here to link to Person-Centered Planning - Text	Click here to link to Medicaid Service Coordination Vendor Manual	
5. Facilitate individual choice regarding services and supports, and who provides them.				x	Click here to link to Person-Centered Planning - Text	Click here to link to ADM# 2010-04 Program Standards for ISP	Click here to link to ADM #2012-06 Plan of Care Support Services & Doc requirements for Billing
Provider Owned or Controlled Settings:							
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.		x			Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	
7. Each individual has privacy in their sleeping or living unit		x			Note: No OPWDD HCBS Settings regulations expected until 10/2018		
-- units have entrance doors lockable by the individual with only appropriate staff having keys.		x			Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	
-- individuals sharing units have a choice of roomates in that setting		x			Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	
-- Individuals have the freedom to furnish and decorate their sleeping or living units withinn the lease or other agreement.				x	Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	
--control their own schedules and activities;				x	Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	
--have access to food at any time.		x			Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services

OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
9. Individuals are able to have visitors of their choosing at anytime		x			Note: No OPWDD HCBS Settings regulations expected until 10/2018	Click here to link to Person-Centered Planning - Text	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services
10. The setting is physically accessible to the individual				x	Click here to link to 635-7.3 Safety and Welfare Requirements for all Facilities		
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**		
11. Are any settings in facilities that also provide					to be determined		
inpatient institutional services?							
12. Are any settings in facilities on the grounds of,							
or immediately adjacent to a public institution?							
13. Do any of the settings serve to isolate individuals in							
receipt of Medicaid-funded HCBS from the broader							
community?							

OPWDD HCBS 1915 (c) Waiver -- Day Settings

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations	
	Non-Compliant	Partially Compliant	Silent	Compliant				
All Settings:								
1. Fully integrated into the broader community to the same degree of access as individuals not receiving medicaid HCBS.				x	Note: No OPWDD HCBS Settings regulations expected until 10/2016	Click here to link to Person-Centered Planning - Text		
-- opportunities to seek employment/ work in				x	Click here to link to ADM 2015-08 Regs and Guidance	Click here to link to ADM 2015-07 Regs and Guidance	Click here to link to 635-10.4 Allowable Services	
-- engage in community life				x	Click here to link to 633.4 Rights & Responsibilities of Persons Receiving Services	Click here to link to 635-10.2 Intent		
-- control personal resources				x	Click here to link to 633.15			
-- receive services in the community				x	Click here to link to ADM 2015-01 Regs and Guidance			
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.				x	Note: No OPWDD HCBS Settings regulations expected until 10/2016			
--the options are identified and documented in the person-centered service plan				x	Click here to link to Person-Centered Planning - Text			
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.				x	Click here to link to Person-Centered Planning - Text	Click here to link to Medicaid Service Coordination Vendor Manual		
3. Ensure an individual's rights of privacy.				x	Click here to link to Person-Centered Planning - Text	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services		
Ensure an individual's rights of dignity and respect.				x	Click here to link to Person-Centered Planning - Text	Click here to link to 633.4 Rights and Responsibilities of Persons Receiving Services		
Ensure an individual's rights of freedom from coercion and restraint				x	Click here to link to Person-Centered Planning - Text	Click here to link to 633.16 Person-centered Behavioral Intervention		
4. Optimize and doesn't regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.				x	Click here to link to Person-Centered Planning - Text	Click here to link to Medicaid Service Coordination Vendor Manual		
5. Facilitate individual choice regarding services and supports, and who provides them.				x	Click here to link to Person-Centered Planning - Text	Click here to link to Medicaid Service Coordination Vendor Manual	Click here to link to ADM 2010-04 Program Standards: Individualized Service Plan Format	Click here to link to ADM 2012-06 Plan of Care Support Services & Requirements for Billing
Provider Owned or Controlled Settings:								

OPWDD HCBS 1915 (c) Waiver -- Day Settings

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services. The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tennant law or equivalent.				N/A	N/A		
7. Each individual has privacy in their sleeping or living unit.				N/A	N/A		
-- units have entrance doors lockable by the individualwith only appropriate staff having keys				N/A			
-- individuals sharing units have a choice of roomates in that setting				N/A			
decorate their sleeping or living units within the lease or other agreement				N/A			
8. Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.				x	Click here to link to Person-Centered Planning - Text	Click here to link to Person-Centered Planning - Text	
9. Individuals are able to have visitors of their choosing at anytime				N/A	N/A		
10. The setting is physically accessible to the individual.				x	Click here to link to 635-7.3 Safety & Welfare Requirements for all Facilities		
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If**		
11. Are any settings in facilities that also provide					to be determined		
inpatient institutional services?							
12. Are any settings in facilities on the grounds of,							
or immediately adjacent to a public institution?							
13. Do any of the settings serve to isolate individuals in							
receipt of Medicaid-funded HCBS from the broader							
community?							

NEW YORK STATE OFFICE OF MENTAL HEALTH (OMH) HCBS SETTINGS TRANSITION

I. OVERVIEW OF OMH'S SERVICE SYSTEM

New York State has a large, multi-faceted mental health system that serves more than 700,000 individuals each year. The Office of Mental Health (OMH) operates psychiatric centers across the State, and also regulates, certifies and oversees more than 4,500 programs, which are operated by local governments and nonprofit agencies. These programs include various inpatient and outpatient programs, emergency, community support, residential and family care programs. These community based resources have created a safety net which has helped the mental health system to evolve from a primarily hospital focused system to one of community support. The emergence of the peer recovery and empowerment movement in the 1990s has stimulated the shift in focus from support to recovery.

The legal system's expansion of civil rights to include people with mental illness, as part of Olmstead Legislation and Americans with Disabilities Act, has begun to move policy from the concept of least restrictive setting to full community inclusion. However, New York currently exceeds both the national average inpatient utilization rate at state-operated Psychiatric Centers (PCs), and per capita inpatient census levels at state-operated PCs in other urban states and all Mid-Atlantic States.

New York's extensive State PC inpatient capacity includes 24 facilities with nearly 4,000 budgeted beds. Among these are a number of hospitals operating with fewer than 100 beds. This situation had led to disproportionately high State-operated inpatient per capita costs as more individuals with mental illness are supported successfully with community- based mental health services, while the inpatient footprint has remained disproportionately large. The evidence of this imbalance is clear: while New York's State-operated inpatient facilities serve approximately 1% of the total number of people served in the public mental health system, they account for 20% of gross annual system expenditures. With the inclusion of other acute inpatient facilities (Article 28 or 31 psychiatric hospitals), inpatient psychiatric costs amount to approximately half of the total spending on public mental health services.

The OMH is in the process of creating the mental health system that New York needs in the 21st Century—a system focused on prevention, early identification and intervention, and evidence-based clinical services and recovery supports. OMH is rebalancing the agency's institutional resources to further develop and enhance community-based mental health services which are also consistent with the Americans with Disabilities Act (ADA). The US Supreme Court's 1999 Olmstead decision held that the ADA mandates that the State's services, programs, and activities for people with disabilities must be administered in the most integrated setting appropriate to a person's needs.

The New York State Office of Mental Health (OMH) has prepared an annual report to provide timely information on the progress of OMH's investments in community mental health services. This report describes the progress and effectiveness of investments in community mental health services in reducing the need for inpatient services and hospital lengths of stay, and the improvement of service effectiveness for children, adolescents and adults. The results so far

from these community investments have continued to have significant positive impacts. The average daily inpatient census has declined by 5.7% during calendar year 2015 in OMH civil adult and children's Psychiatric Centers. Meanwhile, the OMH community service expansion has increased the number of people served in State-operated community settings in 2015 by 18% compared to the same period four years ago (prior to the OMH Transformation Plan and State-operated outpatient reforms).Most importantly, hundreds of children and adults are now receiving quality and effective care in the community, and no longer have to be separated from families and friends in a Psychiatric Center to help recover from mental illness. The OMH Transformation Plan website can be accessed by clicking here: OMH Transformation Plan.

In addition, at the State level, the upcoming carve-in of most Medicaid beneficiaries into managed care, the Delivery System Reform Incentive Payment (DSRIP) program, and the Prevention Agenda 2013-18 are timely and direct drivers of reform to the State and community-based systems of care. Together these initiatives will further coordinate care across clinical modalities and levels of government by developing an integrated, recovery-centered service delivery system designed to improve patient care and population health—the means to achieve the "Triple Aim" of better care, better health and better lives for those whom we serve — at lower costs.

Part of OMH's systems transformation is the development of Health and Recovery Plans (HARPs) which is intended to promote significant improvements in the Behavioral Health System as we move into a recovery- based Managed Care delivery model. A recovery model of care emphasizes and supports a person's potential for recovery by optimizing quality of life and reducing symptoms of mental illness and substance use disorders through empowerment, choice, treatment, educational, employment, housing, and health and well-being goals. Recovery is generally seen in this approach as a personal journey rather than a set outcome, and one that may involve developing hope, a secure base and sense of self, supportive relationships, self-direction, social inclusion, and coping skills.

The Behavioral Health Home and Community Based Services (BH HCBS) will provide opportunities for adult Medicaid beneficiaries with mental illness and/or substance use disorders to receive services in their own home or community. Implementation of BH HCBS will help to create an environment where managed care plans, service providers, plan members, families, and government partner to help members prevent and manage chronic health conditions and recover from serious mental illness and substance use disorders. The partnership will be based on these core principles:

Person-Centered Care: Services should reflect an individual's goals and emphasize shared decision-making approaches that empower members, provide choice, and minimize stigma. Services should be designed to optimally treat illness and emphasize wellness and attention to the persons overall well- being and full community inclusion.

Recovery-Oriented: Services should be provided based on the principle that all individuals have the capacity to recover from mental illness and/or substance use disorders. Specifically, services should support the acquisition of living, employment, and social skills and be offered in home and community-based settings that promote hope and encourage each person to establish an individual path towards recovery.

