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# 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. Also, respite care is generally provided throughout the State for thirty days or less, with a few exceptions that are noted in each agency/office's respective systemic compliance chart.

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.<sup>1</sup> 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.

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<sup>1</sup> 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<sup>1</sup> 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 2019, 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

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<sup>1</sup> 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<sup>2</sup>
- 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

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<sup>2</sup> 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)<sup>3</sup>, 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

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<sup>3</sup> Per CMS PACE is not subject to the HCBS Settings requirements.

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 on the dates indicated below:

- July 19, 2016 on the Medicaid Redesign Team (MRT) website, which can be found here: [HCBS Final Rule STP MRT Website Link](#)
- August 3, 2016 and August 17, 2016 in the New York State Register, which can be found here: [HCBS Final Rule STP NY State Register Post.9.3.16](#), [HCBS Final Rule STP NY State Register Post.9.17.16](#)
- August 18, 2016 in hard copy at Regional Resource Development Centers and electronically on various State websites

The HCBS STP was first posted electronically on the MRT website on July 19, 2016. Due to the timing of publication the STP was later posted in the State Register on August 3, 2016. A second posting was made in the State Register on August 17, 2016 in order to extend the public comment period until September 9, 2016, which allowed for a 37 day written comment period that is fully compliant. Each State Register notice included a BML email address for electronic comments, in addition to a physical address and contact person for mailing comments. New York also hosted a statewide HCBS STP webinar on August 18, 2016 to educate stakeholders about the HCBS STP and the opportunity for public comment. A summary of comments and the State's responses can be found below.

### ***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 colocated 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 2020. 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 2020. 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, 2022. 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, 2022.

***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 rendering 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	Partially Compliant	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		X			All participants live in the home of family member, friend, relative, or gaurdian. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019. The CAH I/II Handbook will be revised by March, 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process.
-- opportunities to seek employment/ work in		X			<a href="#">Click here for CAH I/II Palliative Care Provider Application</a> <a href="#">Click here for Care at Home Handbook</a> <a href="#">Click here for Medicaid Care At Home Waivers Participant Survey</a>
-- engage in community life		X			see above response
-- control personal resources		X			see above response
-- receive services in the community		X			see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		X			see above response
--the options are identified and documented in the person-centered service plan		X			see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			see above response
3. Ensure an individual's rights of privacy.		X			see above response
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			see above response
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response
<b>Provider Owned or Controlled Settings:</b>		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.					

**CAH I 1915 (c) Waiver**

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
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.					
<b>Heightened Scrutiny:</b>	<b>YES/NO</b>				
11. Is the setting in a facility that also provides inpatient institutional services?	N/A				
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?					
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?					

### CAH II 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		X			All participants live in the home of family member, friend, relative, or gaurdian. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019. The CAH I/II Handbook will be revised by March, 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process.
-- opportunities to seek employment/ work in		X			<a href="#">Click here for CAH I/II Palliative Care Provider Application</a>
-- engage in community life		X			<a href="#">Click here for Care at Home Handbook</a>
-- control personal resources		X			<a href="#">Click here for Mediciad Care At Home Waivers Participanct Survey</a>
-- receive services in the community		X			see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		X			see above response
--the options are identified and documented in the person-centered service plan		X			see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			see above response
3. Ensure an individual's rights of privacy.		X			see above response
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			see above response
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response
<b>Provider Owned or Controlled Settings:</b>	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	Partially Compliant	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.					
<b><u>Heightened Scrutiny:</u></b>	<b>YES/NO</b>				
11. Is the setting in a facility that also provides inpatient institutional services?	N/A				
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?					
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?					

### CAH III 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations	
	Conflicts	Silent	Partially Compliant	Compliant		
<b>All Settings:</b>						
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		X			All participants live in the home of family member, friend, relative, or gaurdian. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019. The CAH Handbook Waivers III, IV, VI will be revised by March, 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process. <a href="#">Click here for Care at Home Waivers III, IV, VI Eligibility</a> <a href="#">Click here fore GIS 15 MA/02</a>	
-- opportunities to seek employment/ work in		X				see above response
-- engage in community life		X				see above response
-- control personal resources		X				see above response
-- receive services in the community		X				see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		X			see above response	
--the options are identified and documented in the person-centered service plan		X			see above response	
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			see above response	
3. Ensure an individual's rights of privacy.		X			see above response	
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			see above response	
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response	
<b>Provider Owned or Controlled Settings:</b>	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	Partially Compliant	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.					
<b>Heightened Scrutiny:</b>	<b>YES/NO</b>				
11. Is the setting in a facility that also provides inpatient institutional services?	N/A				
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?					
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?					

### CAH IV 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		X			All participants live in the home of family member, friend, relative, or gaurdian. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019. The CAH Handbook Waivers III, IV, VI will be revised by March, 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process. <a href="#">Click here for Care at Home Waivers III, IV, VI Eligibility</a> <a href="#">Click here for GIS 15 MA/02</a>
-- 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			see above response
--the options are identified and documented in the person-centered service plan		X			see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			see above response
3. Ensure an individual's rights of privacy.		X			see above response
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			see above response
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response
<b>Provider Owned or Controlled Settings:</b>	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					



### CAH IV 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
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.					
<b><u>Heightened Scrutiny:</u></b>	<b>YES/NO</b>				
11. Is the setting in a facility that also provides inpatient institutional services?	N/A				
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?					
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?					

### CAH VI 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
<b>All Settings:</b>					All participants live in the home of family member, friend, relative, or gaurdian. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019. The CAH Handbook Waivers III, IV, VI will be revised by March, 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process.
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		X			<a href="#">Click here for GIS 15 MA/02</a>
-- opportunities to seek employment/ work in		X			see above response
-- engage in community life		X			see above response
-- control personal resources		X			see above response
-- receive services in the community		X			see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		X			see above response
--the options are identified and documented in the person-centered service plan		X			see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			see above response
3. Ensure an individual's rights of privacy.		X			see above response
Ensure an individual's rights of dignity and respect.		X			see above response
Ensure an individual's rights of freedom from coercion and restraint.		X			see above response
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			see above response
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response
<b>Provider Owned or Controlled Settings:</b>					
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	Partially Compliant	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.					
<b><u>Heightened Scrutiny:</u></b>	<b>YES/NO</b>				
11. Is the setting in a facility that also provides inpatient institutional services?	N/A				
12. Is the setting in a facility on the grounds of or immediately adjacent to a public institution?					
13. Does the setting serve to isolate the individual in receipt of Medicaid funded HCBS from the broader community?					

### NHTD 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
<b>All Settings:</b>					NHTD provides rental subsidies to people living in their own apartments with leases. All participants live in the home of family member, friend, relative, or gaurdian. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019. The NHTD Program Manual will be revised by March, 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process.
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		x			<a href="#">See above response. Click here for Nursing Home Transition and Diversion Medicaid Waiver Program</a> <a href="#">Click here for Nursing Home Transition and Diversion Home and Community-Based Services Waiver</a> <a href="#">Click here for Nursing Home Transition and Diversion Housing Subsidy Program</a>
-- opportunities to seek employment/ work in		x			see above response
-- engage in community life		x			see above response
-- control personal resources		x			see above response
-- receive services in the community		x			see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		x			see above response
--the options are identified and documented in the person-centered service plan		x			see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		x			see above response
3. Ensure an individual's rights of privacy.		X			see above response
Ensure an individual's rights of dignity and respect.		X			see above response
Ensure an individual's rights of freedom from coercion and restraint.		X			see above response
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			see response above
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response
<b>Provider Owned or Controlled Settings:</b>			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					

### NHTD 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
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.					
<b><u>Heightened Scrutiny:</u></b>	<b>YES/NO</b>				
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				

### TBI 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
<b>All Settings:</b>					The Traumatic Brain Injury Program Housing Provider Manual Guidelines will be revised by March 2019 to incorporate all applicable standards determined silent in this chart in the person-centered care planning process. Person-centered service planning guidance has been developed to ensure that all settings provide the protections under the Final Rule applicable to all settings, and will be issued before March, 2019.
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		X			<a href="#">Click here for Traumatic Brain Injury Waiver</a>
-- opportunities to seek employment/ work in		X			<a href="#">Click here for Traumatic Brian Injury Waiver Manual</a>
-- engage in community life		X			<a href="#">Click here for Traumatic Brain Injury Housing Program Guidelines</a>
-- control personal resources		X			<a href="#">Click here for Traumatic Brain Injury Housing Quality Standards Checklist</a>
-- receive services in the community		X			see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.		X			see above response
--the options are identified and documented in the person-centered service plan		X			see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			see above response
3. Ensure an individual's rights of privacy.		X			see above response
Ensure an individual's rights of dignity and respect.		X			see above response
Ensure an individual's rights of freedom from coercion and restraint.		X			see above response
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			see above response
5. Facilitate individual choice regarding services and supports, and who provides them.		X			see above response
<b>Provider-Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.		X			We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving services in provider-owned and controlled residential or non-residential HCB programs.
The individual has, at a minimum, the same responsibilities and protections from eviction that		X			see above response

### TBI 1915 (c) Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations
	Conflicts	Silent	Partially Compliant	Compliant	
tenants have under the jurisdiction's landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or living unit:		X			see above response
-- units have entrance doors lockable by the individual with only appropriate staff having keys;		X			see above response
-- individuals sharing units have a choice of roommates in that setting;		X			see above response
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.		X			see above response
8. Individuals have the freedom and support to:					
--control their own schedules and activities;		X			see above response
--have access to food at any time.		X			see above response
9. Individuals are able to have visitors of their choosing at any time.		X			see above response
10. The setting is physically accessible to the individual.		X			see above response
<b>Heightened Scrutiny:</b>	<b>YES/NO</b>				
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				

	A	B	C	D	E	F
1	<b>1115 Waiver/Mainstream Medicaid Managed Care (MMC)</b>					
2	<b>Standard/Quality</b>	<b>Degree of Compliance</b>				<b>Documentation/Citations</b>
3		<b>Non-Compliant</b>	<b>Partially Compliant</b>	<b>Silent</b>	<b>Compliant</b>	
4	<b>All Settings:</b>					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 Health 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. <a href="#">See Medicaid Managed Care Model Contract for benefit package, network, and credentialing requirements: click here to link to Medicaid Managed Care Model Contract</a>
5						
6	1. Fully integrated into the broader community to the			X		The Medicaid Managed Care program will update the Medicaid Managed Care Model Contract by 3/17/19 to require that Managed Care Plans are compliant with the pertinent requirements of the HCBS rule (see link in above cell).
7	same degree of access as individuals not receiving					
8	Medicaid HCBS.					
9	-- opportunities to seek employment/ work in			x		see above response in 6F
10	-- engage in community life			x		See above response in cell 6F
11	-- control personal resources			x		See above response in cell 6F
12	-- receive services in the community			x		See above response in cell 6F
13						
14	2. Selected by the individual among options			x		See above response in cell 6F
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		See above response in cell 6F
18	person-centered service plan					
19	--the options are based on the individual's needs,			x		See above response in cell 6F
20	preferences, and for residential settings, resources					
21	available for room and board.					
22						
23	3. Ensure an individual's rights of privacy.			x		See above response in cell 6F
24	Ensure an individual's rights of dignity and respect.			x		See above response in cell 6F
25	Ensure an individual's rights of freedom from coercion			x		See above response in cell 6F
26	and restraint.					
27						
28	4. Optimize and doesn't regiment individual		x			See above response in cell 6F
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 above response in cell 6F
35	and supports, and who provides them.					
36						
37	<b>Provider-Owned or Controlled Settings:</b>					The Medicaid Managed Care program will amend the Medicaid Managed Care Model Contract (see above link) by 3/17/19 to require any applicable provider-owned and controlled residential, and any non-residential settings, where MMC enrollees live and/or receive services, to adhere to person-centered planning guidance in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
38						
39	6. A specific place that can be owned, rented or			X		See above response in 38F
40	occupied under a legally enforceable agreement					
41	by the individual receiving services.					
42	The individual has, at a minimum, the same			X		See above response in 38F



	A	B	C	D	E	F
1	<b>1115 Waiver/Mainstream Medicaid Managed Care (MMC)</b>					
2	<b>Standard/Quality</b>	<b>Degree of Compliance</b>				<b>Documentation/Citations</b>
3		<b>Non-Compliant</b>	<b>Partially Compliant</b>	<b>Silent</b>	<b>Compliant</b>	
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			X		See above response in 38F
48	living unit:					
49	-- units have entrance doors lockable by the			X		See above response in 38F
50	individual with only appropriate staff having keys;					
51	-- individuals sharing units have a choice of			X		See above response in 38F
52	roommates in that setting;					
53	-- Individuals have the freedom to furnish and			X		See above response in 38F
54	decorate their sleeping or living units within the					
55	lease or other agreement.					
56						
57	8. Individuals have the freedom and support to:					
58	--control their own schedules and activities;			X		See above response in 38F
59	--have access to food at any time.			X		See above response in 38F
60						
61	9. Individuals are able to have visitors of their			X		See above response in 38F
62	choosing at any time.					
63						
64	10. The setting is physically accessible to the			X		See above response in cell 6F
65	individual.					
66						
67	<b>Heightened Scrutiny: (Note: if any site meets any of</b>					
68	<b>the below criteria then they fall under heightened scrutiny)</b>	<b>YES</b>	<b>NO</b>	<b>How Many?</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
69	11. Are any settings in facilities that also provide					We are still evaluating this at this time, however, some settings that MMC enrollees live or receive services in have been identified and are included in the respective systemic compliance chart of the division or office within DOH overseeing that setting/service.
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						
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	
<b>All Settings:</b>	FIDA participants generally live in their own homes or the home of a family member. FIDA is due to end 12/31/19.				<a href="#">Click here for FIDA Contract</a>
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			X		FIDA is sunseting 12/31/2019. New York will incorporate the requirements of the final rule into any integrated platform we develop to replace the FIDA demonstration and expand options for an integrated managed care plan to all New Yorkers in need of Long Term Care.  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 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		see response above
-- engage in community life			X		see response above
-- control personal resources			X		see response above
-- receive services in the community			X		see response above
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			X		see response above
--the options are identified and documented in the person-centered service plan			X		see response above
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			X		see response above
3. Ensure an individual's rights of privacy.				X	"...each participant must be gauranteed the right to...be treated with consideration, respect and full consideration of his or her dignity, privacy and individuality." <a href="#">Click here for Apendix B- Participant's Rights and Responsibilities, p. 291</a>
Ensure an individual's rights of dignity and respect.				X	see above
Ensure an individual's rights of freedom from coercion and restraint.				X	see above link for "each participant must be gauranteed the right to...be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation. P. 291
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		see response above
5. Facilitate individual choice regarding services and supports, and who provides them.	X				see response above
<b>Provider Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.					see response above
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:					see response above
-- 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:					see response above
--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.					see response above
10. The setting is physically accessible to the individual.					see response above
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES</b>	<b>NO</b>	<b>How Many?</b>		<b>List Heightened Scrunity Sites - Use Additional Sheets If Necessary</b>
11. Are any settings in facilities that also provide inpatient institutional services?					see response above
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?					see response above
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	
<b>All Settings:</b>	Managed Care participants generally live in their own homes or the home of a family member. As noted, regulated adult homes, where some managed care recipients live, will be assessed for compliance with the final rule. Before March 2019 we will be providing specific person-centered planning guidance to plans currently that includes guidance on appropriate HCBS settings for both residential and non-residential LTSS. In addition, all model contracts will be amended to provide specific guidance on appropriate settings that assessors and/or case managers should use in developing person-centered service plans prior to 3/17/2019.				<a href="#">Click here for Medicaid Advantage Plus Model Contract</a>
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			X		Prior to March 17, 2019 we will revise the Medicaid Advantage Plus Model Contract to explicitly include the HCBS standards marked silent and partially compliant in this chart.  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		see above response
-- engage in community life			X		see above response
-- control personal resources			X		see above response
-- receive services in the community			X		see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			X		see above response
--the options are identified and documented in the person-centered service plan			X		see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			X		see above response
3. Ensure an individual's rights of privacy.			X		see above response
Ensure an individual's rights of dignity and respect.			X		see above response
Ensure an individual's rights of freedom from coercion and restraint.			X		see above response
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		see above response
5. Facilitate individual choice regarding services and supports, and who provides them.		X			<a href="#">"The Contractor shall advise potential Enrollees, in written materials related to enrollment, to verify with the medical services providers they prefer, or have an existing relationship with, that such medical services providers are Participating Providers and are available to serve the Prospective Enrollee." Click here for 5. Contractor Responsibilities Section L.</a> We will revise the MAP contract pursuant to HCBS compliance prior with this standard prior to March 2019. This section notes that the individual is eligible for skilled nursing care and opts into the plan.
<b>Provider Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.			X		Settings where MAP participants live will be assessed to evaluate if there are provider-owned and controlled settings applicable to these standards. If there are applicable provider-owned and controlled residential or non-residential settings, we will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
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		
-- 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:			X		
--control their own schedules and activities;			X		
--have access to food at any time.			X		
9. Individuals are able to have visitors of their choosing at any time.			X		
10. The setting is physically accessible to the individual.			X		
<b>Heightened Scrutiny: (Note: if any site meets any of</b>	<b>YES (Indicate How Many)</b>	<b>No</b>	<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>		

**MAP**

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>the below criteria then they fall under heightened scrutiny)</b>	<b>YES (indicate how many)</b>		<b>NO</b>		<b>List Heightened Scrutiny Sites - Use Additional sheets if necessary</b>
11. Are any settings in facilities that also provide inpatient institutional services?					Settings where MAP participants live will be assessed to evaluate if there are settings which fall under heightened scrutiny.
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	
<b>All Settings:</b>	Managed Care participants generally live in their own homes or the home of a family member. As noted, regulated adult homes, where some managed care recipients live, will be assessed for compliance with the final rule. We are providing specific person-centered planning guidance to plans currently that includes specific guidance on appropriate HCBS settings for both residential and non-residential LTSS. In addition, all model contracts will be amended to provide specific guidance on appropriate settings that assessors and/or case managers should use in developing person-centered service plans prior to 3/17/2019.				
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			x		<a href="#">Click here for Partial Capitation Contract. We will revise the Partial Plan Contract to explicitly include standards marked silent and partially compliant below pursuant to HCBS compliance prior to March 17 2019.</a>
-- opportunities to seek employment/ work in			x		see response above
-- engage in community life			x		see response above
-- control personal resources			x		see response above
-- receive services in the community			x		see response above
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			x		see response above
--the options are identified and documented in the person-centered service plan			x		see response above
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			x		see response above
3. Ensure an individual's rights of privacy.				x	"You have the Right to privacy about your medical record and when you get treatment." See Appendix L of Partial Capitation Contract (See link above)
Ensure an individual's rights of dignity and respect.				x	"You have the Right to be treated with respect and dignity." See Appendix L of Partial Capitation Contract
Ensure an individual's rights of freedom from coercion and restraint.				x	"You have the Right to be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation." See Appendix L of Partial Capitation Contract
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		We will revise applicable policies pursuant to HCBS compliance prior to 2019.
5. Facilitate individual choice regarding services and supports, and who provides them.		x			"You have the Right to take part in decisions about your health care, including the right to refuse treatment." See Appendix L of Partial Capitation Contract. We will revise applicable policies pursuant to HCBS compliance prior to 2019.
<b>Provider Owned or Controlled Settings:</b>	Settings where Partial Plan participants live will be assessed to evaluate if there are provider-owned and controlled settings applicable to these standards. If there are applicable provider-owned and controlled residential or non-residential settings, we will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.				
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.			X		see response above
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		see response above
-- 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:					see response above
--control their own schedules and activities;			X		
--have access to food at any time.			X		
9. Individuals are able to have visitors of their choosing at any time.			X		see response above
10. The setting is physically accessible to the individual.			X		see response above
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
11. Are any settings in facilities that also provide					Settings where Partial Plan participants live will be assessed to evaluate if there are settings which fall under heightened scrutiny.