Integrated: Services should address both physical and behavioral health needs of individuals. Care coordination activities should be the foundation for care plans, along with efforts to foster individual responsibility for health awareness.

Data-Driven: Providers should use data to define outcomes, monitor performance, and promote health and well-being. Performance metrics should reflect a broad range of health and recovery indicators beyond those related to acute care.

Evidence-Based: Services should utilize evidence-based practices where appropriate and provide or enable continuing education activities to promote uptake of these practices.

Trauma-Informed: Trauma-informed services are based on an understanding of the vulnerabilities or triggers experienced by trauma survivors that may be exacerbated through traditional service delivery approaches so that these services and programs can be more supportive and avoid re-traumatization. All programs should engage all individuals with the assumption that trauma has occurred within their lives. (SAMHSA, 2014)

Peer-Supported: Peers will play an integral role in the delivery of services and the promotion of recovery principles.

Culturally Competent: Culturally competent services that contain a wide range of expertise in treating and assisting people with Serious Mental Illness (SMI) and Substance Use Disorder (SUD) in a manner responsive to cultural diversity.

Flexible and Mobile: Services should adapt to the specific and changing needs of each individual, using off-site community service delivery approaches along with therapeutic methods and recovery approaches which best suit each individual's needs. BH HCBS, where indicated, may be provided in home or off-site, including appropriate community settings such as where an individual works, attends school or socializes.

Inclusive of Social Network: The individual, and when appropriate, family members and other key members of the individual's social network are always invited to initial meetings, or any necessary meetings thereafter to mobilize support.

Coordination and Collaboration: These characteristics should guide all aspects of treatment and rehabilitation to support effective partnerships among the individual, family and other key natural supports and service providers.

The past 30 years have seen a transformation of the public behavioral health system. The State-operated adult psychiatric hospital census has declined from over 20,000 to under 2,900. Access to outpatient treatment, community supports, rehabilitation, and inpatient psychiatric services at general hospitals have expanded. The shear breadth and scope of our service system includes more than 38,000 units of state supported community housing for people living with mental illness, including approximately 10,000 certified / licensed residential settings.

The following information provides more detail on the scope of OMH's service system and demonstrates the challenges in achieving system transformation and full compliance with the HCBS settings rule by March 2019.

OMH HOUSING / ADULT PROGRAMS

OMH provides development, capital and operating funding to not-for-profit sponsors in order to create opportunities for adults with serious mental illness, and children with serious emotional

disturbances, to access a range of affordable housing and related services. OMH also develops its own State-operated housing, both on State psychiatric center grounds and in the community.

The types of housing programs that OMH funds are as follows:

TREATMENT PROGRAMS**:**
OMH's residential treatment programs are the successors to the community residence programs that were introduced in 1978, primarily as a means of enabling residents of State-operated Psychiatric Centers to transition to community living. These programs are licensed by OMH under Part 595 of the New York Codes, Rules and Regulations, and focus on services to address specific functional and behavioral deficits that prevent residents from functioning independently in the community. Services are goal oriented and designed to be of limited duration. The types of housing that OMH provides funding to operate include the following:

- **Congregate Treatment:** These programs are operated by either not-for-profit organizations or NY State and are often referred to as "group homes." These are congregate living arrangements, for either adults or children, where staff are on-site 24 hours per day. Programs range in size from 4to 48 units. Programs of up to 16 units are eligible for Medicaid reimbursement under the Federal Rehabilitation Option. **OMH currently has 351 Congregate Treatment sites that serve 5,180 individuals.**
- **Apartment Treatment**: These programs are for adults and are apartment-based. Resident/staff contacts occur on a flexible schedule, as appropriate to the needs of the resident. **OMH currently has 2,795 Apartment Treatment sites that serve 4,783 individuals.**
- **Community Residence/Single Room Occupancy (CR/SRO):** This program model was introduced in 1990 under the first "New York/New York Agreement." The CR/SRO living units are usually designed as studio apartment, or as suites with single bedrooms around shared living spaces. **OMH currently has 67 CR/SRO sites that serve 3,271 individuals.**

SUPPORTIVE HOUSING**:**
Supported Housing is unlicensed housing in which residents receive assistance with rent and housing-related support services, and in accessing the mental health treatment supports necessary to live successfully in the community. Services are provided on a flexible, as-needed basis. Such housing is usually located in mainstream "generic" apartments in the community, but may be in single-site buildings where program design or the cost of single apartments in the area renders such arrangements appropriate. This housing modality was introduced in 1989. Supported Housing programs are governed by OMH's Supported Housing Implementation Guidelines. There are two types of Supported Housing programs:

- **Scattered Site Supportive / Supported Housing (SH):** SH that is usually provided in apartments "scattered" over a given area, although there are some single-site apartment programs particularly in urban areas where it is fiscally advantageous to operate such housing. **OMH currently provides funding for 19,201 individuals.**
- **Congregate Supportive /Supported/Single Room Occupancy (SP/SRO):** SP/SRO programs are Supported Housing programs that receive an enhanced level of funding to operate large efficiency apartment programs where staff is on-site 24 hours per day for front desk security. **OMH currently has 140 SP/SRO sites that serve 5,402 individuals.**

FAMILY CARE**:**

Family Care homes provide 24- hour residential services in family settings that carefully match resident needs and provider skills in order to offer individually tailored supervision. OMH issues an operating certificate to qualified individuals in the community who agree to offer specified residential services in their own homes to an average of three persons diagnosed with mental illness. **OMH currently has 448 Family Care sites that serve 1,639 individuals.**

II. INTRODUCTION TO THE OMH TRANSITION

The New York State Office of Mental Health will be initiating preliminary steps to comply with the Center for Medicaid and Medicare Services (CMS) Home and Community Based Services (HCBS) Federal Settings Rule. (42 CFR 441.301, et. seq). Under the new rule, States are required to develop a five year transition plan for existing home and community-based services demonstrating how they will ensure that HCBS services existing at the time of the promulgation of the regulation will be brought into compliance with the new requirements. Because the implementation of HARP and the inclusion of HCBS services in its benefit plan for adults were subsequent to the date of the issuance of the rule, compliance with the new requirements is mandatory from the date of the inception of the program.

Accordingly, OMH is undertaking an expedited assessment of the various adult residential programs and options available to individuals with serious mental illness who would otherwise be eligible for home and community-based services, in order to determine which settings are currently compliant, and whether and how settings that are currently non-compliant can be brought into compliance, in order to enable residents of such settings to participate in HCBS.

To accomplish this, OMH adult residential providers must complete a HCBS Settings Residential Program Assessment. This assessment will allow OMH to compile baseline data that will be used to assist OMH in determining what sites are currently compliant, thus making appropriate residents immediately eligible to receive HCBS. In addition, the assessment will identify system-wide challenges and help us in developing the timelines needed to achieve full system compliance.

OMH has pre-determined the following as settings automatically non-compliant with the HCBS Settings Rule. Providers must list in their final submission all non-compliant sites, but are NOT required to complete an assessment for these sites:

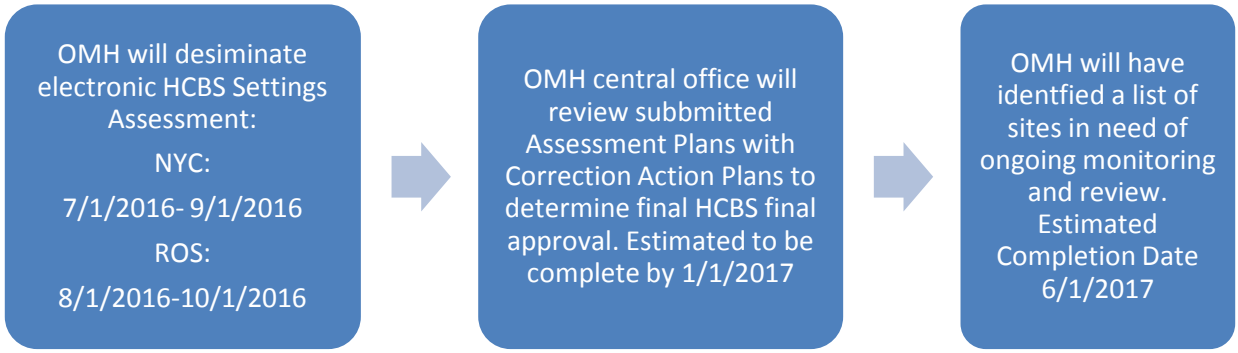
- OMH Licensed Congregate Treatment Sites (Community Residences)
- Family Care Programs
- Owned and/or operated sites located on the grounds of or adjacent to a psychiatric institution

OMH may complete a full assessment and review of these settings at a future date. Based upon the standards set forth by the federal settings regulation, OMH has pre-determined that the following OMH funded settings are in need of further review for compliance and must complete a HCBS Settings Residential Program Assessment for each housing site:

- Apartment Treatment Programs
- Community Residence Single Room Occupancy Programs (CR-SRO)
- Supportive Single Residence Occupancy Programs (SP-SRO)
- Supportive Scattered-Site Housing, formerly known as Supported Housing

Please note: Supportive scattered-site housing is NOT required to complete an assessment for each site. One assessment can be completed to represent the entire housing program. Once the program assessment and compliance plan have been submitted to OMH, the provider will receive notification from OMH within 60 days of submission whether the site has been determined to be compliant or non-compliant, or if additional information is necessary. Extensions may be allowed under specific circumstances approved by OMH.

ESTIMATED TIMELINE:



UPCOMING TRAININGS & OMH STATE OFFICE CONTACT INFORMATION:
A series of trainings have been made available through the Managed Care Technical Assistance Center and the OMH Website regarding the HCBS Settings Rule and to assist providers in completing the assessment. Trainings will target agency executives and residential program directors and be provided in summer 2016.

Additional trainings will be scheduled in early fall 2016. In addition, OMH has set up an email mailbox which is specifically designated to questions and concerns regarding HCBS Settings compliance and integration. The email address is hcbs-residential@omh.ny.gov.

III. OMH SYSTEM REVIEW

OMH is undertaking an expedited assessment of the various adult residential programs and options available to individuals with serious mental illness who would otherwise be eligible for home and community-based services, in order to determine which settings are currently compliant, and whether and how settings that are currently non-compliant can be brought into compliance, in order to enable residents of such settings to participate in HCBS.

This section details how NYS OMH will assess the main areas of focus for the Transition Plan including: a description of the various stakeholder groups that participated and have engaged with us in systems transformation; the review of regulations and policies; assessment of residential settings through site specific review and collection of systemic data.

STAKEHOLDERS PARTICIPATING IN HCBS SETTINGS ASSESSMENT:

OMH has a long history of engaging stakeholders at every level to promote transparency and open communication--the work around the HCBS Settings Transition Plan is no exception. While there are many teams, committees, and workgroups that function around OMH initiatives at any given time, the following are the major stakeholder groups that have or will have the most direct impact on OMH's HCBS Settings Transition Plan: OMH HCBS Settings Final Rule state agency workgroup;

1. OMH HCBS Settings Final Rule state agency workgroup;
2. NYS Advocacy Associations

HCBS SETTINGS SPECIFIC WORKGROUPS:

The following **HCBS Settings Stakeholder Workgroups** have been instrumental in the development of OMH's Transition Plan to date and continue to participate in ongoing activities related to HCBS settings assessment and remediation efforts:

a. **HCBS Settings Stakeholder Steering Committee**: This group was formed in 2014 before promulgation of the final HCBS rules. The workgroup is comprised of OMH executive leadership, managed care, housing, and policy and planning staff. Its main purpose is to advise and guide OMH's transition planning efforts.

b. **NYS Advocacy Associations**: Supported Housing Network of New York (SHNNY) and the Assisted Community Living Association (ACL) have reviewed and worked with OMH in created OMH's HCBS Residential Assessment. These associations represent and advocate on behalf of the OMH residential provider community. OMH has presented information regarding implementation of the HCBS settings assessment for both SHNNY and ACL conferences.

Regulatory Systemic Assessment:

c. **Interagency Occupancy Agreement Workgroup**: OMH is in the process of working with our state agency partners through the Occupancy Agreement Work Group to develop model occupancy agreement templates and practice guidelines in this area for each type of provider operated/controlled residential setting to help the OMH field and other HCBS programs statewide comply with this component of the HCBS settings regulations.

The 595 regulation establishes the rules by which a mental health residential program must operate and defines the rights of individuals residing in these

programs. OMH is currently reviewing the 595 Regulations to ensure HCBS compliance. The following OMH settings are currently under the 14 NYCRR 595 Regulations

- Apartment Treatment Programs
- CR-SROs
- SP-SROs

Please click here to review OMH's 14 NYCRR 595 Regulations.

d. Interagency Plan of Care Health Home Initiative:

Within the BH HCBS the Health Home is the care management service model whereby all of an individual's caregivers communicate with one another so that all of a patient's needs are addressed in a comprehensive manner. This is done primarily through a "care manager" who oversees and provides access to all of the services an individual needs to assure that they receive everything necessary to stay healthy, out of the emergency room and out of the hospital. Health records are shared among providers so that services are not duplicated or neglected. Health Home services are provided through a network of organizations – providers, health plans and community-based organizations. When all the services are considered collectively they become a virtual "Health Home."

Click here for Health Home person-centered planning checklist

The above document is a checklist that lists the requirements for the person-centered planning process for BH HCBS, including that the individual is offered choice of services and providers.

The "Health Home Standards and Requirements for Health Homes, Care Management Providers and Managed Care Organizations" requires Health Homes to prepare plans of care for members receiving BH HCBS that meet the requirements in this checklist, offer choice of providers, and document choice in the plan of care. See D. 6 and also B.12 at Health Home Standards and Requirements for Health Homes, Care Management Providers and Managed Care Organizations

In addition, the State is updating a SAMPLE BH HCBS plan of care template to include these elements. The current template can be found here.

Health Home care managers are responsible for creating the person-centered plans of care for BH HCBS. MCOs are responsible for the review and approval of the plans of care, including ensuring that plans of care contain the elements in the

checklist and meet all of requirements per the "Health Home Standards and Requirements..." document.

In addition, the Medicaid Managed Care Model Contract revisions for the behavioral health transition to managed care; currently under CMS review, contain provisions requiring the MCO to ensure that a person-centered plan of care is developed. The plan of care must be consistent with the requirements set forth in the "Health Home Standards and Requirements..." document and must reflect individual preferences for services and providers. Contract language must also reflect MCO policies and procedures to monitor the implementation of the plan of care.

e. Site Review of OMH Residential Settings:

OMH is undertaking an expedited assessment of the various adult residential programs and options available to individuals with serious mental illness who would otherwise be eligible for home and community-based services. The assessment is needed in order to determine which settings are currently compliant, and whether and how settings that are currently non-compliant can be brought into compliance, in order to enable residents of such settings to participate in HCBS. The provider self-survey will assist OMH in:

- Inventory OMH's current residential settings
- Identifying specific sites for heightened scrutiny;
- Develop an accurate survey schedule for full review of heightened scrutiny; and
- Collection and verification of evidence of settings compliance

IV. ASSESSMENT METHODOLOGY

Site Review of OMH Residential Settings:

OMH has elected to first disperse a provider self -assessment for adult OMH residential providers to complete and self-assess compliance with the HCBS settings criterion. Providers will complete the assessments electronically via the OMH website. Based upon the standards set forth by the federal settings regulation, OMH has pre-determined that the following OMH funded settings are in need of further review for compliance and must complete a HCBS Settings Residential Program Assessment for each housing site:

- Apartment Treatment Programs
- Community Residence Single Room Occupancy Programs (CR-SRO)
- Supportive Single Residence Occupancy Programs (SP-SRO)
- Supportive Scattered-Site Housing, formerly known as Supported Housing

Please note: Supportive scattered-site housing is **NOT required to complete an assessment for each site.** One assessment can be completed to represent the

entire housing program. Please use the following link for more information regarding OMH's Supportive Housing Guidelines.

The program assessment will assess if the following criteria are met for each housing program site:

Category 1: Physical Characteristics of Settings

- *Criterion 1:* The Setting is NOT located on, near, or adjacent to an institutional setting.
- *Criterion 2:* The home is not isolating from the community and does not have the effect of isolating people from the community.

Category 2: Policies, Procedures, and Staff Competencies

- *Criterion 3:* Setting policies/ procedures and practices promote rights and integration.
- *Criterion 4:* Staff competencies, Training, and Interactions

Category 3: Legal/Financial Rights and Protection

- *Criterion 5:* Setting provides residents with comparable legal and financial rights as the general public

CHECKLIST FOR FINAL SUBMISSION TO OMH:

The final submission from Apartment Treatment, CR-SROs, and SP-SROs programs to OMH will include:

- HCBS Residential Settings assessment for each site
- Attestation signed by the Provider's Executive Director
- Additional supporting evidence such as maps, pictures of setting and/or other information
- List of non-compliant sites owned/operated by the provider (please include name of site and physical address)
- Corrective Action Plan if required via the electronic assessment or OMH

The final submission from Supportive Housing programs to OMH will include:

- HCBS Residential Settings assessment
- Supported Housing Attestation signed by the Provider's Executive Director
- Corrective Action Plan, if requested by OMH

When completing the assessment:

- Providers will establish a team of appropriate staff to complete the assessment.
- Providers must have their Executive Director sign and submit the attached attestation form with all their site specific assessment to OMH.
- Providers will include additional supporting evidence such as maps, pictures of the setting and/or other information that provides strong evidence the setting is a community-based setting where possible. The Guidance document will indicate when a map, picture, and/or other information are needed.

V. REMEDIATION

Settings that **do not yet meet** HCBS settings standards at the time of this review will be required to develop a Corrective Action Work Plan outlining how the setting will achieve HCBS settings compliance. Once submitting the initial assessment, providers will be automatically given a list of flagged areas of non-compliance via the electronic review tool. Using this list, providers must compose a compliance plan to demonstrate steps to resolve all flagged issues. The plan must be submitted to OMH with the final submission of the assessment. ***A Compliance Plan must include:***

- Action items detailing how the provider will come into compliance with the flagged areas of non-compliance;
- Milestones with timelines;
- Responsible parties for implementing the action items;
- Method for tracking and monitoring the plan to ensure ongoing compliance

Settings subject to the corrective action plan will be required to maintain documentation demonstrating that they compliant or overcome the presumption of isolation or intuitional characteristics. Providers must ensure that identifying details are maintained and secured on-site for purposes of validation of the template information by OMH or other auditors/reviewers. Both OMH central office and designated field offices will have copies of the site's completed assessment and corrective action plan for monitoring purposes and to make certain goals identified in the corrective action plan are being met. OMH field offices will incorporate HCBS standards into annual program and site performance reviews.

VI. ASSESSMENT RESULTS

For all OMH residential settings across New York, assessments with correction action plans, if applicable documentation of specific sites for heightened scrutiny with corrective action plans will be available once finalized.

VII. CONCLUSION

This OMH Transition Plan provides an overview of the activities and tasks currently being implemented by OMH in conjunction with state partner, advocacy association, and consumers. This transformative statewide assessment will ensure OMH residential housing systems are compliant with the HCBS settings regulations. Moving forward, OMH's transition plan and remediation activities will be incorporated and reflected in the overarching New York State Transition Plan.