**Partial Plan**

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
inpatient institutional services?					
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?					see response above
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?					see response above

### Social Adult Day Care

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			x		<a href="#">Click here for Social Adult Day Care Regulations</a> We will issue SADC HCBS subregulatory guidance by March 17, 2019 to explicitly include each silent or partially compliant standard in this chart pursuant to HCBS compliance.
-- opportunities to seek employment/ work in			x		see above response
-- engage in community life			x		see above response
-- control personal resources			x		see above response
-- receive services in the community			x		see above response
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.			x		see above response
--the options are identified and documented in the person-centered service plan			x		see above response
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			x		see above response
3. Ensure an individual's rights of privacy.		x			<a href="#">Click here for Section ( E ) Participant Rights of the Social Adult Day Care Regulation; see p. 12 for "(vi)...information about participants shall be kept confidential"</a>
Ensure an individual's rights of dignity and respect.				x	"Participants shall be treated with dignity and respect." See link above, page 12.
Ensure an individual's rights of freedom from coercion and restraint.				x	"Participants shall not be subject to coercion, discrimination, or reprisal by the program." See link above, page 12.
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		same response as in column F row 7
5. Facilitate individual choice regarding services and supports, and who provides them.		X			"Participants shall be free to make personal choices about accepting or refusing the services and activities offered." See link above, page 12. Will issue SADC HCBS subregulatory guidance to explicitly address this determination by March 17, 2019
<b>Provider Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.					We are unsure of any provider-owned and controlled settings at this time and will be assessing for this via site specific assessments. If there are applicable provider-owned and controlled non-residential settings, we will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(C) and (D), will be supported by a specific assessed need and justified in the person-centered service plan.
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.					not applicable to non-residential
7. Each individual has privacy in their sleeping or living unit:					not applicable to non-residential
-- units have entrance doors lockable by the individual with only appropriate staff having keys;					not applicable to non-residential
-- individuals sharing units have a choice of roommates in that setting;					not applicable to non-residential
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.					not applicable to non-residential
8. Individuals have the freedom and support to:					
--control their own schedules and activities;			x		see response in column F row 38
--have access to food at any time.			x		see response in column F row 38
9. Individuals are able to have visitors of their choosing at any time.			x		see response in column F row 38
10. The setting is physically accessible to the individual.					not a modifiable standard
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>					
11. Are any settings in facilities that also provide inpatient institutional services?	YES	NO	How Many?		List Heightened Scrutiny Sites - Use Additional Sheets If Necessary
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?					Settings where Partial Plan participants live will be assessed to evaluate if there are settings which fall under heightened scrutiny.
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	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.	X				Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020 - removing the requirement for a program to operate at a residential health care facility's primary site and ensuring program registrants are integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.
-- opportunities to seek employment/ work in			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
-- engage in community life			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
-- control personal resources			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019
-- receive services in the community			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
2. Selected by the individual among options including:			x		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
non-disability specific settings			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
option for a private unit in a residential setting.			X		Not applicable. The program model is non-residential as defined at 10 NYCRR 425.1.
					<a href="#">Click here for 10 NYCRR 425.1 - Definitions</a>
the options are identified and documented in the person-centered service plan			x		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
--the options are based on the individual's needs,			x		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
preferences, and for residential settings, resources					<u>Not applicable. The program model is non-residential as defined at 10 NYCRR 425.1.</u>
available for room and board.					<u>Not applicable. The program model is non-residential as defined at 10 NYCRR 425.1.</u>
3. Ensure an individual's rights of privacy.			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
Ensure an individual's rights of dignity and respect.		X			"(a) Dignity. The facility shall promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality." Compliance will be fully met by amending regulation 10 NYCRR 415 to include "respect" by 3/2020.  <a href="#">Click here for 10 NYCRR 415.5(g)(1) related to dignity.</a>
Ensure an individual's rights of freedom from coercion			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
and restraint.			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
4. Optimize and doesn't regiment individual			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
initiative, autonomy, and independence in making			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
life choices, including but not limited to, daily			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
activities, physical environment, and with whom			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.



### Adult Day Health Care Programs

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
to interact.			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
5. Facilitate individual choice regarding services and supports, and who provides them.			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019
<b>Provider Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.					Not Applicable: The program model is a non-residential, community-based model. <a href="#">Click here for 10 NYCRR 425.1 - Definitions</a>
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.					Not Applicable: The program model is a non-residential, community-based model. <a href="#">Click here for 10 NYCRR 425.1 - Definitions</a>
7. Each individual has privacy in their sleeping or living unit:					Not Applicable: The program model is a non-residential, community-based model. <a href="#">Click here for 10 NYCRR 425.1 - Definitions</a>
-- 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;		X			<a href="#">Registrants have the "freedom to decide whether or not to participate in any given activity." (10 NYCRR 425.4(b)(1-2)). Click here for 10 NYCRR 425.4 - Activities. Full compliance will be met through amendment of regulation 10 NYCRR 425 to include the language of, and be fully aligned with 42 CFR 441.301(c)(1 - 4) by 3/2020. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(C) and (D), will be supported by a specific assessed need and justified in the person-centered service plan.</a>
--have access to food at any time.			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(C) and (D), will be supported by a specific assessed need and justified in the person-centered service plan.
9. Individuals are able to have visitors of their choosing at any time.			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019
10. The setting is physically accessible to the individual			X		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>					
	YES	NO	How Many?		List Heightened Scrutiny Sites - Use Additional Sheets If Necessary
11. Are any settings in facilities that also provide inpatient institutional services?	X		87		87 Adult Day Health Care Programs are set inside nursing homes as per regulation. <a href="#">Click here to view 10 NYCRR 425.1(c)</a>
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?	X		9		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020 - removing the requirement for a program to operate at a residential health care facility's primary site. Additionally, facility assessment results will provide remediation menus as cues for programs to minimize the institutional feel of programs located within, or on the grounds of, a Residential Health Care Facility.
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?	X		Still assessing		Compliance will be met through issuance of sub-regulatory guidance by 3/2019 and amendment of regulation 10 NYCRR 425 to include the language of and be fully aligned with 42 CFR 441.301 (c)(1 - 4) by 3/2020 - removing the requirement for a program to operate at a residential health care facility's primary site. Additionally, facility assessment results will provide remediation menus as cues for programs to minimize isolating impacts of program locations.

**CFCO**

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>All Settings:</b>	CFCO participants must live in their own homes or the homes of a family member according to the SPA. DOH will provide guidance to FFS, MMC and MLTC care managers to review these standards with members during the person-centered planning process.				<a href="#">Click here for State Amendment Plan 13-0035</a>
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			X		All participants must live in their own home or the home of a family member to receive services. Prior to March 17, 2019 we will issue HCBS CFCO subregulatory guidance to explicitly include the HCBS standards marked silent in this chart.
-- 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		see above response
--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		see above response
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		see above response
5. Facilitate individual choice regarding services and supports, and who provides them.			X		see above response
<b>Provider Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.			X		We are unsure of any provider-owned and controlled settings at this time and will be assessing for this via site specific assessments. If there are applicable provider-owned and controlled non-residential settings, we will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
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		see above statement column F row 39
7. Each individual has privacy in their sleeping or living unit:			X		see above statement column F row 39
-- units have entrance doors lockable by the individual with only appropriate staff having keys;			X		see above statement column F row 39
-- individuals sharing units have a choice of roommates in that setting;			X		see above statement column F row 39
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.			X		see above statement column F row 39
8. Individuals have the freedom and support to:					
--control their own schedules and activities;			X		see above statement column F row 39
--have access to food at any time.			X		see above statement column F row 39
9. Individuals are able to have visitors of their choosing at any time.			X		see above statement column F row 39
10. The setting is physically accessible to the individual.			X		not a modifiable standard
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
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
<i>Assessment Activities</i>		
Is State/systemic framework compliant?	Ongoing through March, 2021	See Systemic Compliance Charts– Appendix A.
<i>Are existing residential settings compliant?</i>		
Determine statistically significant sample for each waiver and type of setting; develop site visit schedule for applicable settings	11/2016 – 11/2019	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 – 3/2019	Surveillance teams will incorporate HCBS into existing survey tools for MC, MLTC.
Assess regulated Adult Care Facility's for compliance	7/2016 – 9/2021	See ACF Transition Plan Section.
<i>Are existing non-residential settings compliant?</i>		
Determine statistically significant sample for each type of non-residential setting and develop site visit schedule	6/2016 – 11/2019	Schedule of site visits and implementation of specific remediation plans.
Develop survey tool to evaluate compliance of non-residential settings	Completed	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 – 11/2019	Anticipated start date 11/2016; outside date includes revisits to ensure remediation is appropriately implemented. Statewide compliance chart will be developed.

## Appendix B: Summary of DOH Transition Activities

Transition Plan Activity	Time line	Deliverables
<i>Are there any residential or non-residential settings that may be presumed institutional and therefore trigger CMS' heightened scrutiny review?</i>		
Identify pool of settings that may be presumed institutional/subject to heightened scrutiny	7/2015 – 11/2019	
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 – 03/2019	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 – 11/2019	Rolling HS packages sent to CMS for review; Statewide Compliance Chart will be updated on a regular basis.
<i>Communication/Outreach Activities</i>		
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	Ongoing	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
<i>Remediation Activities</i>		
Conclude any necessary regulatory changes to ensure	Ongoing through 12/2019	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
compliance and commence 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 – 11/2019	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 2021	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 2022	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	By 03/2022	Compliance reports; Corrective Action Plans (if any)
<i>Monitoring/Oversight Activities</i>		
Develop comprehensive plan for monitoring compliance based on State's existing surveillance or review processes.	By 2021	Schedule of planned site visits for residential and non-residential settings

## Appendix B: Summary of DOH Transition Activities

Transition Plan Activity	Time line	Deliverables
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
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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
22. 18 CRR-NY 441.17 Restraint of Children in Care
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
  - o Assisted Living Programs (ALPs) –  
ALP residents may receive Behavioral Health Home and Community-Based Services (BH HCBS HARP) or HCBS through MMMC and MLTC, under - 1115 Demonstration Project (NY Partnership Plan)

### **Services Provided Under ALPs:**

The following core services are provided under ALPs:

1. Personal Care
2. Home Health Aides
3. Personal Emergency Response Services
4. Nursing
5. Physical Therapy
6. Occupational Therapy
7. Speech Therapy
8. Medical Supplies and Equipment
9. Adult Day Health Care

In addition, regulations require the adult home or enriched housing program within which the ALP is located to provide:

1. Room
2. Board
3. Housekeeping
4. Supervision

In addition to the menu of services above, an ALP resident who enrolls in a Mainstream Medicaid Managed Care or Managed Long Term Care plan may also receive the following services:

1. A Range of Home Health Services
2. Case Management Services of a Registered Professional Nurse

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

### **E - F. 1115 Demonstration Project (NY Partnership Plan) (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) 1915 (c) Waiver**

##### **Services Provided Under CAH Waivers:**

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

#### **H. Congregate Care, Group Homes, and Family Homes:**

Individuals receive residential habilitation services under 1915 (c) OPWDD Comprehensive HCBS Waiver in the following settings:

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

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

1. Residential Habilitation (see types above)
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 for Individuals with Intellectual and Developmental Disabilities (FIDA-DD) Program:**

See above list of services, under OPWDD 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 – N.** Recipients/residents in these programs/settings may receive Behavioral Health Home and Community-Based Services (BH HCBS) through HARP or HCBS through MMMC and MLTC.

#### **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) Services provided under HARP - 1115 Demonstration Project (NY Partnership Plan) (OASAS/OMH/DOH):**

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) –**

PSH residents may receive Behavioral Health Home and Community-Based Services (BH HCBS HARP) or HCBS through MMMC and MLTC, under - 1115 Demonstration Project (NY Partnership Plan)

### **Behavioral Health Home and Community-Based Services (BH HCBS) Services provided under HARP - 1115 Demonstration Project (NY Partnership Plan) (OASAS/OMH/DOH):**

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) 1915 (c) 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 AND ADULT CARE FACILITY HCBS SETTINGS TRANSITION**

## **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) some of which operate Assisted Living Programs (ALP).

As of May 2018, New York had licensed 548 ACFs with the ability to provide temporary or long-term residential care and services to potentially over 49,000 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 2017 fourth quarter quarterly census collection, an estimated 12,777 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 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.

In New York State, 144 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

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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 TRANSITION**

New York's ALP and ACF 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:

- a. Assessment of ALP provider current compliance with HCBS Rule requirements
- b. Training and education to providers on HCBS Rule requirements
- c. Amendments to align NYS regulations with HCBS Rule requirements
- d. 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 necessary to comply with HCBS Rule requirements by January 1, 2020, and that the Department will have its surveillance protocols in place to be able to evaluate such compliance.

Over the last few decades, there are several licensed adult care facilities with ALPs that operate in close proximity to, and/or are 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 and facilities in which Medicaid eligible individuals receive home and community-based services, either at or outside of the facility, into substantial compliance with the HCBS Rule.

Based on work done thus far, the State believes that there are only a small number of adult care facilities 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.

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### III. ASSESSMENT METHODOLOGY, PROCESS AND REMEDIATION

The Department's transition planning team has worked thoughtfully 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 took was to measure compliance of its existing licensed ALPs with the HCBS Rule requirements 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 submitted pertinent information needed by the State to make a determination of their level of compliance. DOH will mirror this process for adult care facilities housing or potentially housing a resident who may be receiving Medicaid-funded HCBS within or outside the facility.

DOH will require all newly established ALPs and adult care facilities to demonstrate full compliance with the HCBS rule during licensure review.

If a provider indicates they do not fully meet the new requirements, the State will work with the facility 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 adult care facilities 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 assess each applicable program'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 regulations that may be "silent or partially compliant", the State will revise regulations to align with the final rule.

**Table 1** (below) details the activities and timelines necessary to ensure timely compliance by applicable adult care facilities and all ALP providers.

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NEW YORK STATE ADULT CARE FACILITY & 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
<u>Dear Administrator Letter with 2016 ALP HCBS Self-Assessment</u> 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
<u>2016 ALP HCBS Self-Assessment</u> 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 and applicable adult care facility providers on HCBS Requirements	January 2019	Open to all adult care and assisted living providers
Issue compliance guidance to adult homes, enriched housing programs, and assisted living residences	June 2018	None.
Issue self-assessment to adult homes, enriched housing programs, and assisted living residences	August 2018	None.
Conduct a statistically significant sample of onsite assessments	December 2018	None.
Develop and implement HCBS survey protocol	March 31, 2019	Conduct statewide surveyor training.
Revise Adult Care Facility and Assisted Living Regulations	January 1, 2020	The Department will modify its existing regulations to reflect the current landscape of adult care and comply with the HCBS Final Rule.