SED 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					Click here to link to HCBS Guidance Document
1. Fully integrated into the broader community to the				X	
same degree of access as individuals not receiving					
Medicaid HCBS.					
-- opportunities to seek employment/ work in				X	
-- engage in community life				X	
-- control personal resources				X	
-- receive services in the community				X	
2. Selected by the individual among options					Click here to link to Waiver Application/Freedom of Choice
including non-disability specific settings and an				X	The form and its content are required by the federal government as proof that family members are voluntarily choosing the HCBS Waiver as an alternative to institutional level of care
option for a private unit in a residential setting.					
--the options are identified and documented in the				X	
person-centered service plan					
--the options are based on the individual's needs,				X	
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				X	
Ensure an individual's rights of dignity and respect.				X	
Ensure an individual's rights of freedom from coercion				X	
and restraint.					
4. Optimize and doesn't regiment individual				X	
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	
and supports, and who provides them.					
Provider Owned or Controlled Settings:	N/A				
6. A specific place that can be owned, rented or					
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same					
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or					
living unit:					
-- units have entrance doors lockable by the					
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of					
roommates in that setting;					

SED 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					
--have access to food at any time.					
9. Individuals are able to have visitors of their choosing at any time.					
10. The setting is physically accessible to the individual.					
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?			X		
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			X		
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?			X		

OMH 1115 Demo HARP

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the				X	**Transition of Behavioral Health Benefit into Medicaid Managed Care and Health and Recovery Program Implementation, October 2015, Page 11 (See below for link)** **Medicaid Managed Care Model Contract, Appendix T (Pending CMS Approval)** **New York State Home and Community Based Services Application Guide, Page 2 (See Attached)** **Health Home Standards and Requirements for Health Homes, Care Management and Managed Care Organizations: (See below for link)** **BH HCBS POC Template & Information regarding Health Home for Individuals in HARP & HIV SNPs (See below for link)**
same degree of access as individuals not receiving					Click here to Transition of Behavioral Health Benefit
Medicaid HCBS.					Click here to Access Health Home Standards and Requirements
-- opportunities to seek employment/ work in				X	Click here to access Health Homes for Individuals in HARPs & HARP eligibles in HIV SNPs
-- engage in community life				X	
-- control personal resources				X	
-- receive services in the community				X	
2. Selected by the individual among options				X	**Medicaid Managed Care Model Contract, Section 10.41 (Pending CMS Approval)** **Health Home Standards and Requirements for Health Homes, Care Management and Managed Care Organizations: (See below for link)** **Federal Adult Behavioral Health HCBS Person Centered Planning Process Requirements/Characteristics: (See below for link)** **BH HCBS POC Template & Information regarding Health Home for Individuals in HARP & HIV SNPs (See below for link)** http://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/harp_hiv_snp.htm
including non-disability specific settings and an					Click here to access Health Home Standards & Requirements for Health Homes, Care Management Providers & Managed Care Organizations
option for a private unit in a residential setting.					Click here to acess Federal Adult Behavioral Health HCBS Person-centered Planning Process Requirements/Characterisitics
--the options are identified and documented in the				X	Click here to access Health Home for Individuals in HARPs & HARP eligibles in HIV SNPs
person-centered service plan					
--the options are based on the individual's needs,				X	
preferences, and for residential settings, resources					
available for room and board.			N/A		
3. Ensure an individual's rights of privacy.				X	**NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law: (See below for link)**
Ensure an individual's rights of dignity and respect.					Click here to access Part 595 Operation of Residential Programs for Adults
Ensure an individual's rights of freedom from coercion				X	Click here to access Supported Housing Guidelines
and restraint.					
4. Optimize and doesn't regiment individual				X	**Transition of Behavioral Health Benefit into Medicaid Managed Care and Health and Recovery Program Implementation, October 2015, Page 11 (See below for link)** **BH HCBS POC Template & Information regarding Health Home for Individuals in HARP & HIV SNPs (See below for link)**
initiative, autonomy, and independence in making					Click here to access Transition of Behavioral Health Benefit
life choices, including but not limited to, daily					Click here to access Health Homes for Individuals in HARPs & HARP eligibles in HIV SNPs
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	**New York State: Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCBS)Provider Manual, Pages 2-3: (See below for link)** **Transition of Behavioral Health Benefit into Medicaid Managed Care and Health and Recovery Program Implementation: (See below for link)** **BH HCBS POC Template & Information regarding Health Home for Individuals in HARP & HIV SNPs. Page 2 (See below for link)** **Medicaid Managed Care Model Contract, Section 10.41 (Pending CMS Approval)**
and supports, and who provides them.					Click here to access NYS Health and Recovery Plan (HARP)
					Click Here to access Transition of Behavioral Health Benefit
					Click here to access Health Homes for Individuals in HARPs & HARP eligibles in HIV SNPs
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or					N/A
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same					N/A
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or					N/A
living unit:					
-- units have entrance doors lockable by the					N/A
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of					N/A

OMH 1115 Demo HARP

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
roommates in that setting;					
-- Individuals have the freedom to furnish and					N/A
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;					N/A
--have access to food at any time.					N/A
9. Individuals are able to have visitors of their					N/A
choosing at any time.					
10. The setting is physically accessible to the					N/A
individual.					

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	YES (Indicate How Many)	No	List Heightened Scrunity Sites - Use Additional Sheets If Necessary
11. Are any settings in facilities that also provide			TBD via Statewide Residential Assessment
inpatient institutional services?			
12. Are any settings in facilities on the grounds of,			TBD via Statewide Residential Assessment
or immediately adjacent to a public institution?			
13. Do any of the settings serve to isolate individuals in			TBD via Statewide Residential Assessment
receipt of Medicaid-funded HCBS from the broader			
community?			

OMH 1115 Demo Supported Housing

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the				X	Click here to access Supported Housing Guidelines
same degree of access as individuals not receiving					
Medicaid HCBS.					
-- opportunities to seek employment/ work in				X	
-- engage in community life				X	
-- control personal resources				X	
-- receive services in the community				X	
2. Selected by the individual among options			X		Click here to access Supported Housing Guidelines
including non-disability specific settings and an					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
option for a private unit in a residential setting.					
--the options are identified and documented in the			X		
person-centered service plan					
--the options are based on the individual's needs,			X		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.			X		Click here to access Supported Housing Guidelines
Ensure an individual's rights of dignity and respect.			X		Based upon OMH's statewide residential regulatory and site review, OMH will incorpo
Ensure an individual's rights of freedom from coercion			X		
and restraint.					
4. Optimize and doesn't regiment individual			X		Click here to access Supported Housing Guidelines
initiative, autonomy, and independence in making					Based upon OMH's statewide residential regulatory and site review, OMH will incorpo
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	Click here to access Supported Housing Guidelines
and supports, and who provides them.					
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or				X	Click here to access Supported Housing Guidelines
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same				X	
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or				X	Click here to access Supported Housing Guidelines
living unit:					
-- units have entrance doors lockable by the				X	
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of				X	
roommates in that setting;					
-- Individuals have the freedom to furnish and				X	

OMH 1115 Demo Supported Housing

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					Click here to access Supported Housing Guidelines
--control their own schedules and activities;			X		Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
--have access to food at any time.			X		
9. Individuals are able to have visitors of their			X		Click here to access Supported Housing Guidelines
choosing at any time.					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
10. The setting is physically accessible to the			X		Click here to access Supported Housing Guidelines
individual.					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide					TBD via Statewide Residential Assessment
inpatient institutional services?					
12. Are any settings in facilities on the grounds of,					TBD via Statewide Residential Assessment
or immediately adjacent to a public institution?					
13. Do any of the settings serve to isolate individuals in					TBD via Statewide Residential Assessment
receipt of Medicaid-funded HCBS from the broader					
community?					

OMH 1115 Demo SP-SRO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the				X	Click here to access Supported Housing Guidelines
same degree of access as individuals not receiving					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
Medicaid HCBS.					
-- opportunities to seek employment/ work in				X	
-- engage in community life				X	
-- control personal resources				X	
-- receive services in the community				X	
2. Selected by the individual among options			X		Click here to access Supported Housing Guidelines
including non-disability specific settings and an					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
option for a private unit in a residential setting.					
--the options are identified and documented in the			X		
person-centered service plan					
--the options are based on the individual's needs,			X		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.			X		Click here to access Supported Housing Guidelines
Ensure an individual's rights of dignity and respect.			X		Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
Ensure an individual's rights of freedom from coercion			X		
and restraint.					
4. Optimize and doesn't regiment individual			X		Click here to access Supported Housing Guidelines
initiative, autonomy, and independence in making					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	Click here to access Supported Housing Guidelines
and supports, and who provides them.					
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or				X	Click here to access Supported Housing Guidelines
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same				X	
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					

OMH 1115 Demo SP-SRO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
7. Each individual has privacy in their sleeping or				X	Click here to access Supported Housing Guidelines
living unit:					
-- units have entrance doors lockable by the				X	
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of				X	
roommates in that setting;					
-- Individuals have the freedom to furnish and				X	
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					Click here to access Supported Housing Guidelines
--control their own schedules and activities;			X		Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
--have access to food at any time.			X		
9. Individuals are able to have visitors of their			X		Click here to access Supported Housing Guidelines
choosing at any time.					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018
10. The setting is physically accessible to the			X		Click here to access Supported Housing Guidelines
individual.					Based upon OMH's statewide residential regulatory and site review, OMH will incorporate HCBS standards within OMH Supported Housing guidelines necessary for compliance by January 2018

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide			TBD via Statewide Residential Assessment
inpatient institutional services?			
12. Are any settings in facilities on the grounds of,			TBD via Statewide Residential Assessment
or immediately adjacent to a public institution?			
13. Do any of the settings serve to isolate individuals in			TBD via Statewide Residential Assessment
receipt of Medicaid-funded HCBS from the broader			
community?			

OMH 1115 Demo CR-SRO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
same degree of access as individuals not receiving					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
Medicaid HCBS.					
-- opportunities to seek employment/ work in			X		
-- engage in community life			X		
-- control personal resources			X		
-- receive services in the community			X		
2. Selected by the individual among options			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
including non-disability specific settings and an					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
option for a private unit in a residential setting.					
--the options are identified and documented in the			X		
person-centered service plan					
--the options are based on the individual's needs,			X		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
Ensure an individual's rights of dignity and respect.			X		Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
Ensure an individual's rights of freedom from coercion			X		
and restraint.					
4. Optimize and doesn't regiment individual			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
initiative, autonomy, and independence in making					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
and supports, and who provides them.					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
Provider Owned or Controlled Settings:					

OMH 1115 Demo CR-SRO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
6. A specific place that can be owned, rented or			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
occupied under a legally enforceable agreement by the individual receiving services.					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.			X		
7. Each individual has privacy in their sleeping or living unit:			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
-- units have entrance doors lockable by the individual with only appropriate staff having keys;			X		
-- individuals sharing units have a choice of roommates in that setting;			X		
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.			X		
8. Individuals have the freedom and support to:					Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
--control their own schedules and activities;			X		Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
--have access to food at any time.			X		
9. Individuals are able to have visitors of their choosing at any time.			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
10. The setting is physically accessible to the individual.			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?			TBD via Statewide Residential Assessment
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			TBD via Statewide Residential Assessment

OMH 1115 Demo CR-SRO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
13. Do any of the settings serve to isolate individuals in					TBD via Statewide Residential Assessment
receipt of Medicaid-funded HCBS from the broader					
community?					

OMH 1115 Demo Apt Tx

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the			X		Click here to access Part 595 Operation of Residential Programs
same degree of access as individuals not receiving					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
Medicaid HCBS.					
-- opportunities to seek employment/ work in			X		
-- engage in community life			X		
-- control personal resources			X		
-- receive services in the community			X		
2. Selected by the individual among options			X		Click here to access Part 595 Operations of Residential Programs
including non-disability specific settings and an					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
option for a private unit in a residential setting.					
--the options are identified and documented in the			X		
person-centered service plan					
--the options are based on the individual's needs,			X		
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
Ensure an individual's rights of dignity and respect.			X		Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
Ensure an individual's rights of freedom from coercion			X		
and restraint.					
4. Optimize and doesn't regiment individual			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
initiative, autonomy, and independence in making					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
and supports, and who provides them.					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law

OMH 1115 Demo Apt Tx

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
occupied under a legally enforceable agreement					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
by the individual receiving services.					
The individual has, at a minimum, the same			X		
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
living unit:					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
-- units have entrance doors lockable by the			X		
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of			X		
roommates in that setting;					
-- Individuals have the freedom to furnish and			X		
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
--control their own schedules and activities;			X		Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
--have access to food at any time.			X		
9. Individuals are able to have visitors of their			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
choosing at any time.					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018
10. The setting is physically accessible to the			X		Click here to access NYCRR Part 595 Operation of Residential Programs for Adults Mental Hygiene Law
individual.					Based upon OMH's statewide residential and regulatory review, OMH will incorporate HCBS standards within 595 guidelines where necessary for compliance by January 2018

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide			TBD via Statewide Residential Assessment
inpatient institutional services?			
12. Are any settings in facilities on the grounds of,			TBD via Statewide Residential Assessment
or immediately adjacent to a public institution?			
13. Do any of the settings serve to isolate individuals in			TBD via Statewide Residential Assessment

OMH 1115 Demo Apt Tx

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
receipt of Medicaid-funded HCBS from the broader					
community?					

NEW YORK STATE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES (OASAS) HCBS SETTINGS TRANSITION

I. INTRODUCTION

The New York state Office of Alcoholism and Substance Abuse Services (OASAS) oversee one of the nation's largest addiction treatment systems that provides a full array of services to approximately 245,000 unique individuals each year. Treatment services are provided in inpatient, outpatient and residential settings. The service continuum also includes school and community based prevention services, crisis programs, other treatment support services, peer services, recovery services and housing services.

In the context of reviewing the state's settings to ensure a plan for compliance with the HCBS settings rule, OASAS has reviewed its treatment and other settings to determine how its system fits into the state's overall plan and has determined that its inpatient detoxification and inpatient rehabilitation programs are clearly institutional settings that are not HCBS settings. Its other two settings, residential addiction and permanent supportive housing are analyzed below.

OASAS certifies approximately 250 Residential providers, operating approximately 9,000 beds, that currently provide three levels of care including intensive residential, community residential and supportive living. These services do not receive Medicaid reimbursement and individuals in these settings do not receive HCBS services.

OASAS has recently received approval, pursuant to the 1115 waiver, to receive Medicaid reimbursement for rehabilitative residential addiction services. There are three levels, known as elements of care, within that system. OASAS is simultaneously submitting a state plan amendment to add rehabilitative residential addiction services as a state plan benefit so that these services will be available to all Medicaid participants. The current community based non-Medicaid residential system, will convert to the new Medicaid residential model. The individuals in these settings are experiencing clinical symptoms and/or functional deficits which meet the medical necessity criteria for a short-term stay in an SUD residential setting. Individuals that enter an OASAS residential setting are not eligible to receive HCBS services because such setting IS NOT an HCBS eligible setting. It ia a setting providing substance use treatment and in some cases withdrawal management. To the extent such individuals are receiving HCBS services, they will be suspended until such time as the individual is released from the OASAS residential setting.

OASAS operates approximately 2,800 units of Permanent Supportive Housing (PSH) for single adults and families. These units are either one or two family apartments. Individuals placed in these units have a lease or occupancy agreement. Individuals are given a rental subsidy which decreases over time until they are eventually able to assume the lease and pay the rent in full. Individuals do not have roommates or non-family apartment mates. Individuals do not have curfews or other restrictions on their ability to come and go from the unit. Individuals have keys

and full access to their own kitchen and bathroom. OASAS believes all PSH providers are compliant with the HCBS rules and will require providers to review the HCBS rules, analyze their individual apartment units and attest to compliance for each unit.

Some individuals identified as persons with "high need" behavioral health conditions (substance use disorders and/or mental health conditions) may be eligible for enrollment in a specialized product line within a managed care plan known as a health and recovery plan (HARP). HARP enrollees will be assessed for eligibility for additional benefits known as behavioral health home and community based services (BH HCBS), based on functional deficits identified by the assessment. All HARP members will be assigned a care manager, either through a health home or other state designated entity. These care managers will be an integral part of the state's plan to assure that individuals reside in compliant settings, do not receive HCBS services when an individual is moved to a non-HCBS compliant setting and assist with discharge planning when individuals move between settings.

II. OVERVIEW OF OASAS TRANSITION, ASSESSMENT METHODOLOGY, PROCESS AND REMEDIATION

In the context of reviewing the state's settings to ensure compliance with the HCBS settings rule, OASAS has determined that the approximately 2,800 PSH units for homeless single adults and families will be assessed.

OASAS conducts annual monitoring reviews of its permanent supportive housing brands to evaluate program compliance. OASAS conducts interviews with staff and clients, as well as a review of client files, to ensure effective management of the program. Monitoring focuses on overall program management, admission procedures, service plans, documentation of service and housing quality standards. In addition, housing providers are required to submit a monthly report to OASAS, regarding current census, admissions, discharges and educational/vocational information. Moving forward, this annual review can also be utilized to ensure that all of our PSH units maintain compliance with the HCBS settings rule.

OASAS will conduct an assessment of units available through each of its permanent supportive housing brands:

- Continuum of Care (CoC) Program – 897 units
- NY/NY III Singles – 375 units
- NY/NY III Families – 285 units
- NY/NY III Population E – 822 units
- Re-Entry – 12 units
- Upstate PSH – 119 units
- MRT – 300 units

Program assessment criteria and guidance will be shared with OASAS PSH providers via a webinar. OASAS will provide a detailed description of the specifics necessary for completion of the assessment and will assist providers in meeting the deadline set for compliance. Additionally, OASAS will work with any providers deemed non-compliant based on the outcome of the assessment to develop a plan for compliance. OASAS is in the tail end of concluding its

annual monitoring visits and believes that all PSH providers are complaint with the HCBS rules and does not anticipate any actionable items.

The following timeline has been developed for implementation of the HCBS settings assessment:

COMPLETION BY:	**ACTIONS:**
By October 31, 2016	OASAS approval of assessment to be shared with OASAS PSH providers.
By November 30, 2016	Share assessment with providers. Host webinar for PSH providers with a description of the assessment and how to complete the assessment.
By December 31, 2016	Deadline for providers to complete assessment.
By January 31, 2017	Analyze assessment results. Notify providers of determination or request compliance plan and/or additional information. Share initial findings with the NYS DOH.
By March 1, 2017	Work with providers to develop compliance plan(s), if necessary.