## HEIGHTENED SCRUTINY ACTIVITY

While the Department hasn't yet identified all ACFs that may require heightened scrutiny, we have 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 and those Adult Care Facilities who house residents that receive in-house or community-based HCBS 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/or 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 Care Facilities**

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings:</b>						
<b>1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.</b>		X			Licensed Adult Homes or Enriched Housing Programs, which are governed by regulations at 18 NYCRR 487 and 488, provide long-term residential care, room, board, housekeeping, personal care, case management, and supervision. Assisted Living Programs, which operate under unique certification within an adult home or enriched housing program, are subject to regulation at 18 NYCRR §494. Per regulation at 18 NYCRR §488.2(a), these core services are provided to residents of Enriched Housing Programs in "...community-integrated settings resembling independent housing units..." and the Department requires the Enriched Housing Program to "...be integrated in the community and readily accessible to medical and appropriate commercial and community services facilities..." at 18 NYCRR §488.11(b)(1). By March 2019, the Department will issue guidance to address compliance with this standard with adult homes; and by January 2020 will make a regulatory amendment through the Department's regulatory amendment process, to compel compliance for adult homes.	<a href="#">Click here for link to 18 NYCRR §488.2(a)</a> <a href="#">Click here for link to 18 NYCRR §488.11(b)(1)</a>
a) opportunities to seek employment/ work in			X		Although the regulations do not specifically contain the language in the HCBS standard, by March 2019 the Department will issue guidance to achieve compliance with this HCBS standard. By January 2020, the Department will make a regulatory amendment through the Department's regulatory amendment process, to compel compliance.	
b) engage in community life		X			Per regulation at 18 NYCRR §488.2, these services are provided to residents of Enriched Housing Programs in "...community-integrated settings resembling independent housing units..." and the Department requires the Enriched Housing Program to "...be integrated in the community and readily accessible to medical and appropriate commercial and community services facilities..." at 18 NYCRR §488.11(b)(1). Although the adult home regulations do not specifically contain the language in the HCBS standard, the Department has issued guidance to facilitate compliance by March 2019. By January 2020, the Department will make regulatory amendments through the Department's regulatory amendment process, to compel compliance.	<a href="#">Click here for link to 18 NYCRR §488.2</a>  <a href="#">Click here for link to 18 NYCRR §488.11(b)(1)</a>
c) control personal resources				X	The HCBS standard is achieved through regulation 18 NYCRR §487.5(a)(3)(vi) and §488.5(a)(3)(x), which states "A resident shall have the right to manage his or her own financial affairs". Regulations 18 NYCRR §487.6 and §488.6 provide the resident with choices for personal resource management.	<a href="#">Click here for link to 18 NYCRR 487.5(a)(3)(vi)</a>
d) receive services in the community		X			Per regulation at 18 NYCRR §488.2, these services are provided to residents of Enriched Housing Programs in "...community-integrated settings resembling independent housing units..." and the Department requires the Enriched Housing Program to "...be integrated in the community and readily accessible to medical and appropriate commercial and community services facilities..." at 18 NYCRR §488.11(b)(1). Although the adult home regulations do not specifically contain the language in the HCBS standard, the Department will issue guidance to facilitate compliance by March 2019. Further, by January 2020, the Department will make regulatory amendments through the Department's regulatory amendment process, to compel compliance.	<a href="#">Click here for link to 18 NYCRR §488.2</a> <a href="#">Click here for link to 18 NYCRR §488.11(b)(1)</a>

**DOH 1115 Demo Adult Care Facilities**

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings:</b>						
<b>2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting.</b>		X			Regulation 18 NYCRR §494.4(c)(5) reads that the "...Assisted Living Program may care only for a person who...voluntarily chooses to participate in an assisted living program after being provided with sufficient information to make an informed choice..." By March 2019, the Department will issue guidance to Adult Homes and Enriched Housing Programs to facilitate compliance with the HCBS standard. By January 2020, the Department will propose a regulatory amendment through the Department's regulatory amendment process, to compel compliance.	<a href="#">Click here for link to 18 NYCRR §494.4(c)(5)</a>
a)the options are identified and documented in the person-centered service plan			X		While the regulations require an individualized person-centered care plan based on a pre-admission interview, medical evaluation and, for Assisted Living Program participants, a comprehensive assessment tool (UAS-NY), by March 2019, the Department will issue guidance to facilitate compliance with this HCBS standard.	
b) the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.		X			Regulation 18 NYCRR §494.4(c)(5) reads that the "...Assisted Living Program may care only for a person who...voluntarily chooses to participate in an assisted living program after being provided with sufficient information to make an informed choice..." While the regulations support an individualized person-centered care plan based on a medical evaluation and, for Assisted Living Program participants, a comprehensive assessment tool (UAS-NY), by March 2019, the Department will issue guidance to facilitate compliance with this HCBS standard.	<a href="#">Click here for link to 18 NYCRR §494.4(c)(5)</a>
<b>3. Ensure an individual's rights of privacy.</b>				X	This HCBS standard is achieved under 18 NYCRR §487.5(a)(3) and 18 NYCRR §488.5(a)(3), which provide for resident's rights, including the right "...to have privacy in treatment and in caring for personal needs..."	<a href="#">Click here for link 18 NYCRR 487.5(a)(3)</a> <a href="#">Click here for link to 18 NYCRR 488.5(a)(3)</a>
a) Ensure an individual's rights of dignity and respect.		X			18 NYCRR §487.5(a)(3) and 18 NYCRR §488.5(a)(3) provide for resident's rights, including the right "...to receive courteous, fair and respectful care and treatment, and not to be physically, mentally or emotionally abused..." By March 2019, the Department will issue guidance and by January 2020, update its regulations to include this specific language from the HCBS standard.	<a href="#">Click here for link 18 NYCRR 487.5(a)(3)</a> <a href="#">Click here for link to 18 NYCRR 488.5(a)(3)</a>
b) Ensure an individual's rights of freedom from coercion and restraint.			X		By March 2019, the Department will issue guidance and by January 2020, update its regulations to reinforce this HCBS standard.	
<b>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.</b>		X			Adult Homes are required, per 18 NYCRR §487.7(g)(1)(iv)-(v), to assist "...each resident to maintain family and community ties and to develop new ones" and "...encourage resident participation in facility and community activities..." Enriched Housing Programs are required, per 18 NYCRR §488.7(g)(2)(iv)-(v), to assist "...each resident to maintain family and community ties and to develop new ones" and "...encouraging resident participation in enriched housing and community activities..." Further, 18 NYCRR §487.5(a)(3)(xii) indicates that residents of adult homes "...shall be permitted to leave and return to the facility and grounds at reasonable hours..." By March 2019, the Department will issue guidance and by January 2020, update its regulations to reinforce this HCBS standard so that all settings housing residents who receive HCBS allow for the safe access to and from the facility at all hours.	<a href="#">Click here for link to 18 NYCRR §487.7(g)(1)(iv)-(v)</a> <a href="#">Click here for link to 18 NYCRR §488.7(g)(2)(iv)-(v)</a>
<b>5. Facilitate individual choice regarding services and supports, and who provides them.</b>		X			Regulation 18 NYCRR §487.7(g)(1)(vii) requires the Adult Home to assist the resident "...in obtaining and maintaining a primary physician or source of medical care of choice..." Regulation 18 NYCRR §488.7(e)(2)(vii) requires the Enriched Housing Program to assist the resident "...in obtaining and maintaining a primary physician or source of medical care of choice..." By March 2019, the Department will issue guidance and by January 2020, update its regulations to reinforce this HCBS standard.	<a href="#">Click here for link to 18 NYCRR §487.7(g)(1)(vii)</a> <a href="#">Click here for link to 18 NYCRR §488.7(e)(2)(vii)</a>
<b>Provider Owned or Controlled Settings:</b>						
<b>6. A specific place that can be owned, rented or occupied</b>				X	This HCBS standard is directly supported by regulations 18 NYCRR §487.5(d) and	<a href="#">Click here for link to 18 NYCRR §487.5(d)</a>

DOH 1115 Demo Adult Care Facilities

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings:</b>						
under a legally enforceable agreement by the individual receiving services.					§488.5(c) which indicate that "...each operator shall execute with and provide to each resident...a written admission agreement which shall constitute the entire agreement of the parties..." and contain at least the required provisions of the regulation. Per regulations 18 NYCRR §487.5(d)(3) and §488.5(c) each Admission Agreement must state that "...any modification or provision of the agreement which is not in compliance with law or regulation shall be null and void..." Termination of the Admission Agreement must be in accordance with 18 NYCRR §487.5(f) and §488.5(e), especially 18 NYCRR §487.5(f)(16) and 18 NYCRR §488.5(e)(15) which require the operator to "...institute a special [court] proceeding pursuant to section 461-h of the Social Services Law..." if the resident objects to such termination. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	<a href="#">Click here for link to 18 NYCRR §488.5(c)</a> <a href="#">Click here for link to 18 NYCRR §487.5(e)</a> <a href="#">Click here for link to 18 NYCRR §488.5(c)</a> <a href="#">Click here for link to 18 NYCRR §487.5(f)</a> <a href="#">Click here for link to 18 NYCRR §488.5(e)(15)</a>
a) 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	This HCBS standard is directly supported by regulations 18 NYCRR §487.5(d) and §488.5(c) which indicate that "...each operator shall execute with and provide to each resident...a written admission agreement which shall constitute the entire agreement of the parties..." and contain at least the required provisions of the regulation. Per regulations 18 NYCRR §487.5(d)(3) and §488.5(c) each Admission Agreement must state that "...any modification or provision of the agreement which is not in compliance with law or regulation shall be null and void..." Termination of the Admission Agreement must be in accordance with 18 NYCRR §487.5(f) and §488.5(e), especially 18 NYCRR §487.5(f)(16) and 18 NYCRR §488.5(e)(15) which require the operator to "...institute a special [court] proceeding pursuant to section 461-h of the Social Services Law..." if the resident objects to such termination. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	<a href="#">Click here for link to 18 NYCRR §487.5(d)</a> <a href="#">Click here for link to 18 NYCRR §488.5(c)</a> <a href="#">Click here for link to 18 NYCRR §487.5(e)</a> <a href="#">Click here for link to 18 NYCRR §488.5(e)</a> <a href="#">Click here for link to 18 NYCRR §488.5(e)(15)</a>
<b>7. Each individual has privacy in their sleeping or living unit:</b>			X		By January 2020, the Department will update its regulations and by March 2019, issue guidance to reinforce this HCBS standard. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	
a) units have entrance doors lockable by the individual with only appropriate staff having keys;			X		Regulation at 487.11(h) and 488.11(e) indicate that doors to residents' sleeping rooms (or apartments, in the case of enriched housing programs) may be locked providing the doors can be unlocked from the outside and that keys are available to staff at all times. By March 2019, the Department will issue guidance and by January 2020, make regulation amendments to reinforce this HCBS standard, which will include a statement that a documented justification must be included on a person-centered care plan for any resident who is assessed as being inappropriate for a locking door, including the need to document alternatives considered and attempted and the resident's informed consent.	<a href="#">Click here for link to 18 NYCRR §487.11(h)(4)</a> <a href="#">Click here for link to 18 NYCRR §488.11(e)(2)</a>

**DOH 1115 Demo Adult Care Facilities**

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings:</b>						
b) individuals sharing units have a choice of roommates in that setting;			X		By January 2020, the Department will update its regulations and by March 2019, issue guidance to reference roommate choice and issue guidance to further facilitate compliance with this HCBS standard. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	
c) Individuals have the freedom to furnish and decorate their sleeping or living units within the setting;			X		By January 2020, the Department will update its regulations and by March 2019, issue guidance to further facilitate compliance with this HCBS standard. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	
<b>8. Individuals have the freedom and support to:</b>						
a) control their own schedules and activities;			X		By January 2020, the Department will update its regulations and by March 2019, issue guidance to facilitate compliance with this HCBS standard. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	
b) have access to food at any time.		X			Regulation 18 NYCRR §488.8(c)(3) requires that Enriched Housing Program residents "...have free access to kitchen facilities for the purpose of preparing their own non-congregate meals and snacks..." Adult Home regulations do not currently require access to food at any time, but are specific to the number of meals and snacks to be provided and the maximum number of hours between meals. By March 2019, the Department will issue clarifying guidance and by January 2020, update its regulations to further facilitate compliance with this HCBS standard. We will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	<a href="#">Click here for link to 18 NYCRR §488.8(c)(3)</a>



**DOH 1115 Demo Adult Care Facilities**

Standard/Quality	Degree of Compliance				Documentation	Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
<u>All Settings:</u>						
9. Individuals are able to have visitors of their choosing at any time.	X				Current regulations are not specific to residents having their choice of visitors at any time as facilities may have policies regarding access to visitors and visiting hours. 18 NYCRR §485.14(b) describes the minimum required visiting hours for each adult home and/or enriched housing program. Additionally, under 18 NYCRR §485.14(g), when the facility has reasonable cause to believe a visitor or visitors may jeopardize the safety of residents and/or staff, the operator may consider and document alternative positive interventions and supports and less-intrusive methods that did not successfully meet the resident's identified needs, obtain the resident's informed consent to any restriction, and provide assurance that any restriction will not cause harm to any resident. By January 2020, the Department will update its regulation and by March 2019, issue person-centered planning guidance in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that residents are able to have visitors of their choice at any time and any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan for those living or receiving HCBS in provider-owned and controlled adult homes/adult care facilities.	
10. The setting is physically accessible to the individual.		X			This HCBS standard is supported by regulation 18 NYCRR §487.3(b) and §488.3(b), which state that the operator must "...operate and maintain" the Adult Home or Enriched Housing Program "in compliance with the regulations of the department and with applicable statutes and regulations of other State and local governmental jurisdictions..." This assumes local laws and ordinances related to handicap accessibility. The Department will issue guidance to strengthen compliance with this HCBS standard by March, 2019.	<a href="#">Click here for link to 18 NYCRR §487.3(b)</a> <a href="#">Click here for link to 18 NYCRR §488.3(b)</a>
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>	
11. Are any settings in facilities that also provide inpatient institutional services?	Yes (45)				The 2016 ALP Self-Assessment identified 45 Assisted Living Programs that are on the same grounds of, or in the same building as, or adjacent to, a nursing home. DOH has identified Assisted Living Programs that may have the effect of isolating	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			X		18 NYCRR §488.11(b)(2) states that enriched housing programs shall not be located within existing adult care, health-related, skilled nursing or medical facilities, single room occupancy buildings (SRs) or hotels. Per the Regional Office Program Managers, to their knowledge, no facilities are located immediately adjacent to a public institution.	<a href="#">Click here for link to 18 NYCRR §488.11(b)(2)</a>
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?	Yes (16)				The 2016 ALP Self-Assessment identified 16 Special Needs Assisted Living Residences which provide Assisted Living Program services. 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.	
Please confirm that Respite Care provided in any institutional setting under the state's various HCBS programs is not permitted for a duration of longer than 30 days.					Temporary residential care (i.e., respite) may be provided for up to 120 days in any twelve month period in an adult home or enriched housing program. See citation >	<a href="#">Click here for link to SSL §461-k(1)(c)</a>

# **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 ten programs with a daily capacity to serve 697 registrants/day. The total number of individuals currently enrolled in ADHCP is approximately 1130. 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. (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 – December 31, 2018)
- Conduct Initial onsite assessment of all ten programs to ascertain compliance with the HCBS Rule by March 17, 2019. Any indications of non-compliance will require a detailed explanation and a corrective action plan from the provider addressing the non-compliance (Anticipated date – June 30, 2019).
- 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 1, 2020).

## 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 21 contracts with 15 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 540 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 and/or develop program guidance documents 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 – March 17, 2019).
- For the Housing provider contractors that are determined to be provider owned or controlled settings (e.g. hold a master lease with a landlord and sub-lease apartments to tenants, or own the apartments) a review of all lease/sub-lease agreements with tenants will be conducted, as well as a review of all program policies and procedures, and “house rules” to ascertain compliance with HCBS Setting Rule (Anticipated date – March 17, 2019). Any indications of non-compliance will require a detailed explanation and a corrective action plan from the provider addressing the non-compliance. (Corrective action plans to be implemented June 30, 2019).
- 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 – March 17, 2019).

### AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings: AIDS ADHCP</b>					<p>Note: The AIDS Adult Day Health Care 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 Persons Living with HIV/AIDS and Other High Need Populations (November, 2017)" will be updated by 3-17-19 to explicitly state expectations of all standards as referenced in this AIDS Adult Day Health Care Program crosswalk compliance chart. We will also include in our revisions to these Guidelines, regulations "42 CFR 441.301(c)(4)(vi)(F), which indicates that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(C) and (D), must be supported by a specific assessed need and justified in the person-centered service plan. The expectations of these Standards will be incorporated into routine programmatic monitoring protocols. Furthermore, separate and distinct from routine programmatic monitoring, an initial on-site review of all program sites will be conducted by 03/31/20 to assess compliance with HCBS Standards.</p>	<a href="#">Click here for Guidelines for Adult Day Health Care Programs</a>
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.			x		see above	
-- 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 including non-disability specific settings and an option for a private unit in a residential setting.			x		See above	
--the options are identified and documented in the person-centered plan			x		See above	
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			x		See above	
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; "425.4(3) - ...provide each registrant with a copy of a Bill of Rights specific to operation of the adult day health care program. These rights include, but are not limited to : (i) confidentiality, including confidential treatment of all registrant records;" (Section Part 751.9 language mirrors Section 425.4)	<a href="#">Click here for Section 425.4 (3)</a>
Ensure an individual's rights of dignity and respect.			x		See above response in cell 4F	<a href="#">Click here for Section 751.9</a>

### AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
Ensure an individual's rights of freedom from coercion and restraint.			x		See above response in cell 4F	
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		See above response in cell 4F	
5. Facilitate individual choice regarding services and supports, and who provides them.			x		See above reseponse in cell 4F	
<b><u>Provider Owned or Controlled Settings:</u></b>					None of the AIDS adult day health care program are residential. The vast majority or registrants live in their own home (not provider owned or controlled) and have tenancy rights via their lease. We will assure that, within the person-centered care planning process, that their housing status is assessed and addressed to assure compliance with HCBS Final Setting rule.	
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving					Not applicable	
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.					Not applicable	
7. Each individual has privacy in their sleeping or living unit:					Not applicable	
-- units have entrance doors lockable by the individual with only appropriate staff having keys;					Not applicable	
-- individuals sharing units have a choice of roommates in that setting;					Not applicable	
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.					Not applicable	
8. Individuals have the freedom and support to:						
--control their own schedules and activities;			x		"Guidelines for Adult Day Health Care Programs Caring for Persons Living with HIV/AIDS and Other High Need Populations (November, 2017)" will be updated by 3/2022 to explicitly state expectations of "42 CFR 441.301(c)(4)(vi)(F), which indicates that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(C) and (D), must be supported by a specific assessed need and justified in the person-centered service plan. Any deviation from the standards at 42 CFR 441.301(c)(4)(vi)(C) and (D) will be justified and documented in the Person-Centered Plan which will be updated no less frequently than every 6 months.	