OASAS Permanent Supportive Housing

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					All references made to OASAS PSH Operations Manual
1. Fully integrated into the broader community to the				X	Accessibility of services - medical facilities, laundry, grocery, shopping etc
same degree of access as individuals not receiving					are required to be accessible (p.8)
Medicaid HCBS.					
-- opportunities to seek employment/ work in				X	
-- engage in community life				X	
-- control personal resources				X	
-- receive services in the community				X	
2. Selected by the individual among options				X	Site selection is completed with provider and client, often utilizing an
including non-disability specific settings and an					apartment broker, to find an apartment suited to the specific needs of the
option for a private unit in a residential setting.					client (p.8)
--the options are identified and documented in the			X		
person-centered service plan					
--the options are based on the individual's needs,				X	
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				X	Housing counselor responsbilities (p.11)
Ensure an individual's rights of dignity and respect.				X	
Ensure an individual's rights of freedom from coercion				X	
and restraint.					
4. Optimize and doesn't regiment individual				X	Housing counselor duties and responsibilities (p.11)
initiative, autonomy, and independence in making					
life choices, including but not limited to, daily					
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	Housing counselor duties and responsibilities (p.11)
and supports, and who provides them.					
Provider Owned or Controlled Settings:					

6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.				X	All provider owned/controlled settings have occupance agreements with tenant/clients (p.5)
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.				X	
7. Each individual has privacy in their sleeping or living unit:				X	
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				X	Also see occupancy agreement
-- individuals sharing units have a choice of roommates in that setting;			X		There are no roomate pairings
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				X	Apartment set-up (p.9)
8. Individuals have the freedom and support to:					
--control their own schedules and activities;				X	Housing counselor duties and responsbilities
--have access to food at any time.				X	
9. Individuals are able to have visitors of their choosing at any time.				X	See occupancy agreement
10. The setting is physically accessible to the individual.				X	Handicap accessible units must be provided when necessary (p.8)
Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**		**No**		**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?			**X**		Housing units - Add language to indicate that under no circumstances will units be located on the grounds of or adjacent to a hospital or other institutional setting (p.7)
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			**X**		
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?			**X**		

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES (OCFS) HCBS SETTINGS TRANSITION

I. INTRODUCTION

The New York State Office of Children and Family Services (OCFS) serves New York's public by promoting the safety, permanency and well-being of our children, families and communities. We will achieve results by setting and enforcing policies, building partnerships, and funding and providing quality services. OCFS is dedicated to improving the integration of services for New York's children, youth, families and vulnerable populations; to promoting their development; and to protecting them from violence, neglect, abuse and abandonment. The agency provides a system of family support, juvenile justice, child care and child welfare services that promote the safety and well-being of children and adults. Among the operating principles across all program areas are that services should be developmentally appropriate, family-centered and family-driven, community-based, locally responsive, and evidence and outcome based.

OCFS is responsible for programs and services involving foster care, adoption and adoption assistance, child protective services including operating the Statewide Central Register for Child Abuse and Maltreatment, preventive services for children and families, services for pregnant adolescents, and protective programs for vulnerable adults. OCFS is also responsible for the functions performed by the State Commission for the Blind and coordinates state government response to the needs of Native Americans on reservations and in communities.

The Bridges to Health (B2H) Waiver Program is designed to support the health care needs of children. Since its inception in 2008, B2H offers 14 services that are based in the principles of freedom of choice, and are person-centered and trauma-focused. By supporting children in foster care in the least-restrictive home or community setting, B2H provides opportunities for improving the health and well-being of the children served.

B2H is approved to serve no more than 3,305 children at one time across the three B2H Waivers, B2H Serious Emotional Disturbance (SED) Waiver (#0469), B2H Developmental Disabilities (DD) Waiver (#0470) and Medically Fragile (MedF) (#0471). The B2H opportunities are presently allocated to the different populations, with B2H SED at 2619 SED, B2H DD at 541 DD, and B2H MedF at 145 MedF.

The Northwest Foster Care Alumni Study (published by Casey Family Programs, Harvard Medical School, and others) demonstrated that more than half (54%) of children in foster care have one or more mental health disorders, including an incidence of post-traumatic stress disorder that is five times that of the general population. Other studies indicate that 60 percent of children in foster care exhibit developmental delays and at least one chronic medical condition. A quarter of the children have three or more chronic conditions. The trauma experienced by children and youth placed in out-of-home and residential care frequently creates a set of common needs.

The development of B2H services centers on the family/caregiver and child's needs, strengths, and preferences, both person-centered and trauma informed, is paramount to the success in the B2H program. The B2H Individualized Health Plan (IHP) includes a complete and accurate picture of the child and/or medical consenter's history, risk factors, needs, strengths and preferences regarding the following domains: Family/Caregiver, Foster Care/Permanency Status, Living Situation, Physical Health, Developmental Health, Mental Health, Alcohol and Substance Abuse History, Community Service, Recreation or Leisure Time, Spirituality, Criminal Background, Education/school; and for those over 14 years of age, Vocation or Job, and Budgeting/Money Management.

The Office of Children and Family Services monitor's placements of all children enrolled in Bridges to Health, including children placed in Group Homes and Agency Operated Boarding Homes. There are approximately 130 OCFS licensed Group Homes and Agency Operated Boarding Homes across New York State that which are approved for a census of 12 beds or less (Group Homes) and 6 beds or less (Agency Operated Boarding Homes). The Office of Children and Family Services has identified that nearly all Bridges to Health Waiver participants live in family homes. However, at any given time, a small number of participants (less than 100) live in foster care Group Homes and Agency Operated Boarding Homes across New York State.

The Office of Children and Family Services' attests that these settings have all the features one would find in a typical private home including kitchens with cooking facilities, community dining areas, living space for leisure time activities, and bedrooms. The homes are located in the community and there is ready access to activities also available to the general population of the locale. The children attend school within their communities, and utilize services freely, and have the opportunity to build meaningful relationships with community members and organizations.

II. OVERVIEW OF OCFS TRANSITION

The purpose of this transition plan is to specifically describe how the Office of Children and Family Services (OCFS) and the Department of Health (DOH) intend to bring the pre-existing 1915(c) Bridges to Health Waivers to work towards compliance with the home and community-based settings requirements at 42 CFR.301(c)(4)(5) and section 441.710(a)(1)(2). The Office of Children and Family Services' Bridges to Health Waivers began serving children January 1, 2008. The three B2H Waivers were in their first 5 year renewal cycles during the publication of the January 2014 final HCBS rule. In January 2014, CMS adopted the HCBS settings rule effective March 17, 2014 and allowed for a transition plan of up to 5 years for full compliance.

OCFS SYSTEMIC ASSESSMENT

The Office of Children and Family Services and Department of Health staff have reviewed existing New York State Codes, Rules, and Regulations, provider qualifications, and practices to confirm that there are no systemic barriers to the implementation of the new HCBS settings requirements. As part of the Statewide Transition Plan, the Office of Children and Family Services is assessing residential and non-residential settings through provider and participant surveys, and validating self-assessments by state staff.
Office of Children and Family Services has determined that there is one area of partial compliance with the final rule, and provides the following explanation concerning remediation potential: *Selected by the individual among options including non-disability specific settings and*

an option for a private unit in a residential setting. Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 13-OCFS-ADM-08. The participant's choice and preferences among options including non-disability specific settings, or of a private unit in a residential setting, will be documented in the child's B2H person centered service plan. OCFS will issue guidance about this documentation to the B2H Providers.

BRIDGES TO HEALTH WAIVER SERVICES AND SERVICE DELIVERY SETTINGS

To provide context on this transition plan, the following 14 waiver services are offered to participants through the Bridges to Health HCBS waivers.

1. Health Care Integration
2. Family and Caregiver Supports and Services
3. Skill Building
4. Day Habilitation
5. Special Needs Community Advocacy and Support
6. Pre-vocational Services
7. Supported Employment
8. Planned Respite
9. Crisis Avoidance, Management, and Training
10. Immediate Crisis Response Services
11. Intensive In-Home Supports
12. Crisis Respite
13. Adaptive and Assistive Equipment
14. Accessibility Modifications

The non-residential settings in which these services can be offered include: participant's own homes, apartments; the home of a relative, friend or shared living arrangement; the community at large where the child resides.

TRANSITION PLAN CONTENTS SUMMARY

This transition plan includes a written description of:

- OCFS' assessment of which its standards, rules, regulations, and licensing requirements comply with the Federal HCBS settings requirement;
- A description of the assessment methodologies and processes that OCFS is undertaking;
- OCFS' oversight process to confirm ongoing continuous compliance; and
- A description of the remediation actions that form the basis for implementation of the Transition Plan.

III. ASSESSMENT METHODOLOGY, PROCESS AND REMEDIATION

This section details how NYS OCFS assessed the main areas of focus for the Transition Plan including: a description of the various stakeholder groups that participated in assessment and continue to engage with OCFS in systems transformation and remediation; review of the regulations and policies; assessment of residential settings through site specific review and collection of specific data; and the upcoming review of non-residential settings.

STAKEHOLDERS PARTICIPATING IN THE HCBS SETTINGS ASSESSMENT

OCFS has a long history of engaging stakeholders at every level to promote transparency and open communication – the work around the HCBS Settings Transition is no exception. While there are many teams, committees, and workgroups that function around OCFS initiatives at any given time, the following are the major stakeholder groups and activities that have or will have the most direct impact on OCFS' HCBS Settings Transition Plan:

1. BRIDGES TO HEALTH ANNUAL SUMMIT WITH HEALTH CARE INTEGRATION AGENCIES across New York State. Office of Children and Family Services facilitates this Summit, which serves to: address barriers to service provision; focus on best practices in the state; and provide an opportunity for networking and sharing of ideas and practices between and among Health Care Integration Agencies. In October 2014 and 2015, the Office of Children and Family Services utilized the opportunity to discuss and review its Bridges to Health Waiver Program Transition Plan activities, and will do so again in October 2016.

2. NEW YORK STATE ANNUAL REGIONAL FORUMS with OCFS Bureau of Waiver Management staff and all stakeholders including Health Care Integration Agencies, Waiver Service Provider Agencies, Local Department of Social Services, New York State Agencies including Department of Health and Office for People with Developmental Disabilities, waiver participants and families are invited to attend and participate. In April 2014, 2015 and recently in April 2016, the Office of Children and Family Services used the Forums to gather information and feedback regarding how the Bridges to Health Program is functioning, share information and updates on the proposed B2H Waiver Program Transition plan activities, as well as assist Local Departments of Social Services and Bridges to Health service providers with their collaboration efforts.