### AIDS Adult Day Health Care Program

Standard/Quality	Degree of Compliance				Documentation/Citations	Citation Web Links
	Non-Compliant	Partially Compliant	Silent	Compliant		
--have access to food at any time.			x		See above response in cell 47F	
9. Individuals are able to have visitors of their choosing at any time.			x		See above response in cell 47F	
10. The setting is physically accessible to the individual.			x		See response at top of chart in cell 4F	
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES</b>	<b>NO</b>	<b>How Many?</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>	
11. Are any settings in facilities that also provide inpatient institutional services?	x			<b>1</b>		
	NOTE: One AIDS ADHC program operates in space in a private non-profit nursing home. However, registrants of this program are <i>not</i> 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.				Richmond Center for Rehabilitation and Healthcare AIDS ADHCP	
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 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, updated as of March 2018, 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 four 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 79,000 people, approximately 46,000 of whom reside in their own homes or the home of a family member, relative or friend. More than 44,000 individuals are supported through day habilitation services. OPWDD itself employs more than 20,000 people.

With Federal approval, beginning July 1, 2018, New York State will initiate the transformation of the State's system of services for people with I/DD to better integrate services, promote improved use of resources to meet growing and changing needs, and become truly person-centered. This transformation will include:

- Providing comprehensive Health Home Care Management for individuals with I/DD provided by conflict-free Care Coordination Organizations/Health Homes (CCO/HHs);
- Moving the Federal authorization for HCBS, now provided under the OPWDD Comprehensive 1915(c) Waiver to New York State's 1115 Medicaid Redesign Team (MRT) Waiver through the I/DD Amendment; and,
- Initiating the transition to specialized managed care for individuals with I/DD.

Through these changes and many other transformational activities described in this Transition Plan, the values of integration, individual choice, and independence are increasingly being infused throughout OPWDD's regulatory and service delivery structures. 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 and Performance Management (DQIPM) 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 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 and Performance Management (DQIPM) 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 updated as of March 2018. 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 five 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 79,000 people, approximately 46,000 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 196 people (as of 2-20-18<sup>1</sup>).

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 2022. The sheer breadth and scope of our service system, serving more than 139,000 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 2022.

OPWDD is committed to working in partnership with our sister New York State agencies and CMS to make even more progress in the coming years towards a system that is as person-centered as it can be for each of the 139,000 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 Medicaid HCBS 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**

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<sup>1</sup> Based on TABS data pull 2/20/2018.

OPWDD's system contains over 6,100<sup>2</sup> Individualized Residential Alternatives (IRAs) and Community Residences (CRs) serving over 32,000 people with developmental disabilities in the HCBS Waiver. Of these group homes, approximately 54% are designed to serve more than four unrelated individuals and approximately 11% serve ten or more people. The homes that serve more than four people comprise approximately 78% of the total people residing in certified IRA group homes (over 32,000). 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.

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 850 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 approximately 64% of them having maximum capacities of 26 people or more. Approximately 77 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 the majority of supports are provided in everyday community settings rather than a segregated facility. However, for some programs, particularly those serving people with complex needs, this evolution

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<sup>2</sup> According to DQI operating certificates as of 5/5/16.

may take time beyond March 2022 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 OPWDD HCBS Waiver services:

- Residential Habilitation
- Day Habilitation
- Community Habilitation
- Plan of Care Support Services<sup>3</sup>
- 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<sup>4</sup> 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 and Sheltered Workshops**

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<sup>3</sup> Plan of Care Support Services (PCSS) will end with the transition to the 1115 Waiver effective July 1, 2018. OPWDD will offer care management services through CCO/HHs or individuals may choose to receive HCBS Care management through a CCO/HH of their choice. See OPWDD's Transition Plan for HCBS, Health Home Care Management for individuals with I/DD: [https://www.health.ny.gov/health\\_care/medicaid/program/medicaid\\_health\\_homes/idd/draft\\_idd\\_1115\\_waiver.htm](https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/idd/draft_idd_1115_waiver.htm)

<sup>4</sup> Short term respite services of 30 days or less can be provided in an ICF/institutional setting.

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 and the New York State Plan to Increase Competitive Employment (which ends funding for Sheltered Workshops December 31, 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**).

<b>Figure 1: OPWDD Residents of Group Residential Settings<sup>5</sup></b>			
<b>Persons</b>	<b>2005</b>	<b>2015</b>	<b>Percent Change</b>
1-3	3,234	3,481	+7.64%
4-6	8,769	12,201	+ 39.14 %
7-15	19,039	18,462	-3.03%
16+	3,348	1,661	-50.39%

## **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**

<sup>5</sup> ICFs are included in this data. Source: University of Minnesota Residential Information Systems Project, June 30, 2015.

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 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**).

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 more than 20,000 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 and were instrumental in system and provider level assessment contributing to the development

of OPWDD's Transition Plan. These Workgroups participated 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 Leaders. This Committee 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:** This group provided 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.<sup>6</sup>
- c. **Non-residential/Day Settings Subgroup:** This group made 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 was 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**.

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<sup>6</sup> <sup>6</sup> As of June 2017, OPWDD is reevaluating the initial heightened scrutiny design process to more fully incorporate OPWDD's comprehensive ongoing monitoring of HCBS settings quality standards during on-site reviews by surveyors (which the extended compliance timeline enables) and to more effectively connect to the larger statewide heightened scrutiny process that is in development.

## **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 was 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 was a significant contributor to OPWDD's methods for initial and ongoing HCBS settings compliance monitoring and quality improvement at the provider level.<sup>7</sup>

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<sup>7</sup> 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: [\(click here for Agency Quality performance Standards\)](#).

## 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).

### 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.<sup>8</sup>

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 the 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

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<sup>8</sup> As established in the HCBS Final Rule and CMS Exploratory Questions for Residential Settings.

(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?
- 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 was completed through the October 2015-September 2016 Division of Quality Improvement (DQI) survey cycle where all setting types were 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 include HCBS settings requirements; the site review tool was implemented 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 was 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 2022. 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.

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 636, was created to house OPWDD HCBS Waiver regulations. OPWDD has drafted an overarching HCBS Settings regulation modeled on the federal rule which will apply to all HCBS under the auspices of OPWDD. We expect to adopt the rule no later than March 1, 2019 with an effective date for compliance action no later than October 1, 2021.

#### 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 by year end 2019 the majority of newly developed/certified residential group homes will be designed for



4 persons or less unless an exception is approved by the Commissioner. 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 will be an 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.

Of particular note, effective July 1, 2018, is the transformation of OPWDD's service system to care management through implementation of CCO/HHs. CCO/HH care management will combine services for developmental disabilities with health, wellness, and behavioral health services to create a single, integrated and individualized Life Plan to achieve a holistic and integrated approach to meeting the full range of needs and life goals for people with I/DD.

#### **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.<sup>9</sup> OPWDD chose assessment processes that are independently administered by Division of Quality Improvement and Performance Management (DQIPM) 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.

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<sup>9</sup> Setting types include Individualized Residential Alternative (IRA)/Community Residences (CR), Family Care Homes, Private Homes; Day Habilitation and Sheltered Workshops.

## 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.<sup>10</sup> This memo can be found at the following link under "Heightened Scrutiny": ([click here for HCBS Settings Toolkit Web Page](#)). OPWDD will be updating this memo to reflect the recent three-year extension provided by CMS for full HCBS settings compliance.

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<sup>10</sup> 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 publicly 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).
- f. The setting/site's design, appearance and/or location appears to be institutional and/or isolating (as determined by numerous criteria).

## 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.

#### 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).

### 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.<sup>11</sup>

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](#)).
  
- ✓ **2017 New York State Workforce Credentialing Programs Comparative Analysis:** This report summarizes and evaluates five existing organizational

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<sup>11</sup> 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.

credentialing programs that used a variety of learning methods to deliver competency-based curricula. The report serves to inform efforts to broaden credentialing initiatives statewide in order to stabilize the workforce and enhance the quality of supports for people with I/DD.

## **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 are 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 14 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 in the process of designing an Occupancy Agreement template 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](#).

## 6. Systemic Results from the Assessment of Family Care Homes

OPWDD aggregated the percentage of compliance for each HCBS settings standard reviewed across assessments completed in 901 homes and 1,582 people through March of 2018. The Statewide assessment and validation period began in April of 2017 and concludes in July of 2018.

**Table 2.1** highlights a summary of statewide aggregated compliance data and includes the number of homes assessed to date and the percentage of compliance across assessments.

This information has assisted OPWDD in identifying areas for targeted systemic remediation strategies. It indicates that statewide compliance with HCBS settings in

Family Care homes is substantial and that people living in Family Care homes are included in and are part of their communities.

**Table 3.1** identifies the specific and detailed standards that are included in OPWDD's Family Care Assessment Tool where aggregated results indicated a compliance rate lower than 85%. Targeted remediation strategies for the two standards that fall below 85% are noted on **Table 3.1**

## B. SITE SPECIFIC SETTING RESULTS

### 1. Compliance Estimates

**Table 4** summarizes, Setting Types, People Supported and Compliance for initial assessments of residential and day settings. In addition, compliance improvement data is noted for IRA and CR residential settings as well as Sheltered Workshop transition data.

#### **Settings that comply:**

**Residential IRA/CR:** OPWDD assessment of HCBS settings compliance continues through ongoing, annual DQI review activities, allowing for review/assessment of a greater number of residential sites. Based on site reviews completed 10/2016- 09/2017 for 5,621 of 6,166 total residences (IRAs/CRs) (91% sample), the number of residential settings assessed to comply/meet HCBS Settings characteristics was determined to be 5,672 sites (approximately 92% of 6,166 IRAs/CRs).

**Family Care Homes:** The OPWDD initial assessment of Family Care Homes will be complete as of July 2018. Data through March of 2018, shown in **Table 2.1**, shows substantial HCBS Settings compliance (97.64%) for the 901 Family Care Homes assessed out of 1,064 total homes for a sample of 85%.

**Day Settings:** OPWDD assessment of HCBS settings compliance continues through ongoing, annual DQI review activities, allowing for review/assessment of day service settings. Based on site reviews completed 10/2016- 09/2017, 665 day settings complied out of 725 total reviewed for a compliance rate of 92%. This assessment comprised an 83% sample of all day settings. Therefore, number of day habilitation sites estimated to comply/meet HCBS Settings characteristics was determined to be 801 (approximately 92% of the 871 total day habilitation sites)

**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 from

DQIPM data from 9/2016 to 10/2017 is 494, a 60% increase from the initial assessment data of residential settings needing modifications (3,939).

Using the same methodology, and using data from DQIPM as of 10/2017 we are estimating that based on the number of Day Habilitation settings that were assessed to not yet comply, that 26 day program sites may comply in the future with modifications.

**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 determined to be 243 of the 6,166. This was determined (and updated as of 10/2016) based upon the onsite reviews conducted 10/01/2015-09/30/2016 of certified non-ICF residences where HCBS waiver services are, and are expected to continue to be delivered. For day habilitation settings, based upon settings reviewed by DQI for the same time period, 68 of the 871 day settings reviewed are subject to heightened scrutiny.

**Settings that cannot meet the HCBS characteristics:** OPWDD is now transitioning all sheltered workshops so none of the 72 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 [Work Settings Report | OPWDD](#).

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.

## Heightened Scrutiny

**Residential:** As of September 30, 2017, from OPWDD's residential assessment of over 6,100, 243 of these residential settings have been identified as subject to heightened scrutiny. In addition, 68 day settings have been identified as subject to heightened scrutiny. The total heightened scrutiny estimate across residential and day settings as of 9/30/2017 is 300. Potentially another 336 settings could convert from an ICF to a Waiver setting and thus become subject to heightened scrutiny for a potential total of between 300 to 636 settings subject to heightened scrutiny. Subsequent residential reviews after the initial assessment indicate increased heightened scrutiny settings that is likely attributed to the planned closure of ICF programs and conversion to IRA certified settings. Conversion of the same site from ICF to IRA results in an automatic trigger of heightened scrutiny. However, OPWDD's efforts as part of the conversion



process are designed to ensure that the sites will be compliant with HCBS requirements.

**Day Settings:** OPWDD has seen a reduction in the number of day habilitation programs subject to heightened scrutiny. The initial designation of some of the day settings was due to operational practices that resulted in isolating or institutional characteristics. Upon reassessment, DQI staff found that in some settings, substantial revisions were implemented in how services are provided and programs operated, resulting in a redaction of the heightened scrutiny designation

Given these numbers, 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 less<sup>[2]</sup>. 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. 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. [\(Click here for the OPWDD Home and Community Based Settings Preliminary Transition Plan Implementation\)](#).
- ✓ Drafted overarching HCBS settings regulations modeled on the federal rule that will be moving forward to promulgation.

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 2018.

- b. 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](#)).
- c. 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. As noted previously in this document, OPWDD system transformation through CCO/HH care management and the transition to the NYS 1115 MRT waiver and ultimately specialized managed care for individuals with I/DD will provide increased opportunities for better integration of services, community inclusion and integration and person-centeredness.

#### 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 2019, 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 - 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. The next Q and A, “What can Direct Support Professionals and providers do to support real and meaningful community Inclusion?” can be found here: [\(Click here for Q and A on Inclusion\)](#)
- 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.
- i. **Rights Palm Card** to make people receiving services, their families and providers aware of rights and to assist with starting conversations and person-centered planning. [\(Click here for the Rights Palm card.\)](#)
- j. **Heightened Scrutiny** information includes: the DQI Review Tool for Heightened Scrutiny, the OPWDD Provider Communication memo, the Training Power Point, the self-report, guidance and instructions and the work plan template.
- k. **External Resources** such as information from CMS.

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

OPWDD is engaged in a project 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.

This ongoing project is a collaborative effort with people supported, self-advocates (i.e., Self Advocacy Association of NYS (SANYS) is a key partner), parents (i.e., Parent to Parent is a partner), provider representatives, and other stakeholders.

#### **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 October 2017, 726 OPWDD staff were trained in CQL POMs. See **Appendix B** for a listing of POMs workshops to date.
- c. Through the partnership with CQL, OPWDD currently has three CQL certified trainers and ten certified interviewers to help build capacity within OPWDD’s staff in order to further the intent of the new rules.
- d. OPWDD will continue to cascade the POMs training throughout the service system.
- e. 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**

OPWDD believes that a strong and effective workforce is the cornerstone of a service system that provides quality supports to people with developmental disabilities. Direct Support Professionals (DSPs) are at the core of those supports and have the greatest potential to make a life-changing difference in the lives of the people they support. OPWDD has launched numerous initiatives since 2011 to ensure that DSPs valued, supported in their work, and held to high standards of integrity, performance, and professionalism. These initiatives all support the transformation of the workforce from providers of 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 which are required standards of practice and evaluation for all DSPs in New York State. As of April 2016, DSPs across New York State were required to 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](#)).

As of Oct. 1, 2017, OPWDD surveyors include integration of DSP competencies in their review process of service providers. These Competencies are consistent with and support implementation of the HCBS standards. In addition, OPWDD has committed to an additional three years of funding for six Regional Centers for Workforce Transformation, which are designed to build workforce capacity and implement the ethics and quality standards through training, mentoring and development of workforce champions in the I/DD system. As of March 2018, the RCWT have engaged 74% of the voluntary providers in New York State in various learning activities and regional projects to increase the competency of DSPs and enhance the quality of supports for people with I/DD.

## 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 is improving its internal data collection systems. This includes an overhaul of the current DQIPM 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 publicly embraced the Council on Quality and Leadership's (CQL) Personal Outcome Measures (POMs) as the person-centered quality of life measurement, 69 provider agencies, as of March 2018 have chosen to seek CQL Accreditation or are in progress. A growing number of agencies are administering CQL POMs within their waiver programs and agencies. 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. Bi-annual DQI Provider Training**

OPWDD holds DQI Provider Training twice per year, approximately every 6 months. HCBS settings standards are routinely addressed and integrated into the agenda topics.

## **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 be available to OPWDD and allow for monitoring progress towards compliance and ensuring that full compliance is achieved no later than October 1, 2021 for each setting.
- e.** Effective October 1, 2021, 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. 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.
- ✓ Once the ICF Transition Plan is fully implemented 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.
- ✓ Any conversion of an ICF to a waiver setting is only authorized 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/ 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.

## **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

<b>Table</b>	<b>Description</b>
Table 1	Assessment Process by Setting Type
Table 2	OPWDD Residential Assessments, Compliance Summary for the period January 15, 2015 through September 30, 2015
Table 2.1	OPWDD Family Care Assessments, Compliance Summary for the period April 2017 through July 2018
Table 3	Average Statewide Aggregated Compliance by Assessment Standard for Standards below 85% from the HCBS Settings Residential Assessment for IRAs/CRs
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**Table 1: Initial Assessment Process by Setting Type**

Setting Type	Assessment Process
<p><b>Residential</b> Individualized Residential Alternative (IRA)/Community Residences (CR) <b>(Assessment COMPLETED)</b></p>	<p>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. <sup>12</sup></p> <p>See link for OPWDD Part I and Part II and Guidance for Assessment Tools based upon the CMS Exploratory Questions. <sup>13</sup> 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.</p> <p>During 2015-16 survey cycle, OPWDD DQI visited 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.</p> <p>Beginning in October 2016, OPWDD DQI incorporated HCBS settings standards for initial and ongoing compliance monitoring within its site review tool. In October 2017, DQI will incorporate HCBS settings standards in the Person- Centered Review Tool.</p>
<p><b>Residential</b> Family Care Homes <b>(Pending Completion July 2018)</b></p>	<p>OPWDD is in the process of assessing Family Care Homes with completion of the assessment process, including validation, scheduled for July 26, 2018. This survey is 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 is similar to that used in the assessment of IRAs/CRs that is based upon the CMS Exploratory Questions.</p>
<p><b>Private Homes</b> (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). <b>(Pending)</b></p>	<p>Beginning with the October 2017 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.</p>
<p><b>Non-Residential:</b> Day Habilitation and Prevocational settings <b>Assessment Completed 9/30/2017</b></p>	<p>During the 2015-16 survey cycle, OPWDD visited non-residential settings where waiver services are delivered to determine which settings are subject to heightened scrutiny. Beginning 10/1/16, HCBS Settings standards were reviewed as part of routine survey activity for certified IRAs/CRs and Day settings in which waiver services are delivered. The day habilitation assessment process was completed as of 9/30/2017.</p>

<sup>12</sup> 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.'

<sup>13</sup> [\(Click here for HCBS Settings Toolkit\).](#)

<p><b>Non-Residential:</b> Sheltered Workshops <b>(No Assessment as program model will be discontinued)</b></p>	<p>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 CMS. Sheltered Work as a program model/setting will be eliminated no later than April 2022. See Remediation Section VI for further information.</p> <p>Sheltered Work Shops that convert to Integrated Employment Settings will be subject to ongoing monitoring for compliance by OPWDD DQI.</p>
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<b>Table 2: Initial OPWDD Residential Assessments, Compliance Summary for the Period January 15, 2015 through September 30, 2015.</b>		
	<b>Total Reviewed</b>	<b>Aggregated Average Percent of Compliance Across All Assessments</b>
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%
<b>Capacity of Settings (includes Supportive Settings)</b>		
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%

<b>Table 2.1: Initial OPWDD Family Care Assessments, Compliance Summary for the Period of February 2017 through March 2018.</b>		
	<b>Total Reviewed</b>	<b>Aggregated Average Percent of Compliance Across All Assessments</b>
Total Agencies Included	33	N/A
Total Family Care Homes Assessed	901	97.64%
Total Number of Participants	1582	N/A
<b>Number of Individuals Served per Family Care Home</b>		
One Individual	467	93.66%
Two Individuals	260	90.72
Three Individuals	109	89.22%
Four or More Individuals	65	87.40%

**Table 3:****Initial Assessment: 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)
<b>Part I Assessment Tool:</b>				
<b>Person Centered Review, Person Centered Planning</b>				
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
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%	Training and Communications: DQI Bi-annual provider training; MSC training
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%	Communication Strategy for People Supported and Their Family Members
1f. The person reports that the planning process is reflective of his/her choices and priorities for meaningful goals/activities.	692	855	80.94%	Ongoing monitoring
<b>Housing Protections and Due Process</b>				
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
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%	Communication Strategy for People Supported and their advocates  Training  Ongoing Monitoring
<b>Part I: Rights</b>				

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
3b. The person knows who to contact and/or the process to make an anonymous complaint	340	855	39.77%	Communications Strategy for People Supported
3e. The person controls his/her resources and decides how to spend his/her personal discretionary funds.	642	855	75.09%	Ongoing compliance monitoring
<b>Community Access and Support</b>				
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
4b. The person regularly participates in unscheduled and scheduled community activities in the same manner as individuals not receiving HCBS	572	855	66.90%	Guidance and Tools for Providers
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%	Ongoing compliance monitoring
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%	Creation of a Rights/Rights Modification Curriculum
<b>Privacy</b> 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%	Incorporation of HCBS settings into Praise Training and within DSP orientation
<b>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.</b>	716	885	83.75	
<b>Schedule</b> 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%	
<b>Food</b> 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.				
<b>Setting Accessibility</b>				
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%	
<b>Part II Site Review</b>				
<b>Full Access to the Community</b>				
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%	
<b>Policies/Procedures and Practices Promote HCBS Settings Rights</b>				
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 3.1:**

**Average Statewide Aggregated Compliance by Assessment Standard for Standards Below 85% from the Family Care HCBS Assessment for the period of February 2017 through March 2018**

(See [click here for HCBS Settings Toolkit](#) for the Assessment Tool Standards)

Standard and Numbering from Assessment Tool	Total Yes/Met	Total Reviewed	% Compliance	Remediation Strategy/ Action for Systemic Improvement (See Remediation Section VI for more information)
<b>Section 3: Rights</b>				
3-2. The Family Care home provider offers people keys to be able to independently enter their home.	462	901	51.28%	Training Communications Strategy for people Supported Guidance and Tools for Providers Ongoing Compliance Monitoring Policy development
3-3. The Family Care home provider offers people keys to their bedrooms so they can lock their bedroom door when they choose to.	396	901	43.95%	Training Communications Strategy for people Supported Guidance and Tools for Providers Ongoing Compliance Monitoring Policy development

**Table 4: Setting Types, People Supported and Compliance Estimates (DQIPM Data)**

<b>Setting Type</b> <sup>[3]</sup>	<b>Number of Settings</b>	<b>Number of People Supported (based on approved capacities of the residences)</b>	<b>Complies</b>	<b>Modification Needed</b>	<b>Can't Comply</b>	<b>Heightened Scrutiny</b>	<b>Institutional</b> <sup>[4]</sup>
<b>Individualized Residential Alternative (IRA)/Community Residences (CR)</b>							
<b><u>Initial Assessment 2014-2015</u></b> Individualized Residential Alternative (IRA)/ Community Residences (CR)	6,038	31,953	2,009 33% sample	3,939 estimate	TBD	232 (also included in number where modification is needed)	0
<b><u>Updated Survey Data 2016-2017</u></b> Individualized Residential Alternative (IRA)/ Community Residences (CR)	6,166	32,277	5,672 91% sample	494	TBD	243 (also included in number where modification is needed)	0
<b><u>Increase in Compliance since initial assessment</u></b> Individualized Residential Alternative (IRA)/ Community Residences (CR)			<b>+3,663 60% increase in compliance since initial assessment</b>				
<b>Family Care Homes</b>							
<b><u>Initial Assessment, completion July 2018</u></b> <b><u>April 2017-March 2018</u></b>	1,064	1,842	1,038 85% sample	26	0	0	0



Family Care Homes							
<b>Day Habilitation</b>							
<b>Initial Assessment 2016-2017</b> Day Habilitation	871	50,095 <sup>14</sup>	801 83% sample	70	TBD	68	0
<b>Sheltered Workshops<sup>15</sup></b>							
<b>Initial Assessment Data</b> <b>Data from Employment and Meaningful Community Activities</b> 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
<b>Updated Data March 2018</b>	72	6,900	0	0	0	0	0
<b>Change</b>	Decrease of 10	Decrease 1,200					

<sup>14</sup> Based on TABs data as of 1/31/16

<sup>15</sup> Data on Sheltered Workshops from Division of Quality Improvement/Employment and Meaningful Community Activities

**Table 5: HCBS Waiver Service Enhancements and New Waiver Services**

Timeline/ Target Date	HCBS Waiver Service Enhancement/C hanges	Description of Enhancement/Changes	Status as of June 2017
July 1, 2014	<b>Pathway to Employment</b>	<p>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.</p> <p>This furthers HCBS transformation and compliance by providing another support option to help people in Day Habilitation move to competitive employment.</p>	<b>Completed</b>
July 1, 2015	<b>Supported Employment</b>	<p>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.</p> <p>In accordance with HCBS Settings rules requiring competitive employment, OPWDD has been working to increase participation in this program.</p> <p><b>In 2013 there were 7,362 individuals receiving SEMP services who were competitively employed. In November 2015 there were 7,935 individuals competitively employed.</b></p>	<b>Completed</b>
July 1, 2015	<b>Prevocational Services</b>	<p>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.</p> <p>These programmatic enhancements expand choices and options for people supported.</p>	<b>Completed</b>
Summer 2016	<b>Development of Day Habilitation Expectations</b>	<p>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:</p> <p>Winter 2018/Spring 2019: Reconvene Non-residential settings workgroup to begin developing guidelines and requirements for compliance</p> <p>By April 1, 2020: Draft of requirements for Day Habilitation completed.</p> <p>By March 1, 2021: Finalize Day Habilitation requirements</p>	<b>In progress</b>

**Table 5: HCBS Waiver Service Enhancements and New Waiver Services**

Timeline/ Target Date	HCBS Waiver Service Enhancement/C hanges	Description of Enhancement/Changes	Status as of June 2017
		<p>By September 2021: Training/Information Sessions</p> <p>By October 1, 2021: OPWDD DQI incorporates requirements into its HCBS settings surveys of Day Habilitation sites for initial and ongoing compliance monitoring.</p>	
2014 - 2017	<b>START Implementation</b>	<p>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.</p> <p>The timeline related to START implementation throughout NYS, by region, is 202014 -2018.</p> <p>More information on START can be found on OPWDD's website at: <a href="#">(click here for the NY START webpage)</a>.</p>	<b>In progress</b>
December 2020	<b>Sheltered Work Shops Transformation /Conversions to Integrated Employment Settings</b>	<p>OPWDD funding for sheltered workshops is ending December 31,2020. 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".</p> <p>In 2013 OPWDD ended new enrollments into sheltered workshops. 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.</p> <p>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 ensure 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</p>	<b>In progress</b>

**Table 5: HCBS Waiver Service Enhancements and New Waiver Services**

Timeline/ Target Date	HCBS Waiver Service Enhancement/C hanges	Description of Enhancement/Changes	Status as of June 2017
		<p>spoken to or solicited comments, testimony, and/or feedback from over 2,000 individuals, self-advocates, family members and providers.</p> <p>OPWDD has also used Balancing Incentive Program funds to support efforts to transition individuals with developmental disabilities from sheltered workshops to competitive employment and other HCBS waiver services.</p> <p>OPWDD issued Final Workshop Transformation Guidance (pending CMS approval).</p> <p>January 15, 2016: Statewide Video Conference with Workshop Providers to address questions related to the guidance and the proposal requirements.</p> <p>February 1, 2016: Statewide Video Conference with Workshop Providers Technical Assistance on Developing an Integrated Business</p> <p>January 6, 2017: Proposals are due no later than January 6, 2017.</p> <p>March 1, 2022: Proposals approved and implemented.</p> <p>January 2018-Providers begin transformation to be completed by December 31, 2020.</p>	
2014	<b>Community Transition Services (CTS)</b>	<p>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.</p>	<b>Completed</b>
Ongoing	<b>Live-in-Caregiver</b>	<p>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.</p>	<b>Completed</b>

**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)	<b>Expansion of OPWDD’s affordable integrated supportive housing program</b>	<p>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.</p> <p>The OPWDD Enacted 2016-17 Budget and 2017-18 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. We expect the \$15 million capital funding to continue in subsequent budgets.</p>	<p><b>Funding approved in the OPWDD enacted State Budget</b></p> <p><b>Program is ongoing</b></p>
Ongoing	<b>OPWDD State-funded Housing Subsidy Program</b>	<p>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).</p>	<b>Ongoing</b>
Ongoing	<b>Senior Companion Program</b>	<p>The Senior Companion Program is part of OPWDD’s strategic efforts to engage the individuals we support in activities that foster community integration.</p> <p>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.</p> <p>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.</p>	<b>Ongoing</b>

**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	<p>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.</p> <p>Goals of the project include:</p> <ul style="list-style-type: none"> <li>• Assisting people with developmental disabilities who make faith choices to have their Individualized Service Plan (ISP) reflect their choices.</li> <li>• 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.</li> <li>• Working with faith leaders and congregants to integrate people with developmental disabilities into the faith community as valued members.</li> <li>• Partnering with houses of faith to create opportunities for community connections.</li> <li>• Promoting disability awareness forums in the community facilitated by advocacy groups.</li> <li>• Partner with federal, state, and local agencies and organizations to promote community accessibility.</li> </ul> <p>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.</p> <p><u>Spiritual Indicator Guide:</u> 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.</p> <p><u>All Are Welcome Guide:</u> 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</p>	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
		<p>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.</p> <p>Video Presentation: <i>Having Faith: Stories of Faith, Inclusion &amp; Community</i>. The short video is available at: <a href="http://www.youtube.com/embed/f4-vXy5SUts">http://www.youtube.com/embed/f4-vXy5SUts</a>.</p> <p>Video Presentation: <i>This is Me</i></p> <p>The short video is available at: <a href="http://www.youtube.com/embed/dn7cGgzYLo4">http://www.youtube.com/embed/dn7cGgzYLo4</a>.</p>	

<b>Table 7: Timeline to Update Training Curricula</b>		
<b>Training Subject/Content</b>	<b>Anticipated Completion Date</b>	<b>Action</b>
PRAISE Curriculum	<b>COMPLETED</b> January 2016	Incorporate HCBS settings philosophy into existing PRAISE curriculum
DSP 4-week orientation for OPWDD staff	Completed March 2018	Update DSP 4-week orientation to incorporate HCBS settings philosophy and rules into DSP orientation
MSC Trainings – Transition to Care Coordination Organizations (CCOs)	January 2019	Transition and update all MSC trainings for CCOs as applicable to include HCBS settings philosophy, principles and rules. This includes PCP curriculum, HCBS waiver curriculum, and the Rights Modification curriculum.
Incorporate HCBS settings into curricula development by RCWT	<b>COMPLETED</b> December 2016	Integrate and ensure alignment with HCBS settings rules in RCWT curricula



# **APPENDICES**

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

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## **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
<b>General Comments on the Transition Plan Framework and Stakeholder Input</b>		
<p><b>General Comments:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• People with I/DD should have more representation on OPWDD's stakeholder committees.</li> <li>• Stakeholders need informed choice for the entire process and they should be meaningfully involved in discussions about supports and services for their loved ones.</li> <li>• Waiver service recipients may not be able to understand the Transition Plan</li> <li>• 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.</li> <li>• The Transition Plan should focus most importantly on how it will result in increasing quality of life for people supported.</li> <li>• More transparency needed regarding data on achievement of goals outlined in the Transition Plan, including specific benchmarks, outcomes, and timeframes.</li> <li>• A commenter felt that there is fear and uncertainty in the field and that agencies may be misinformed on guidelines and expectations.</li> <li>• A respondent stated that the announcements for public comments and information sessions were not timely.</li> </ul>	<p>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.</p> <p>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.</p> <p>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."</p> <p>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.</p>	<p><b>Yes</b></p>

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
	<p>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.</p>	
<b>Residential</b>		
<p>General Comments:</p> <ul style="list-style-type: none"> <li>• Family members want to know how OPWDD will address the limited residential options available for their loved ones.</li> <li>• 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.</li> <li>• 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.</li> <li>• Respondents said there are currently thousands on waiting lists already but there is a lack of safe, quality housing options.</li> <li>• Respondents expressed support for developing a wider variety of housing options for people.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>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.</p> <p>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.</p> <p>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.</p>	<p><b>Yes</b></p>

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Respondents expressed concern about what people should do if immediate placement is needed or placement within the next two years.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• Respondents are concerned that OPWDD will end funding for facilities with more than four unrelated people residing together.</li> <li>• Respondents stated that one size does not fit all, and that appropriate residential placements vary by individual.</li> <li>• Facilities larger than four people may be the most appropriate placement for some people, particularly for people with high medical needs.</li> <li>• There should not be arbitrary restrictions on group home size, as CMS regulations have not specified a size limit for residential HCBS Waiver programs.</li> <li>• 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.</li> </ul>	<p>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.</p> <p>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.</p> <p>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.</p>	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>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.</li> </ul>		
<p><b>ICF Transitions:</b></p> <ul style="list-style-type: none"> <li>Respondents expressed concern that downsizing and closing facilities will make residential waiting lists longer.</li> <li>Respondents expressed support for not downsizing facilities; stated these facilities work well for people when properly staffed, supervised, and monitored.</li> <li>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.</li> </ul>	<p>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.</p> <p>For more information on ICF transitions, please use the following link: <a href="#">(click here for the ICF Transitions)</a>.</p>	<p><b>No.</b> 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.</p>
<b>Service Options—General Comments</b>		
<ul style="list-style-type: none"> <li>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.</li> <li>Respondents stated that the Transition Plan ignores thousands who require 24-hour supervision, and eliminates options for people with more severe issues.</li> </ul>	<p>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.</p>	<p>Yes, some changes have been made</p>

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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".</li> <li>• 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.</li> <li>• Respondent stated that OPWDD should develop partnerships with other departments such as DOH, DOT, DHCR, and Access VR.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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 <a href="#">(click here for the NY START website)</a>.</p>	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>• Respondent stated that the transition process from school is overwhelming, and expressed concern over the service options that are available after graduation.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• Respondents commented on managed care and fear that it will reduce or dilute the quality of services.</li> <li>• 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.</li> <li>• 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.</li> </ul>		
<p><b>General comments regarding day programs:</b></p> <ul style="list-style-type: none"> <li>• It will take more than a year to develop a plan for assessing non-residential services;</li> <li>• Why assess group services, since we already know the day programs do not meet HCBS guidelines;</li> <li>• OPWDD should have outside day programs, rather than institutional in-house programs;</li> </ul>	<p>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).</p>	<p>Yes</p>



Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>• Community Habilitation is forced on individuals;</li> <li>• Services will be inadequate;</li> <li>• Group and Residential day programs do not meet criteria;</li> <li>• 1:1 Community Habs are not economically viable or productive for agencies or individuals.</li> <li>• 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.</li> <li>• Respondent feels that group homes and day habilitation programs do not meet the definition of community integration for people.</li> <li>• 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.</li> <li>• Respondents said total community integration is not appropriate for all people.</li> <li>• Respondents expressed fear that there will be problems with traffic safety, and with community members who might take advantage of people and exploit them.</li> <li>• 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.</li> </ul>	<p>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).</p>	
<b>Employment Supports and Services and Sheltered Work Shops</b>		
<p><b>Sheltered Workshops:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>	<p>OPWDD made a commitment to CMS to close sheltered workshops by April 2022. 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</p>	<b>Yes.</b>

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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?</li> <li>• Respondents said "Fix sheltered workshops, don't shut them down."</li> <li>• Respondent stated that the transition plan is preventing effective person-centered planning because it eliminates sheltered workshops as a choice for people.</li> </ul> <p><b>Supported Employment</b></p> <ul style="list-style-type: none"> <li>• Respondent stated that enclave supported employment (SEMP) is not addressed in OPWDD's Plan to Increase Competitive Employment.</li> <li>• Respondent suggested that supported employment for a person should be phased out gradually in stages, not all at once.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>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.</p> <p>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 <a href="#">(click here for the Sheltered Workshop Guidance)</a>.</p> <p>More detail has been added to the Transition Plan on the redesign of employment services.</p> <p>Supported Employment services have been redesigned and this is now discussed in the Plan.</p>	