3. OCFS BUREAU OF WAIVER MANAGEMENT STAFF AND HEALTH CARE INTEGRATION AGENCY MEETINGS. OCFS meets with Bridges to Health Directors on a regular basis to discuss OCFS's HCBS Settings Transition Plan and compliance with CMS HCBS Final Rule. OCFS Home Office and Regional Office staff across New York State utilizes a standard agenda during on site meetings at the Health Care Integration Agencies, including the discussion of future planning. In March and May of 2016, OCFS met with HCIAs to disseminate draft guidance materials defining characteristics of HCBS eligible settings and addressing any barriers to compliance. BWM staff has consistently encouraged HCIAs to network and explore local resources not currently utilized for

Bridges to Health Waiver services. OCFS is also planning to include Waiver Service Provider Agencies in future meetings to provide guidance and expectations of Conflict of Interest standards and the OCFS Transition Plan.

4. THE OCFS FOSTER CARE MANAGED CARE ADVISORY GROUP began in 2014 and meets quarterly, or more frequently if needed, to provide advice and feedback to OCFS management and staff. The Advisory Group is comprised of executive level staff from Local Departments of Social Services, New York Public Welfare Association, New York State agencies, and Voluntary Foster Care Agencies across New York State. This Group advises OCFS on its efforts related to the foster care population, including the impacts on the Bridges to Health Waiver Program and its proposed B2H Transition Plan within the current environment in New York State, including the advent of Health Home Care Management as part of New York's Health Home model for children which are anticipated to begin enrolling children in September, 2016.

5. PERSON CENTERED TRAINING. In late 2015, the Office of Children and Family Services and its training contractor, the Sydney Albert Training and Research Institute, began developing a new module of training for the Health Care Integration Agencies and Waiver Service Providers that was specifically oriented around Person Centered approaches for the Bridges to Health Waivers. The curriculum was developed, and a pilot of the training occurred in February 2016. The attendees of the pilot were management level staff from the Health Care Integration Agencies, who provided real time and written feedback. Once the Person Centered Training was revised, it was presented for the first time in May 2016, and will continue to be offered throughout the year.

REVIEW OF RULES, REGULATIONS, AND POLICIES

In accordance with the guidance in CMS's Transition Plan Toolkit, September 5, 2014, to determine whether state transition plan actions are needed, CMS expects that states must first determine their current level of compliance with the settings requirements through a review of the extent to which is standards, rules, regulations, or other requirements comply with the Federal HCBS settings requirements.

Office of Children and Family Services staff will continue to review (1) New York State Codes, Rules, and Regulations, (2) Administrative Directives, (3) Local Commissioners Memorandums, and (4) Informational Letters to Local Departments of Social Services and Executive Directors of Voluntary Agencies for compliance to Federal Home and Community Based Settings Regulations. The Health Care Integration Agencies and the Office of Children and Family Services will confirm adherence to the settings rule and dually monitor all Group Home and Agency Operated Boarding Home placements of individuals enrolled in Bridges to Health to ensure compliance. The Office of Children and Family Services will continue to determine what policies and guidance could help further the intent of the HCBS settings rules in OCFS' service system. In light of these regulations, OCFS will provide guidance to the B2H Health Care Integration Agencies, which is anticipated to be available in the Winter of 2017.

REVIEW OF RESIDENTIAL SETTINGS

OCFS notes that virtually all of its participants in the Bridges to Health Waivers live in family homes, however at any given time a number of participants may live in foster care Group Homes and Agency Operated Boarding Homes. OCFS staff has attested that these foster care settings have all the features one would find in a typical private home including kitchens with cooking facilities, community dining areas, living space for leisure time activities and bedrooms. Since the foster care Group Homes and Agency Operated Boarding Homes are located within the community, participants are afforded the same ready access to activities and facilities available to the general population of the locale. The children are able to access and attend school within their communities, and utilize services as freely as children of the same chronological age or level of maturity, and have the opportunity to build meaningful relationships with community members and community organizations. While all Bridges to Health participants are Medicaid eligible, the settings they reside in are not Medicaid funded.

The OCFS Statewide Regional Offices monitor the Voluntary Foster Care Agencies across New York State on a specified schedule, which includes the oversight of the New York Codes, Rules, and Regulations that govern foster care placements in Group Home and Agency Operated Boarding Home settings. OCFS Bridges to Health Bureau of Waiver Management staff regularly monitors children in these settings, and has developed a process to identify a child residing in foster care Group Homes and Agency Operated Boarding Homes through Health Care Integration Agency weekly reporting. OCFS and the HCIA are working to develop a transition plan for B2H children living in any setting that is determined not fully compliant or under heightened scrutiny.

OCFS is collecting information on the approximately 130 Group Homes and Agency Operated Boarding Homes located throughout New York State to identify the settings where Site Level Assessments will be conducted. Office of Children and Family Services has developed an instrument called the **Bridges to Health (B2H) Site Specific and Systemic Compliance Guidance tool**. The first portion of the Tool is the “Site Specific” elements, which references the site’s location, design, and appearance. The second section is the Systemic Compliance items.

Office of Children and Family Services is developing a process for reviewing the Group Home and Agency Operated Boarding Home placements. When a child is placed in a Group Home or Agency Operated Boarding Home, the HCIA staff will complete **the Bridges to Health (B2H) Site Specific and Systemic Compliance Guidance tool** and conduct an assessment of that the setting to attest it meets the settings requirements. OCFS will validate the findings on a statistically significant sample of cases.

OCFS TIMELINE

The following is a detailed timeline and process steps for OCFS’ Site Level Assessment process.

SITE LEVEL ASSESSMENT TIMELINE AND PROCESS STEPS

Site Level Assessment Timeline	OCFS Process Steps	Description

March-May 2016 (Completed)	Meet with Providers and provide draft documents for review	On March 29, 2016, OCFS met in person with Health Care Integration Agencies and provided draft materials for Conflict of Interest criteria and requirements for HCBS settings compliance. OCFS developed and distributed draft Bridges to Health Site Specific and Systemic Guidance Tool to the HCIAs for their review. On May 5, 2016, OCFS held a conference call with the HCIAs to inquire about their feedback on the forms.
April 1, 2016 – ongoing (In Progress)	OCFS begins collecting information from HCIAs regarding children living in OCFS Group Homes and Agency Operated Boarding Homes	OCFS collects weekly reports from the Health Care Integration Agencies and maintains information about Group Home and Agency Operated Boarding Home placements.
October 1, 2016 through March 2017	Conducts Site Level Assessments of Group Homes and Agency Operated Boarding Homes to Collect and Verify Evidence and Establish Level of HCBS Compliance.	During the period October 2016 to February 2017, OCFS will conduct Site Level Assessments of Group Homes and Agency Operated Boarding Homes to determine the level of HCBS compliance. This will include provider education and remediation plans, as determined by OCFS.
Fall 2017 – post Reauthorization of Bridges to Health Waivers	Ongoing implementation of the Site Level Assessment process and forms, as well as any indicated provider education and remediation.	OCFS continues to engage in Site Level Assessments across OCFS Group Homes and Agency Operated Boarding Homes, and determination of provider education and remediation plans as needed.

IV. CONCLUSION

OCFS' transition plan and remediation activities for B2H will be incorporated and reflected in the overarching New York State Transition Plan found online.

B2H MedF 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the				X	Click here for link to 15-OCFS-ADM 21
same degree of access as individuals not receiving					Click here for link to 18 NYCRR 441.25
Medicaid HCBS.					Click here for link to 15-OCFS-ADM-18
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 443.3 (b)(1)(6)
					Click here for link to 18 NYCRR 430.11 (c)
-- opportunities to seek employment/ work in				X	Click here for link to 88-INF-40
					Click here for link to 15-OCFS-ADM-21
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 441.10
-- engage in community life				X	Click here for link to 15-OCFS-ADM-21
					Click here for link to 15-OCFS-ADM-18
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 430.10 (c)
-- control personal resources				X	Click here for link to 06-INF-10
					Click here for link to 18 NYCRR 441.12
-- receive services in the community				X	Click here for link to 18 NYCRR 430.11 (c)
					Click here for link to 18 NYCRR 441.15
					Click here for link to 18 NYCRR 428.6
2. Selected by the individual among options		X			Click here for link to 13-OCFS-ADM-08
including non-disability specific settings and an					Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 13-OCFS-ADM-08. The participant's choice and preferences among options including non-disability specific settings, or of a private unit in a residential setting, will be documented in the child's B2H person centered service plan. OCFS will issue guidance about this documentation to the B2H Providers.
option for a private unit in a residential setting.					
--the options are identified and documented in the				X	Click here for link to 12-INF-04
person-centered service plan					Click here for link to 90-INF-43
					Click here for link to 18 NYCRR Part 428
					Click here for link to 18 NYCRR 430.11
--the options are based on the individual's needs,				X	Click here for link to 18 NYCRR 430.11 (d)(1)
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				X	Click here for link to 82-ADM-16
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.18
Ensure an individual's rights of dignity and respect.				X	Click here for link to 18 NYCRR 441.19
					Click here for link to 15-OCFS-ADM-18
					Click here for link to 18 NYCRR 443.3 (b)(11)
Ensure an individual's rights of freedom from coercion				X	Click here for link to 15-OCFS-ADM-18
and restraint.					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.19

B2H MedF 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
					Click here for link to 18 NYCRR 441.17
4. Optimize and doesn't regiment individual				X	Click here for link to 15-OCFS-ADM-21
initiative, autonomy, and independence in making					Click here for link to 18 NYCRR 443.3 (b)(1)
life choices, including but not limited to, daily					Click here for link to 18 NYCRR 441.25
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	Click here for link to 15-OCFS-ADM-21
and supports, and who provides them.					Click here for link to 18 NYCRR 430.12(c)(2)(i)(a)(2)
					Click here for link to 18 NYCRR 428.9 (b) (1) (iv)
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or				X	Click here for link to 13-OCFS-ADM-08
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same				X	Click here for link to 18 NYCRR 430.12
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or				X	Click here for link to 18 NYCRR 442.6 (e)
living unit:					Click here for link to 18 NYCRR 447.2 (b)(13)
					Click here for link to 18 NYCRR 448.3 (d)(4)
-- units have entrance doors lockable by the				X	Click here for link to 13-OCFS-ADM-08
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of				X	Click here for link to 13-OCFS-ADM-08
roommates in that setting;					
-- Individuals have the freedom to furnish and				X	Click here for link to 18 NYCRR 443.3 (b)(1)
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;				X	Click here for link to 15-OCFS-ADM-21
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 443.3 (b)(1)
--have access to food at any time.				X	Click here for link to 18 NYCRR 443.3 (b)(5)
					Click here for link to 18 NYCRR 448.3 (g)
					Click here for link to 18 NYCRR 447.2 (d) (3)
9. Individuals are able to have visitors of their				X	Click here for link to 18 NYCRR 443.3 (b)(1)
choosing at any time.					

B2H MedF 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
10. The setting is physically accessible to the individual.				X	Click here for link to 18 NYCRR 430.11 (d)(1) Click here for link to 18 NYCRR 303.1

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?		**X**	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?	To be determined		
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?		**X**	

B2H DD 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the				X	Click here for link to 15-OCFS-ADM 21
same degree of access as individuals not receiving					Click here for link to 18 NYCRR 441.25
Medicaid HCBS.					Click here for link to 15-OCFS-ADM-18
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 443.3 (b)(1)(6)
					Click here for link to 18 NYCRR 430.11 (c)
-- opportunities to seek employment/ work in				X	Click here for link to 88-INF-40
					Click here for link to 15-OCFS-ADM-21
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 441.10
-- engage in community life				X	Click here for link to 15-OCFS-ADM-21
					Click here for link to 15-OCFS-ADM-18
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 430.10 (c)
-- control personal resources				X	Click here for link to 06-INF-10
					Click here for link to 18 NYCRR 441.12
-- receive services in the community				X	Click here for link to 18 NYCRR 430.11 (c)
					Click here for link to 18 NYCRR 441.15
					Click here for link to 18 NYCRR 428.6
2. Selected by the individual among options		X			Click here for link to 13-OCFS-ADM-08
including non-disability specific settings and an					Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 13-OCFS-ADM-08. The participant's choice and preferences among options including non-disability specific settings, or of a private unit in a residential setting, will be documented in the child's B2H person centered service plan. OCFS will issue guidance about this documentation to the B2H Providers.
option for a private unit in a residential setting.					
--the options are identified and documented in the				X	Click here for link to 12-INF-04
person-centered service plan					Click here for link to 90-INF-43
					Click here for link to 18 NYCRR Part 428
					Click here for link to 18 NYCRR 430.11
--the options are based on the individual's needs,				X	Click here for link to 18 NYCRR 430.11 (d)(1)
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				X	Click here for link to 82-ADM-16
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.18
Ensure an individual's rights of dignity and respect.				X	Click here for link to 18 NYCRR 441.19
					Click here for link to 15-OCFS-ADM-18
					Click here for link to 18 NYCRR 443.3 (b)(11)
Ensure an individual's rights of freedom from coercion				X	Click here for link to 15-OCFS-ADM-18
and restraint.					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.19

B2H DD 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
					Click here for link to 18 NYCRR 441.17
4. Optimize and doesn't regiment individual				X	Click here for link to 15-OCFS-ADM-21
initiative, autonomy, and independence in making					Click here for link to 18 NYCRR 443.3 (b)(1)
life choices, including but not limited to, daily					Click here for link to 18 NYCRR 441.25
activities, physical environment, and with whom					
to interact.					
5. Facilitate individual choice regarding services				X	Click here for link to 15-OCFS-ADM-21
and supports, and who provides them.					Click here for link to 18 NYCRR 430.12(c)(2)(i)(a)(2)
					Click here for link to 18 NYCRR 428.9 (b) (1) (iv)
Provider Owned or Controlled Settings:					
6. A specific place that can be owned, rented or				X	Click here for link to 13-OCFS-ADM-08
occupied under a legally enforceable agreement					
by the individual receiving services.					
The individual has, at a minimum, the same				X	Click here for link to 18 NYCRR 430.12
responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or				X	Click here for link to 18 NYCRR 442.6 (e)
living unit:					Click here for link to 18 NYCRR 447.2 (b)(13)
					Click here for link to 18 NYCRR 448.3 (d)(4)
-- units have entrance doors lockable by the				X	Click here for link to 13-OCFS-ADM-08
individual with only appropriate staff having keys;					
-- individuals sharing units have a choice of				X	Click here for link to 13-OCFS-ADM-08
roommates in that setting;					
-- Individuals have the freedom to furnish and				X	Click here for link to 18 NYCRR 443.3 (b)(1)
decorate their sleeping or living units within the					
lease or other agreement.					
8. Individuals have the freedom and support to:					
--control their own schedules and activities;				X	Click here for link to 15-OCFS-ADM-21
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 443.3 (b)(1)
--have access to food at any time.				X	Click here for link to 18 NYCRR 443.3 (b)(5)
					Click here for link to 18 NYCRR 448.3 (g)
					Click here for link to 18 NYCRR 447.2 (d) (3)
9. Individuals are able to have visitors of their				X	Click here for link to 18 NYCRR 443.3 (b)(1)
choosing at any time.					

B2H DD 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
10. The setting is physically accessible to the individual.				X	Click here for link to 18 NYCRR 430.11 (d)(1) Click here for link to 18 NYCRR 303.1

Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)	**YES (Indicate How Many)**	**No**	**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**
11. Are any settings in facilities that also provide inpatient institutional services?		**X**	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?	To be determined		
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?		**X**	

B2H SED 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
All Settings:					
1. Fully integrated into the broader community to the				X	Click here for link to 15-OCFS-ADM 21
same degree of access as individuals not receiving					Click here for link to 18 NYCRR 441.25
Medicaid HCBS.					Click here for link to 15-OCFS-ADM-18
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 443.3 (b)(1)(6)
					Click here for link to 18 NYCRR 430.11 (c)
-- opportunities to seek employment/ work in				X	Click here for link to 88-INF-40
					Click here for link to 15-OCFS-ADM-21
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 441.10
-- engage in community life				X	Click here for link to 15-OCFS-ADM-21
					Click here for link to 15-OCFS-ADM-18
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 430.10 (c)
-- control personal resources				X	Click here for link to 06-INF-10
					Click here for link to 18 NYCRR 441.12
-- receive services in the community				X	Click here for link to 18 NYCRR 430.11 (c)
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					Click here for link to 18 NYCRR 428.6
2. Selected by the individual among options		X			Click here for link to 13-OCFS-ADM-08
including non-disability specific settings and an					Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 13-OCFS-ADM-08. The participant's choice and preferences among options including non-disability specific settings, or of a private unit in a residential setting, will be documented in the child's B2H person centered service plan. OCFS will issue guidance about this documentation to the B2H Providers.
option for a private unit in a residential setting.					
--the options are identified and documented in the				X	Click here for link to 12-INF-04
person-centered service plan					Click here for link to 90-INF-43
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--the options are based on the individual's needs,				X	Click here for link to 18 NYCRR 430.11 (d)(1)
preferences, and for residential settings, resources					
available for room and board.					
3. Ensure an individual's rights of privacy.				X	Click here for link to 82-ADM-16
					Click here for link to 88-INF-40
					Click here for link to 18 NYCRR 441.18
Ensure an individual's rights of dignity and respect.				X	Click here for link to 18 NYCRR 441.19
					Click here for link to 15-OCFS-ADM-18
					Click here for link to 18 NYCRR 443.3 (b)(11)
Ensure an individual's rights of freedom from coercion				X	Click here for link to 15-OCFS-ADM-18
and restraint.					Click here for link to 88-INF-40
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B2H SED 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
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4. Optimize and doesn't regiment individual				X	Click here for link to 15-OCFS-ADM-21
initiative, autonomy, and independence in making					Click here for link to 18 NYCRR 443.3 (b)(1)
life choices, including but not limited to, daily					Click here for link to 18 NYCRR 441.25
activities, physical environment, and with whom					
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and supports, and who provides them.					Click here for link to 18 NYCRR 430.12(c)(2)(i)(a)(2)
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by the individual receiving services.					
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responsibilities and protections from eviction that					
tenants have under the jurisdiction's					
landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or				X	Click here for link to 18 NYCRR 442.6 (e)
living unit:					Click here for link to 18 NYCRR 447.2 (b)(13)
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-- units have entrance doors lockable by the				X	Click here for link to 13-OCFS-ADM-08
individual with only appropriate staff having keys;					
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roommates in that setting;					
-- Individuals have the freedom to furnish and				X	Click here for link to 18 NYCRR 443.3 (b)(1)
decorate their sleeping or living units within the					
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8. Individuals have the freedom and support to:					
--control their own schedules and activities;				X	Click here for link to 15-OCFS-ADM-21
					Click here for link to 18 NYCRR 441.25
					Click here for link to 18 NYCRR 443.3 (b)(1)
--have access to food at any time.				X	Click here for link to 18 NYCRR 443.3 (b)(5)
					Click here for link to 18 NYCRR 448.3 (g)
					Click here for link to 18 NYCRR 447.2 (d) (3)
9. Individuals are able to have visitors of their				X	Click here for link to 18 NYCRR 443.3 (b)(1)
choosing at any time.					

B2H SED 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
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10. The setting is physically accessible to the individual.				X	Click here for link to 18 NYCRR 430.11 (d)(1) Click here for link to 18 NYCRR 303.1

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12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?	To be determined		
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?		**X**	