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>Respondent requests SEMP to include non-waiver provider agencies that have staff with credentials and experience to provide services.</li> </ul>		
<b>Self-Direction Opportunities and Options</b>		
<ul style="list-style-type: none"> <li>Respondent disagrees with lowering funding rates for specialists in self-directed program</li> <li>Respondent said OPWDD should allow person-centered non-waiver programs to be available to self-directed consumers</li> </ul> <p>General Comments regarding self-direction:</p> <ul style="list-style-type: none"> <li>Why should self-directed individuals and their families get lower PRA than individual with total agency support?</li> <li>Self-direction needs more time to get mechanics and process before changing it</li> <li>Parents need tutorials for navigating Front Door and Self-direction</li> <li>Reimbursement for financial intermediaries are excessive-how was payment plan developed?</li> <li>Self-direction is not for everyone; requires lots of time; requires heavy investment of time for unpaid advocates.</li> <li>Front Door and Self-directed service programs appear to save money, but at the expense of DD and families, by limiting services provided.</li> <li>Families are often unaware of services and resources available. Self-directed process is therefore going to be frustrating.</li> <li>Families need comprehensive ongoing independent information and services, referral and access.</li> <li>Need to make self-direction more accessible for families who choose this.</li> </ul>	<p>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.</p>	<p><b>No</b>-changes to self-direction are contained in OPWDD's waiver amendment 07.</p>
<b>Person Centered Planning and Processes</b>		

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>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.</li> <li>Respondent said there is a need to clarify due process for grievances in HCBS transition plan.</li> </ul> <p>General comments:</p> <ul style="list-style-type: none"> <li>Need to establish clear, measurable outcomes for PCP outcomes, and training of service coordinators</li> <li>DISCO's cannot provide person-centered planning</li> <li>Need more financial resources to ensure compliance with HCBS PCP regulations</li> <li>Circle of Support requirements will dis-incentivize people from opting for habilitation services</li> </ul>	<p>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.</p> <p>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.</p> <p>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.</p>	<p><b>Yes.</b></p>
<p><b>Direct Support Professionals, Training and Communications</b></p>		
<p><b>Training and Guidance:</b></p> <ul style="list-style-type: none"> <li>A respondent stated DSPs need more and better training on choice-making and in how to present choices to people.</li> <li>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.</li> <li>Respondent felt that additional training and credentialing for Direct Support Professional (DSP) staff will result in excessive costs that will require increased rates.</li> </ul>	<p>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</p>	<p><b>Yes</b></p>

Theme/Comments	State's Response	Modifications to the Plan and/or Rationale if No Change
<ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Staffing:</b></p> <ul style="list-style-type: none"> <li>Respondents stated that finding and retaining staff is very difficult, particularly in 24-hour residential programs and in rural areas.</li> </ul> <p>General Comments:</p> <ul style="list-style-type: none"> <li>DSP staff need competitive salaries and benefits for providing direct care to people.</li> <li>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.</li> <li>Respondent supports expansion of CQL training in POM quality evaluation system</li> <li>Additional training for direct support workers will be counterproductive, and require excessive costs; increasing credentialing of direct support workers will require increased rates</li> </ul>	<p>been added to the Transition Plan on DSP competencies and training and other communication and related initiatives.</p>	
<b>Quality Assurance Related Topics</b>		
<p><b>Provider Performance Expectations:</b> Respondents stated that the process being developed for heightened scrutiny needs to be transparent and fair.</p> <ul style="list-style-type: none"> <li>One respondent asked for OPWDD to clarify the scope of its authority for enforcement of compliance with the HCBS Settings standards.</li> <li>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.</li> </ul>	<p>Heightened Scrutiny:</p> <p>OPWDD convened a Heightened Scrutiny Stakeholder Work Group between March 2015 through October 2015 to develop the criteria, a</p>	<p><b>Yes.</b></p>

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<ul style="list-style-type: none"> <li>• Programs triggering Heightened Scrutiny need clear monitoring guidelines and vigilant oversight, and there should be strong enforcement of reporting requirements on organizations providing services.</li> <li>• Respondent asked for a clearer definition of what integration is versus what isolating qualities are.</li> <li>• Respondent stated the Transition Plan needs heavy and enforced reporting requirements on organizations providing services.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• Need monitoring of performance measures</li> <li>• The Quality Improvement Strategy (QIS) is not adequately monitoring MSC provider performance. Performance will suffer as MSC caseloads increase.</li> <li>• Individuals and families need a way to rate services from providers</li> <li>• OPWDD needs to supply extra resources for meeting deadlines for provider monitoring and technical assistance.</li> </ul>	<p>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.</p> <p>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."</p>	
<p><b>Incident Management:</b></p> <ul style="list-style-type: none"> <li>• 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</li> </ul>	<p>Incident Management:</p> <p>OPWDD understands that our system will need to enhance its ability to help people make linkages to the community to be supported to have</p>	

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<p>individuals, and whether agencies will be held accountable for incidents in the community that occur when staff are not present.</p>	<p>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.</p> <p>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.</p>	
<b>Funding</b>		
<p>Comments:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• Respondent said that there should be funding for family assistance during the transition to managed care.</li> </ul>	<p>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 &amp; 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.</p> <p>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.</p>	

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<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Respondent is opposed to the use of revenues for DISCOs until the cost-benefit ratio improves.</li> <li>• Respondents indicated there needs to be additional funding support for families caring for someone with a developmental disability at home.</li> <li>• Respondent stated that there should be more family support monies to help families through all of these service changes.</li> <li>• 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.</li> <li>• Respondent stated that budget cuts have made it nearly impossible to place an individual after transitioning from school.</li> <li>• Respondent stated that there should have been a shift in funding for programs that require a 1:1 model while out in the community.</li> <li>• 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.</li> <li>• 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 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</li> </ul>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	



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<p>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.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> <p>General comments:</p> <ul style="list-style-type: none"> <li>• Plan expectations in rural settings cannot be met without an exorbitant increase in funding.</li> <li>• Regulations need to provide for rural areas with no public transportation and help support funding a workforce to employ staff from.</li> <li>• 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.</li> <li>• There should be a more reasonable pay structure for fiscal intermediaries.</li> </ul>	<p>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 (<a href="#">click here for information on the HCBS Waiver</a>). In addition, other fees and payment rates can be reviewed at the NYS Department of Health website at: (<a href="#">click here for the Mental Hygiene Services Rates</a>).</p>	

# Appendix B:

## HCBS Settings Rule Training and Outreach 01-20-15 to 02-28-18

Date	Audience	Training and Outreach
01-20-15	NYSACRA Provider Association Members	Presidents and Executives Meeting—HCBS Settings Transition Plan Updates and Moving Forward
02-04-15	Various Stakeholders including people supported, family members, etc.	Mid-Hudson region (Fishkill): HCBS Settings updates
02-11-15	OPWDD DQI staff	HCBS Steering Committee Meeting
02-23-15	Provider Association	DQI Statewide Staff Meeting, HCBS Settings Information
02-23-15	Stakeholders	HCBS Settings--OPWDD Leadership Forum
02-24-15	Stakeholders	Public Webinar session 1 on Revised Transition Plan
02-28-15	NYSARC Presidents and Executives	HCBS and Transition Plan update
03-09-15	Willowbrook CAB	
03-10-15	Stakeholders	Public Webinar session 2 on Revised Transition Plan
03-11-15	Stakeholders	WB Service Coordination Subcommittee Presentation on HCBS Settings Revised Transition Plan
03-11-15	OPWDD Training	Waiver 101 Training including HCBS Settings Rules
03-11-15	OPWDD Training	HCBS and Transition Plan updates and information
03-13-15	OPWDD Training	Heightened Scrutiny Subgroup Meeting
03-16-15	Provider Association	MSC Supervisor's Training with segment on HCBS Settings Rules
03-25-15	OPWDD Leadership	Family Support Services Statewide Meeting
03-30-15	Stakeholders	Public Webinar session 3 on Revised Transition Plan
04-08-15	OPWDD staff training	Day Services HCBS Settings Stakeholder Work Group Meeting
04-14-15	Stakeholders	NYC OPWDD DQI Bureau of Program Certification BPC Staff Training on HCBS Settings Assessment
04-16-15	United Cerebral Palsy Assoc. (UCP) providers	Heightened Scrutiny Subgroup Meeting
04-27-15	OPWDD staff	HCBS Settings Information and Updates, Heightened Scrutiny process
04-29-15	OPWDD staff	HCBS Settings – OPWDD Leadership Forum
05-01-15	DDAWNY providers	Person Centered Planning federal regulations implementation

Date	Audience	Training and Outreach
05-06-15	Stakeholders	HCBS Settings Transition Plan, OPWDD HCBS Settings Assessment, etc.
05-07-15	Providers and others	Heightened Scrutiny Subgroup meeting
05-08-15	Stakeholders	DQI provider training—with HCBS settings segments
05-15-15	OPWDD staff	Integrated Day Settings Employment Conference—with HCBS settings segments
05-18-15	OPWDD state operated service delivery staff	HCBS Leadership Forum
05-26-15	Stakeholders	Service Delivery Director's - VIDEO CONFERENCE with HCBS Settings Information presented
05-27-15	Stakeholders	Heightened Scrutiny Subgroup Meeting
06-16-15	OPWDD staff	HCBS Settings Stakeholder Steering Committee Meeting
06-17-15	Developmental Disability Advisory Council (DDAC)	DQI Statewide "In Person" Staff Meeting with HCBS settings information presented
06-19-15	NYSARC Exec Directors meeting—Providers	Presentation/update on HCBS Settings
06-22-15	Stakeholders	Exec. Director's Mtg at Gideon Putnam Hotel: HCBS Panel Presentation
06-25-15	COMPASS providers	HCBS Day Services Stakeholder Workgroup
06-29-15	NYSACRA providers (Long Island)	HCBS Settings and Heightened Scrutiny
06-30-15	Stakeholders	Overview of HCBS Settings Transition Plan activities
07-17-15	Stakeholders	HCBS Day Services Stakeholder Workgroup
07-20-15	OPWDD staff	Heightened Scrutiny Subgroup Mtg (topic: recent Q&A doc posted by CMS on HS)
07-21-15	OPWDD staff	Service Delivery Director's Meeting - HCBS Setting Standards - Regional Office
07-23-15	Providers	Leadership Agenda: HCBS Settings update and discussion
08-04-15	United Cerebral Palsy Association (UCP) providers	Sunmount Provider Meeting—HCBS settings information and update
08-14-15	OPWDD staff	Quality Assurance Meeting of UCF Providers—HCBS Settings Transition Plan Updates, Heightened Scrutiny, OPWDD HCBS Assessment, etc.
08-21-15	OPWDD Deputy Commissioners	HCBS Settings Leadership Forum
08-25-15	NYSACRA Provider Association Quality Committee	HCBS Settings Strategies Meeting –Deputy Commissioners
08-26-15	Stakeholders	Presentation at NYSACRA Office for Quality Committee—HCBS Settings segments

Date	Audience	Training and Outreach
09-15-15	OPWDD staff	Day settings/Non-residential HCBS Work Group
09-18-15	OPWDD Deputy Commissioners	DQI Statewide "In Person" Staff Meeting—HCBS Settings Info
09-21-15	OPWDD State Operations	HCBS Settings Strategies Meeting
09-23-15	Pathfinder Village provider agency and board members	Service Delivery Director's Meeting—HCBS Settings updates and discussion
09-29-15	Stakeholders	Presentation at Pathfinder Village on HCBS Settings and Heightened Scrutiny
10-02-15	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
10-30-15	Self-Advocates at the Self-Advocacy Association of NYS Conference	HCBS Settings rule overview for self-advocates and support staff
11-05-15	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
12-06-15	New York State Association of Day Service Providers Conference Presentation	Day Habilitation and HCBS Settings Standards
12-18-15	Heightened Scrutiny Work Group Stakeholders	Heightened Scrutiny Evidence Package discussion with stakeholders for recommendations
01-11-16	State Operations and Regional Office HCBS Settings Liaisons kick-off meeting	HCBS Settings Requirements

Date	Audience	Training and Outreach
01-25-16	Provider Associations	HCBS settings plan status and implementation
01-25-16	OPWDD leadership, DDSO Directors and Deputies, Regional Office Directors and Deputies, OPWDD HCBS settings regional liaisons	HCBS settings plan status and implementation, etc.
02-25-16	Region 1 Provider Agencies in Binghamton and Regional Office staff	HCBS Settings implementation
03-17-16	Region 1 providers Finger Lakes	HCBS Settings implementation Videoconference
03-21-16	Provider Associations	HCBS Settings Overview
04-05-16	Technical Assistance to agency	HCBS Settings requirements
04-06-16	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
04-20-16	NYSACRA Conference (providers and other stakeholders)	NYSACRA Conference session on HCBS Waiver Updates and HCBS Settings
05-13-16	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.
06-08-16	Family Support Services Committee Meeting Presentation for Parents and Legal Guardians	HCBS Settings Overview and Heightened Scrutiny
09-09-16	Self-advocates at the Self-Advocacy Association of NYS Conference	Overview of HCBS Settings Rule to Self-advocates and support staff
12-02-16	OPWDD HCBS Liaisons	HCBS Training and updates
01-26-17	Family Care Coordinators, Sate Operations	Family Care HCBS Assessment FC Coordinator Training—→Family Care Coordinators will be trained on the Family Care HCBS Assessment process, the FC Assessment content, and instructions on how to complete both the assessment and validation of the assessment.

Date	Audience	Training and Outreach
01-31-17	Family Care Coordinators, State Operations	Family Care HCBS Assessment FC Coordinator Training—Family Care Coordinators trained on the Family Care HCBS Assessment process, the FC Assessment content, and instructions on how to complete both the assessment and validation of the assessment.
02-02-17	Family Care Liaisons, State Operations	Family Care HCBS Assessment FC Liaison Training—Family Care Liaisons trained on the Family Care HCBS Assessment process, the FC Assessment content, and instructions on how to complete the HCBS assessment.
02-06-17	Family Care Liaisons, State Operations	Family Care HCBS Assessment FC Liaison Training—Family Care Liaisons trained on the Family Care HCBS Assessment process, the FC Assessment content, and instructions on how to complete the HCBS assessment.
03-17-17	DDRO-OPWDD	HCBS Updates on HCBS settings
03-22-17	OPWDD HCBS Liaisons	HCBS Updates and Training
03-22-17	DDSOO Directors	Training on Heightened Scrutiny process and survey
03-27-17	HCBS providers	Overview of the Heightened Scrutiny process, and instructions on completing the Heightened Scrutiny Provider Evidence Questionnaire Self-report.
03-30-17	HCBS providers	Overview of the Heightened Scrutiny process, and instructions on completing the Heightened Scrutiny Provider Evidence Questionnaire Self-report.
04-03-17	HCBS providers	Question and Answer webinar to address specific questions that providers may have regarding the Heightened Scrutiny process.
04-05-17	HCBS providers	Question and Answer webinar to address specific questions that providers may have regarding the Heightened Scrutiny process.
04-05-17	NYSACRA Conference	Technical Assistance for providers on Heightened Scrutiny survey and work plan.
05-19-17	OPWDD Staff Long Island DDSO	Training and Technical assistance
06-13-17	OPWDD HCBS Liaisons	HCBS Settings Updates and Training
06-13-17	HCBS Settings Liaisons, State staff including clinical staff and Dietitians	HCBS Liaisons Quarterly meeting, HCBS Settings updates as well as Training on HCBS Settings rule, Access to Food
09-08-17	Self-Advocates at the Self-Advocacy Association of NYS Conference	HCBS Settings Rights presentation to self-advocates and support staff
10-11-17	Voluntary Providers of Family Care	Training of providers on the Family Care HCBS Settings assessment process

Date	Audience	Training and Outreach
10-17-17	Voluntary Providers of Family Care	Training of providers on the Family Care HCBS Settings assessment process
10-18-17	OPWDD HCBS Liaisons	HCBS Settings Updates
12-6-17	MSC Supervisors	Housing Options, Choice, and Resources
02-28-18	OPWDD HCBS Liaisons	HCBS Settings Updates

### 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 2017, 726 OPWDD staff have been trained in CQL POMS and more workshops are planned in 2017-2018:

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	7 state ops staff

<b>POMs Work Shops for OPWDD DQI Staff</b>	<b>Dates</b>	<b>Locations</b>	<b>Audience</b>
		Video Conference Room 2 (Large Conf. Rm) Building 80-00	
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 249 Glenwood Road, classroom #3 Binghamton, NY 13905	6 state ops staff
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



<b>POMs Work Shops for OPWDD DQI Staff</b>	<b>Dates</b>	<b>Locations</b>	<b>Audience</b>
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
CQL Training on HCBS Settings	May 2-3, 2016	Syracuse	14 State Staff
POMs Overview by CQL	May 4, 2016	Syracuse	50 State Staff
POMs Overview by CQL	May 5, 2016	Syracuse	50 State Staff
Introduction to the HCBS Settings through Personal Outcome Measures	August 22, 2016	Syracuse	40 State Staff including team leaders, Clinicians, and psychologists
Introduction to the HCBS Settings through Personal Outcome Measures	August 23, 2016	Syracuse	40 State Staff including team leaders,

<b>POMs Work Shops for OPWDD DQI Staff</b>	<b>Dates</b>	<b>Locations</b>	<b>Audience</b>
			Clinicians, and psychologists
Introduction to the HCBS Settings through Personal Outcome Measures	August 24, 2016	Syracuse	40 State Staff including team leaders, Clinicians, and psychologists
Introduction to the HCBS Settings through Personal Outcome Measures	August 25, 2016	Syracuse	40 State Staff including team leaders, Clinicians and psychologists
CQL POM's Overview	May 18, 2017	Commack	33 OPWDD Staff Long Island DDSO
CQL POMs Workshop	June 12-15, 2017	Taconic	12 State Staff
CQL Interviewer Certification	June – July, 2017	Taconic	10 State Staff
Personal Outcome Measures, 1 day overview	August 21, 2017	44 Holland Ave., Albany	30 State Staff
Personal Outcome Measures and HCBS Settings rule. Training conducted by Cathy Holmes, Shelly Okure, Certified CQL Trainers/OPWDD staff.	October 24, 2017	State Operations, Brooklyn DDSO	58 Staff
Personal Outcome Measures and HCBS Settings rule. Training conducted by Cathy Holmes, Shelly Okure, Certified CQL Trainers/OPWDD staff.	October 25, 2017	State Operations, Staten Island DDSO	38 Staff

# Transformation Panel Meeting Schedule

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

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

<b>Date</b>	<b>Topic</b>
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”)**



OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
<b>All Settings:</b>							
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS				x	14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - "if an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life.);"  <a href="#">Click here to link to Person-Centered Planning - Text</a>		
- opportunities to seek employment/ work in				x	14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - "if an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life.);"  <a href="#">Click here to link to Person-Centered Planning - Text</a>		
- engage in community life				x	14 NYCRR Paragraph 633.4(a)(3) (Rights and responsibilities of persons receiving services) - "The rights set forth in this section are intended to establish the living and/or program environment that protects individuals and contributes to providing an environment in keeping with the community at large, to the extent possible, given the degree of the disabilities of those individuals. Rights that are self-initiated or involve privacy or sexuality issues may need to be adapted to meet the need of certain persons with the most severe disabilities and/or persons whose need for protection, safety and health care will justify such adaptation. It is the responsibility of the agency/facility or the sponsoring agency to ensure that rights are not arbitrarily denied. Rights limitations must be documented and must be on an individual basis, for a specific period of time, and for clinical purposes only. (Note: See section 636-1.4 of this Title for documentation requirements specific to the person-centered service plan and section 633.16 of this Part for documentation requirements concerning person-centered behavioral intervention.)"  <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	14 NYCRR Subdivision 635-10.2(a) (Intent) - "The intent of home and community-based waiver services (hereinafter referred to a "HCBS waiver services") is to create an individualized service environment (see glossary). The purpose of the individualized service environment is to provide, consistent with meeting the person's needs, preferences and personal goals, the supports or services necessary to enable a person with a developmental disability to live, work, socialize and participate in the community. Each support or service is expected to contribute to the person's current or future capacity for self-determination, integration with the community, independence and productivity. Specific services and the intensity with which they are delivered will be set forth in an individualized service plan (see glossary), and will vary according to individual functional capacities, skill levels, other supports available and the person's personal goals and desires."  <a href="#">Click here to link to 635-10.2 Intent</a>	
- control personal resources				x	14 NYCRR Paragraph 633.15(c)(6) (Management of personal funds) - "The person shall be involved in all decisions regarding the use of his/her personal allowance funds. OPWDD assumes that all people with developmental disabilities have some capacity for self-advocacy and decision making related to the expenditure of personal allowance." <a href="#">Click here to link to 633.15 Management of Personal Funds</a>	14 NYCRR Subparagraph 633.4(a)(4)(xvi) (Rights and responsibilities of persons receiving services) - "the use of his or her personal money and property, including regular notice of his or her financial status and the provision of assistance in the use of his or her resources, as appropriate;" <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	
- receive services in the community				x	OPWDD Administrative Memorandum (ADM) #2015-01 (supersedes OPWDD ADM 2010-05), page 2 - "This Administrative Memorandum issued by the Office for People With Developmental Disabilities (OPWDD) describes the Community Habilitation (CH) service documentation requirements that support a provider's claim for reimbursement. These requirements apply to CH services delivered to individuals who are enrolled in the Home and Community Based Services (HCBS) waiver or to non-waiver enrolled individuals. Beginning October 1, 2014, eligibility for CH services is expanded to include not only individuals residing outside of OPWDD certified settings, but also individuals who live in an OPWDD-certified Individualized Residential Alternative (IRA), Community Residence (CR) or Family Care Home (FCH). This expansion of eligibility will allow individuals residing in OPWDD-certified settings to utilize CH services in lieu of part or all of their day services."  <a href="#">Click here to link to ADM #2015-01 Regulations and Guidance</a>	14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - "if an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life.);"  <a href="#">Click here to link to Person-Centered Planning - Text</a>	
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting		x			14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - "if an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities." "The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life."  <a href="#">Click here to link to Person-Centered Planning - Text</a>	OPWDD Person-centered Planning regulations expected to be amended by 10/2018 to include "option for a private unit."  <a href="#">Click here to link to Person-Centered Planning - Text</a>	

**OPWDD HCBS 1915 (c) Waiver -- Residential**

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
- the options are identified and documented in the person-centered service plan				x	14 NYCRR Paragraphs 636-1.3(b)(1)-(8) (Person-centered service plan) - "The individual's service coordinator must develop a person-centered service plan with the individual. The plan must include and document the following: (1) the individual's goals and desired outcomes; (2) the individual's strengths and preferences; (3) the individual's clinical and support needs as identified through an assessment of functional and health-related needs; (4) the necessary and appropriate services and supports (paid and unpaid) that are based on the individual's preferences and needs (as identified through an assessment of functional and health-related needs) and that will assist the individual to achieve his or her identified goals; (5) the services that the individual elects to self-direct; (6) the providers of those services and supports specified in paragraph (4) and (5) of this subdivision; (7) if an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life.); (8) the risk factors and measures in place to minimize risk, including individual specific back-up plans and strategies when needed;"  <a href="#">Click here to link to Person-Centered Planning - Text</a>		
- the options are based on the individual's needs, preference, and for residential settings, resources available for room and board		x			OPWDD Person-centered Planning regulations expected to be amended by 10/2018 to include "resources available for room and board."  <a href="#">Click here to link to Person-Centered Planning - Text</a>	14 NYCRR Paragraph 636-1.3(b)(4) (Person-centered service plan) - "the necessary and appropriate services and supports (paid and unpaid) that are based on the individual's preferences and needs (as identified through an assessment of functional and health-related needs) and that will assist the individual to achieve his or her identified goals;" 14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - "if an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life.);"	Care Coordination Organization/Health Home (CCO/HH) Provider Policy Guidance and Manual - Effective July 1, 2018, OPWDD will transition Care Management, both Medicaid Service Coordination (MSC) and Home and Community Based Services (HCBS) Waiver Plan of Care Support Services (PCSS) to the Health Home model of care. This Manual describes the program standards and requirements for the program known as Care Coordination Organization/Health Homes (CCO/HHs) serving individuals with intellectual and developmental disabilities (I/DD). Section 1.4, page 10, Person-Centered Planning Process - "Person-centered planning is a process directed by the individual that helps us learn how they want to live and describes what supports are needed to help them move toward a life they consider meaningful and productive. The planning process empowers the individual by building on their abilities and skills, promoting a quality lifestyle that supports the individual in finding ways to contribute to their community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. Knowing and exploring opportunities to use the individual's skills and abilities helps to set a direction while providing positive motivation, and increasing the likelihood of achieving the desired outcomes that are most important to the individual receiving supports." The manual at page 10 directs readers to the OPWDD person-centered planning regulation (14 NYCRR Part 636).  <a href="#">Click here to link to the Care Coordination Organization Pages</a>
3. Ensure an individual's rights of privacy.				x	14 NYCRR Paragraph 636-1.4(b)(2) and 14 NYCRR Subparagraph 636-1.4(b)(2)(i) (Documentation of rights modifications) - "Each individual has privacy in his or her sleeping or living unit. Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors."  <a href="#">Click here to link to Person-Centered Planning - Text</a>	14 NYCRR Paragraph 633.4(a)(1) (Rights and responsibilities of persons receiving services) - No person shall be deprived of any civil or legal right solely because of a diagnosis of developmental disability. 14 NYCRR Paragraph 633.4(a)(2) (Rights and responsibilities of persons receiving services) - All persons shall be given the respect and dignity that is extended to others regardless of race; religion; national origin; creed; age; gender; ethnic background; sexual orientation; developmental disability or other handicap; or health condition, such as one tested for or diagnosed as having an HIV infection. In addition, there shall be no discrimination for these or any other reasons. 14 NYCRR Paragraph 633.4(a)(3) (Rights and responsibilities of persons receiving services) - The rights set forth in this section are intended to establish the living and/or program environment that protects individuals and contributes to providing an environment in keeping with the community at large, to the extent possible, given the degree of the disabilities of those individuals. Rights that are self-initiated or involve privacy or sexuality issues may need to be adapted to meet the need of certain persons with the most severe disabilities and/or persons whose need for protection, safety and health care will justify such adaptation. It is the responsibility of the agency/facility or the sponsoring agency to ensure that rights are not arbitrarily denied.  <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	

OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
- Ensure an individual's rights of dignity and respect.				x	<p>14 NYCRR Subparagraph 636-1.2(a)(3)(i) (Person-centered planning process) - The person-centered planning process requires that supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; 14 NYCRR Paragraph 636-1.4(b)(1) (Documentation of rights modifications) - Each individual's residence is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant law. 14 NYCRR Paragraph 636-1.4(b)(2) (Documentation of rights modifications) - Each individual has privacy in his or her sleeping or living unit; 14 NYCRR Subparagraph 636-1.4(b)(2)(i) (Documentation of rights modifications) - Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. 14 NYCRR Subparagraph 636-1.4(b)(2)(ii) (Documentation of rights modifications) - The individual sharing a unit has a choice of roommates in that setting. 14 NYCRR Subparagraph 636-1.4(b)(2)(iii) - The individual has freedom to furnish and decorate his or her sleeping or living unit within the lease or other agreement. 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time. 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - Each individual is able to have visitors of his or her choosing at any time.</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>	<p>14 NYCRR Paragraph 633.4(a)(2) (Rights and responsibilities of persons receiving services) - "All persons shall be given the respect and dignity that is extended to others regardless of race; religion; national origin; creed; age; gender; ethnic background; sexual orientation; developmental disability or other handicap; or health condition, such as one tested for or diagnosed as having an HIV infection. In addition, there shall be no discrimination for these or any other reasons." 14 NYCRR 633.4(a)(4)(i) - (xxvi) - "No person shall be denied: (i) a safe and sanitary environment; (ii) freedom from physical or psychological abuse; (iii) freedom from corporal punishment; (iv) freedom from unnecessary use of mechanical restraining devices; (v) freedom from unnecessary or excessive medication; (vi) protection from commercial or other exploitation; (vii) confidentiality with regard to all information contained in the person's record, and access to such information, subject to the provisions of article 33 of the Mental Hygiene Law and the commissioner's regulations. In addition, confidentiality with regard to HIV-related information shall be maintained in accordance with article 27-F of the Public Health Law, 10 NYCRR Part 63 and the provisions of section 633.19 of this Part; (viii) a written individualized plan of services which has as its goal the maximization of a person's abilities to cope with his or her environment, fosters social competency (which includes meaningful recreation and community programs and contact others who do not have disabilities), and which enables him or her to live as independently as possible; (ix) services, including assistance and guidance, from staff who are trained to administer services adequately, skillfully, safely and humanely, with full respect for the individual's dignity and personal integrity; (x) appropriate and humane health care and the opportunity, to the extent possible, to have input either personally or through parent(s), or guardian(s), or correspondent to participate in the choice of physician and dentist; or the opportunity to obtain a second medical opinion; (xi) access to clinically sound instructions on the topic of sexuality and family planning services and information about the existence of these services, including access to medication or devices to regulate conception, when clinically indicated; (xii) observance and participation in the religion of his or her choice, through the means of his or her choice, including the right of choice not to participate; (xiii) the opportunity to register and vote and the opportunity to participate in activities that educate him or her in civic responsibilities; (xiv) freedom from discrimination, abuse or any adverse action based on his or her status as one who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness; (xv) the receipt of information on or prior to admission, regarding the supplies and services that the facility will provide or for which additional charges will be made, and timely notification of any changes thereafter; (xvi) the use of his or her personal money and property, including regular notice of his or her financial status and the provision of assistance in the use of his or her resources, as appropriate; (xvii) a balanced and nutritious diet; (xviii) individually owned clothing which fits properly, is maintained properly, and is appropriate forage, season and activity; and the opportunity to be involved in the selection of that clothing; (xix) adequate, individually owned, grooming and personal hygiene supplies; (xx) a reasonable degree of privacy in sleeping, bathing and toileting areas; (xxi) a reasonable amount of safe, individual, accessible storage space for clothing and other personal belongings used on a day-to-day basis; (xxii) the opportunity to request an alternative residential setting, whether a new residence or change of room, and involvement in the decisions regarding such changes; (xxiii) the opportunity, either personally or through parent(s), guardian(s) or correspondent, to express without fear of reprisal grievances, concerns and suggestions to the chief executive officer of the facility; the Commissioner of OPWDD; the Justice Center for the Protection of People with Special Needs (Justice Center); for people in developmental centers, and in the community on conditional release from a developmental center, the Mental Hygiene Legal Service and the board of visitors; and for people in developmental centers, the ombudsman; (xxiv) the opportunity to receive visitors at reasonable times; to have privacy when visited, provided such visits avoid infringement on the rights of others, and to communicate freely with anyone within or outside the facility; or (xxv) the opportunity to make, or have made on his or her behalf, an informed decision regarding cardiopulmonary resuscitation, in accordance with the provisions of article 29-B of the Public Health Law, and any other applicable law or regulation. Each developmental center shall adopt policies/procedures to actualize this right; (xxvi) the opportunity, if the person is residing in an OPWDD operated or certified facility, to create a health care proxy."</p> <p><a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a></p>	



OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
- Ensure an individual's rights of freedom from coercion and restraint				x	<p>14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Paragraph 636-1.2(a)(1) (Person-centered planning process) - "The person-centered planning process involves parties chosen by the individual, often known as the individual's circle of support. The parties chosen by the individual participate in the process as needed, and as defined by the individual, except to the extent that decision-making authority is conferred on another by state law." 14 NYCRR Paragraph 636-1.2(a)(2) (Person-centered planning process) - "The parties chosen by the individual assist the individual in decision-making by, among other things, explaining issues to be decided, answering the individual's questions, encouraging the individual to actively participate in decision-making and, where necessary, assisting the individual to communicate his or her preferences." 14 NYCRR Subparagraphs 636-1.4(a)(3)(i) - (iii) "The person-centered planning process requires that: (i) supports and services are based on the individual's interests, preferences, strengths, capacities, and needs; (ii) supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; and (iii) the individual is satisfied with activities, supports, and services." 14 NYCRR Paragraph 636(a)(4) (Person-centered planning process) - "Person centered planning is a collaborative and recurring process between the individual and the service provider. The planning process is used at the time of initial plan development and during reviews of the plan." 14 NYCRR Paragraph 636-1.2(b)(1) - (5) (Person-centered planning process) - "The person-centered planning process involves: (1) providing necessary information and support to ensure that the individual, to the maximum extent possible, directs the process and is enabled to make informed choices and decisions; (2) scheduling with the individual at times and locations of convenience to the individual; (3) taking into account the cultural considerations of the individual and providing information in plain language and in a manner that is accessible to and understood by the individual and parties chosen by the individual; (4) providing a method for the individual to request updates to the person-centered service plan as needed; and (5) developing strategies that address conflicts or disagreements in the process, including clear conflict of interest guidelines for individuals, and communicating such strategies to the individual who is receiving services as appropriate." 14 NYCRR Paragraph 636-1.4(b)(1) (Documentation of rights modifications) - "Each individual's residence is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant law. For a residence to which landlord tenant laws do not apply, there must be a lease, residency agreement, or other form of written agreement for each individual that provides for eviction processes and appeals comparable to those provided under the applicable landlord tenant law." 14 NYCRR Subparagraph 636-1.4(b)(2) and (2)(i) - (iii) (Documentation of rights modifications) - "Each individual has privacy in his or her sleeping or living unit (i) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (ii) The individual sharing a unit has a choice of roommates in that setting. (iii) The individual has freedom to furnish and decorate his or her sleeping or living unit within the lease or other agreement." 14 Paragraph NYCRR 636-1.4(b)(3) (Documentation of rights modification) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time." 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time." 14 NYCRR Subdivision 636-1.4(b) (Documentation of rights modifications) - "Modifications to these rights must be supported by a specific assessed need and justified in the individual's person-centered service plan." 14 NYCRR Subdivision 636-1.4(d) (Documentation of rights modification) - In the event that a rights modification affects another individual receiving services in the setting who does not require a rights modification, the service coordinator must ensure documentation in such individual's person-centered service plan. 14 NYCRR Paragraph 633.4(b)(6) (Rights and responsibilities of persons receiving services) - "For the person who has had limitations placed on any rights, there is documentation in the person's plan of services as the clinical justification and specific period of time the limitation is to remain in effect."</p>	<p>14 NYCRR Paragraph 633.16(c)(2) (Person-centered behavioral intervention) - "All behavioral interventions designed to prevent or modify challenging behaviors shall be in conformance with applicable laws and regulations and agency-specific policies/procedures. Interventions and intervention plans must be individualized and designed for the purpose of enhancing the individual's quality of life, relationships with others, and ability to function as independently as possible. Such interventions shall actively include positive approaches, strategies and/or supports designed to establish or increase the person's adaptive (replacement) behaviors." 14 NYCRR Paragraph 633.16(c)(3) (Person-centered behavioral intervention) - "Behavioral interventions shall be designed and implemented for the purpose of developing or increasing adaptive behaviors (a.k.a. replacement behaviors) that support more independent and personally successful living, and eliminating or decreasing the frequency of challenging behaviors, but never employed for the convenience of staff, as a threat, as a means of retribution, for disciplinary purposes, or as a substitute for treatment or supervision." 14 NYCRR Paragraph 633.16(c)(4) (Person-centered behavioral intervention) - "Positive behavioral approaches, strategies, and supports that are consistent with standards of professional practice shall always be the preferred method for addressing challenging behavior, with the overall goal of increasing the person's repertoire of appropriate behaviors and skills. These positive approaches should include a variety of proactive strategies that may include prevention strategies, setting event strategies, teaching replacement or alternative behaviors such as functional communication and social skills, stress management skills, positive reinforcement, shaping, differential reinforcement procedures, etc." 14 NYCRR Paragraph 633.16(c)(5) (Person-centered behavioral intervention) - "OPWDD discourages the use of restrictive/intrusive interventions. General and specific requirements regarding the use of restrictive/intrusive interventions are imposed in order to limit the use of these interventions to those situations when necessary. Unless there is a clear risk to the health or safety of the person or others, or a violation of others' basic personal rights, any restrictive/intrusive intervention or limitation on a person's rights as specified in a behavior support plan shall be employed only after less intrusive or more positive interventions have been tried and have not been sufficiently successful." 14 NYCRR Paragraph 633.16(c)(6) (Person-centered behavioral intervention) - "The use of aversive conditioning methods is prohibited." 14 NYCRR Paragraph 633.16(c)(7) (Person-centered behavioral intervention) - "There shall be sufficient safeguards and supervision to ensure that the dignity, safety, health, welfare, and civil rights of a person have been adequately protected."</p>	
					<p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>	<p><a href="#">Click here to link to 633.16 Person-centered Behavioral Intervention</a></p>	

OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
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	<p>14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Paragraph 636-1.2(a)(1) (Person-centered planning process) - "The person-centered planning process involves parties chosen by the individual, often known as the individual's circle of support. The parties chosen by the individual participate in the process as needed, and as defined by the individual, except to the extent that decision-making authority is conferred on another by state law." 14 NYCRR Paragraph 636-1.2(a)(2) (Person-centered planning process) - "The parties chosen by the individual assist the individual in decision-making by, among other things, explaining issues to be decided, answering the individual's questions, encouraging the individual to actively participate in decision-making and, where necessary, assisting the individual to communicate his or her preferences." 14 NYCRR Subparagraph 636-1.2(a)(3)(i) - (iii) (Person-centered planning process) - "The person-centered planning process requires that: (i) supports and services are based on the individual's interests, preferences, strengths, capacities, and needs; (ii) supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; and (iii) the individual is satisfied with activities, supports, and services." 14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - An individual's residential setting must be chosen by the individual, and alternative residential settings "considered by the individual, including alternative residential settings that are available to individuals without disabilities (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life)." 14 NYCRR Paragraph 636-1.4(b)(1) (Documentation of rights modifications) - "Each individual's residence is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant law. For a residence to which landlord tenant laws do not apply, there must be a lease, residency agreement, or other form of written agreement for each individual that provides for eviction processes and appeals comparable to those provided under the applicable landlord tenant law." 14 NYCRR Subparagraphs 636-1.4(b)(2)(i) - (iii) (Documentation of rights modifications) - "Each individual has privacy in his or her sleeping or living unit: (i) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (ii) The individual sharing a unit has a choice of roommates in that setting. (iii) The individual has freedom to furnish and decorate his or her sleeping or living unit within the lease or other agreement." 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time." 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time." 14 NYCRR Paragraphs 636-1.4(c)(1) - (8) (Documentation of rights modification) - "The service coordinator must ensure documentation of the following in the individual's person-centered service plan: (1) a specific and individualized assessed need underlying the reason for any modification; (2) the positive interventions and supports used prior to any modifications; (3) less intrusive methods of meeting the need that were tried but did not work; (4) a clear description of the condition that is directly proportionate to the specific assessed need; (5) a regular collection and review of data to measure the ongoing effectiveness of the modification; (6) established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; (7) an assurance that interventions and supports will cause no harm to the individual; and (8) the informed consent of the individual."</p>	<p>Care Coordination Organization/Health Home (CCO/HH) Provider Policy Guidance and Manual - Effective July 1, 2018, OPWDD will transition Care Management, both Medicaid Service Coordination (MSC) and Home and Community Based Services (HCBS) Waiver Plan of Care Support Services (PCSS) to the Health Home model of care. This Manual describes the program standards and requirements for the program known as Care Coordination Organization/Health Homes (CCO/HHs) serving individuals with intellectual and developmental disabilities (I/DD). Section 1.4, page 10, Person-Centered Planning Process - "Person-centered planning is a process directed by the individual that helps us learn how they want to live and describes what supports are needed to help them move toward a life they consider meaningful and productive. The planning process empowers the individual by building on their abilities and skills, promoting a quality lifestyle that supports the individual in finding ways to contribute to their community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. Knowing and exploring opportunities to use the individual's skills and abilities helps to set a direction while providing positive motivation, and increasing the likelihood of achieving the desired outcomes that are most important to the individual receiving supports." The manual at page 10 directs readers to the OPWDD person-centered planning regulation (14 NYCRR Part 636).</p>	

[Click here to link to Person-Centered Planning - Text](#)

[Click here to link to the Care Coordination Organization Pages](#)

OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
5. Facilitate individual choice regarding services and supports, and who provides them.				x	<p>14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Paragraph 636-1.2(a)(1) (Person-centered planning process) - "The person-centered planning process involves parties chosen by the individual, often known as the individual's circle of support. The parties chosen by the individual participate in the process as needed, and as defined by the individual, except to the extent that decision-making authority is conferred on another by state law." 14 NYCRR Subparagraphs 636-1.2(a)(3)(i) (Person-centered planning process) - The person-centered planning process requires that, among other things, "supports and services are based on the individual's interests, preferences, strengths, capacities, and needs." 14 NYCRR Subparagraphs 636-1.2(b)(1) - (5) (Person-centered planning process) - The person-centered planning process involves: (1) providing necessary information and support to ensure that the individual, to the maximum extent possible, directs the process and is enabled to make informed choices and decisions; (2) scheduling with the individual at times and locations of convenience to the individual; (3) taking into account the cultural considerations of the individual and providing information in plain language and in a manner that is accessible to and understood by the individual and parties chosen by the individual; (4) providing a method for the individual to request updates to the person-centered service plan as needed; and (5) developing strategies that address conflicts or disagreements in the process, including clear conflict of interest guidelines for individuals, and communicating such strategies to the individual who is receiving services as appropriate." 14 NYCRR Paragraph 636-1.3(b)(7) (Person-centered service plan) - "If an individual resides in a certified residential setting, document that the residence was chosen by the individual, and document the alternative residential settings considered by the individual, including alternative residential settings that are available to individuals without disabilities. (Note: The setting chosen by the individual is integrated in, and supports full access of individuals receiving services 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 having the same degree of access to the community as individuals not receiving services. The individual may choose service and support options that are available to individuals without disabilities for his or her residence and other areas of his or her life.)" 14 NYCRR Subparagraph 636-1.4(b)(2)(ii) (Documentation of rights modifications) - "The individual sharing a unit has a choice of roommates in that setting." 14 NYCRR Subparagraph 636-1.4(b)(2)(iii) (Documentation of rights modifications) - "The individual has freedom to furnish and decorate his or her sleeping or living unit within the lease or other agreement." 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time." 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time." 14 NYCRR Subdivision 636-1.5(a) (Notice of the person-centered planning process and plan) - "The service coordinator must give notice of the individual's right to a person-centered planning process in accordance with section 636-1.2 of this subpart and to a person-centered plan in accordance with section 636-1.3 of this subpart, and of the right to object to services pursuant to section 633.12 of this Title, to the individual and the person upon whom decision-making authority is conferred by state law." 14 NYCRR 635-99.1(be) (Glossary) and 14 NYCRR 686.99(ab) (Glossary) - "The goal of the ISP is to ensure the provision of those things necessary to sustain the person in his/her chosen environment and preclude movement to an ICF/DD. These services, activities and supports, identified in the ISP, are to reflect the preferences, capabilities, and capacities of the person and emphasize the development of self-determination (i.e., making personal choices)."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>	<p>OPWDD Administrative Memorandum (ADM) #2010-04 Program Standards: Individualized Service Plan Format, pages 1 and 2 - The purpose of this advisory is to review the applicable program standards resulting from changes/clarifications to the required format and distribution timeframes of the revised Individualized Service Plan (ISP). The goal of the ISP changes is to streamline the ISP by eliminating duplicative information and removing information that does not add value to the individualized person-centered planning process and informed choice while streamlining the workload of service coordinators. individuals with developmental disabilities who are enrolled in PCSS or MSC. It summarizes the help a person wants and needs to live a successful life in the community and pursue his or her valued outcomes. The ISP is the blueprint for achieving a person's valued outcomes. It is a flexible information tool used to focus and direct efforts to assist the person with developmental disabilities throughout their lives. The ISP is reviewed at least twice annually with the individual and other persons close to the individual which may include service providers, family members, and others who can help the person to make informed choices and choose and amend valued outcomes when the person's needs, goals and/or aspirations change as life progresses.</p> <p><a href="#">Click here to link to ADM# 2010-04 Program Standards for ISP</a></p>	<p>Care Coordination Organization/Health Home (CCO/HH) Provider Policy Guidance and Manual - Effective July 1, 2018, OPWDD will transition Care Management, both Medicaid Service Coordination (MSC) and Home and Community Based Services (HCBS) Waiver Plan of Care Support Services (PCSS) to the Health Home model of care. This Manual describes the program standards and requirements for the program known as Care Coordination Organization/Health Homes (CCO/HHs) serving individuals with intellectual and developmental disabilities (I/DD). Section 1.4, page 10, Person-Centered Planning Process - "Person-centered planning is a process directed by the individual that helps us learn how they want to live and describes what supports are needed to help them move toward a life they consider meaningful and productive. The planning process empowers the individual by building on their abilities and skills, promoting a quality lifestyle that supports the individual in finding ways to contribute to their community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. Knowing and exploring opportunities to use the individual's skills and abilities helps to set a direction while providing positive motivation, and increasing the likelihood of achieving the desired outcomes that are most important to the individual receiving supports." The manual at page 10 directs readers to the OPWDD person-centered planning regulation (14 NYCRR Part 636).</p> <p><a href="#">Click here to link to the Care Coordination Organization Pages</a></p>
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				x	<p>14 NYCRR Paragraph 636-1.4(b)(1) (Documentation of rights modification) - "Each individual's residence is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the applicable landlord/tenant law. For a residence to which landlord tenant laws do not apply, there must be a lease, residency agreement, or other form of written agreement for each individual that provides for eviction processes and appeals comparable to those provided under the applicable landlord tenant law."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>		
7. Each individual has privacy in their sleeping or living unit				x	<p>14 NYCRR Paragraph 636-1.4(b)(2) (Documentation of rights modifications) - "Each individual has privacy in his or her sleeping or living unit."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>		
- units have entrance doors lockable by the individual with only appropriate staff having keys.				x	<p>14 NYCRR Subparagraph 636-1.4(b)(2)(i) (Documentation of rights modification) - "Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>		
- individuals sharing units have a choice of roommates in that setting				x	<p>14 NYCRR Subparagraph 636-1.4(b)(2)(ii) (Documentation of rights modification) - "The individual sharing a unit has a choice of roommates in that setting."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>		
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				x	<p>14 NYCRR Subparagraph 636-1.4(b)(2)(iii) (Documentation of rights modification) - "The individual has freedom to furnish and decorate his or her sleeping or living unit within the lease or other agreement."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>		

OPWDD HCBS 1915 (c) Waiver -- Residential

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
- control their own schedules and activities;				x	14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "Each individual has the freedom and support to control his or her own schedules and activities," <a href="#">Click here to link to Person-Centered Planning - Text</a>		
- have access to food at any time.				x	14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time."  <a href="#">Click here to link to Person-Centered Planning - Text</a>	14 NYCRR Subparagraph 633.4(a)(4)(xvii) (Rights and responsibilities of persons receiving services) - "a balanced and nutritious diet. This right shall provide that: (a) meals are served at appropriate times and in as normal as manner as possible; and (b) altering the composition or timing of regularly served meals for disciplinary or punishment purposes, for the convenience of staff, or for behavior modification shall be prohibited;"  <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	
9. Individuals are able to have visitors of their choosing at anytime		x			14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modification) - "Each individual is able to have visitors of his or her choosing at any time."  <a href="#">Click here to link to Person-Centered Planning - Text</a>	14 NYCRR Subdivision 633.4(a)(4)(xxiv) (Rights and responsibilities of persons receiving services) will be amended by March 1, 2019 to state the following: "the opportunity to receive visitors at any time;"  <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	
10. Any modifications to the conditions listed in 6 through 9 above (42 CFR 441.301(c)(4)(vi)(A) through (D)) are supported by a specific assessed need and justified in the person-centered service plan				x	14 NYCRR Subdivision 636-1.4(b) (Documentation of rights modifications) - "Modifications to the rights identified in paragraphs (1)-(4) of this subdivision of an individual receiving services in a setting described in subdivision (a) of this section must be supported by a specific assessed need and justified in the individual's person-centered service plan."  <a href="#">Click here to link to Person-Centered Planning - Text</a>		
11. The setting is physically accessible to the individual			x		14 NYCRR Subdivision 635-7.3(d)(Safety and welfare requirements for all facilities) - ""For the purpose of obtaining an initial operating certificate on or after August 1, 2007 all supervised community residences, intermediate care facilities for persons with developmental disabilities, private schools, and supervised IRAs housing nine or more persons, in addition to the requirements of subdivision (a) of this section, shall comply with the following requirements: (1) The maximum number of beds in any bedroom of these residential facilities shall be two. However, exceptions for cause may be granted by the commissioner. Facilities certified prior to May 1, 1990, may continue their existing bedroom capacity configuration. (2) Bedrooms shall provide at least 70 square feet per person, exclusive of closets, in multiple sleeping rooms; and not less than 80 square feet, exclusive of closets, in single bedrooms." 14 NYCRR Subdivision 635-7.3(h) (Safety and Welfare Requirements for all Facilities) - "All facilities, except family care homes and IRAs for eight or fewer persons, shall comply with the following requirements: (1) Toilet rooms and bathrooms shall provide personal privacy. (2) Safe, continuous and unobstructed exits are maintained from the interior of a facility to the exterior at a street or to a yard, courtyard or passageway leading to an open public area. A landlocked courtyard must have unrestricted access to a location which is at least 30 feet away from the building. (3) All ramps, doors, handrails, elevator controls, telephones and similar devices installed for use by individuals with physical disabilities, are in an operable/usable condition."  <a href="#">Click here to link to 635-7.3 Safety and Welfare Requirements for all Facilities</a>	14 NYCRR 635-7.4(b)(3) (Family care homes and Individualized Residential Alternatives (IRAs) for eight or fewer persons) - "(xiii) Safe, continuous and unobstructed exits shall be maintained from the interior of the home or IRA to the exterior at a street or to a yard, courtyard or passageway leading to an open public area. A landlocked courtyard must have unrestricted access to a location which is at least 30 feet away from the building. (xiv) All ramps, doors, handrails, elevator controls, telephones and similar devices installed for use by individuals with physical disabilities are in operable/useable condition. (xv) Any hazardous conditions that present a threat to an individual's safety or welfare are repaired in a timely manner."  <a href="#">Click here to link to 635-7.4 Family care homes and Individualized Residential Alternatives (IRAs) for eight or fewer persons</a>	OPWDD Home and Community Based Services General Requirements regulations are currently in development with an expected effective date for promulgation of no later than March 2019. These regulations will require that "the setting is physically accessible to the individual." In addition, the Division of Quality Improvement will use this same standard in its person-centered review and site review protocols to determine provider compliance that the setting is, in fact, physically accessible to the individual.  <a href="#">ClickHereForSiteReviewProtocolDigitalManual</a>  <a href="#">ClickHereForPersonCenteredReviewManual</a>
12. Respite Care				x	14 NYCRR Subdivision 635-10.5(h)(5)(ii) (Reimbursement of HCBS Waiver Services) - "Billing for Overnight Respite services at the fully hourly fee is limited to no more than forty-two (42) days in a one-hundred-eighty (180) day period for an individual. After the forty-two (42) days, any continued overnight billing will be limited to the regional average daily rate paid for Supervised IRA services on a Per Diem basis." This amended regulation reflects CMS approval of OPWDD's Comprehensive Waiver Amendment 02 effective July 1, 2017 which updates the requirements of respite care.  <a href="#">Click here to link to 635-10.5(h)(5)(ii) Reimbursement of HCBS Waiver Services</a>	14 NYCRR Subdivision 686.15(a)(1)(i)(a) (Utilization of Temporary Use Beds and Vacant Beds) - "Overnight Respite may be provided for no more than forty-two (42) days in a one-hundred-eighty (180) day period. After the forty-two (42) days, any continued overnight billing will be limited to the regional average daily rate paid for Supervised IRA services." This amended regulation reflects CMS approval of OPWDD's Comprehensive Waiver Amendment 02 effective July 1, 2017 which updates the requirements of respite care.  <a href="#">Click here to link to 686.15(a)(1)(i)(a) Utilization of Temporary Use Beds and Vacant Beds</a>	OPWDD Administrative Memorandum (ADM) #2017-01 (Home and Community-Based Services (HCBS) Waiver and Non-Waiver Enrolled Respite Services), page 5 - "Overnight Respite billing for In-Home, Site-Based and Intensive Respite is limited to no more than forty-two (42) overnight stays in a one-hundred-eighty (180) day period across all overnight Respite categories per individual." This amended regulation reflects CMS approval of OPWDD's Comprehensive Waiver Amendment 02 effective July 1, 2017 which updates the requirements of respite care.  <a href="#">Click here to link to ADM #2017-01 Home and Community-Based Services (HCBS) Waiver and Non-Waiver Enrolled Respite Services</a>
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>		
13. Are any settings in facilities that also provide inpatient institutional services?					to be determined		
14. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?							
15. 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				
<b>All Settings:</b> 1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		x			OPWDD HCBS Settings regulation for Day Habilitation With/Without Walls is expected by 10/2018 and will comply with the Federal HCBS Settings Rule.	14 NYCRR 636-1.3(b)(1) through (b)(6) (Person-centered service plan), 14 NYCRR Subdivisions 635-99.1(bk) (Glossary) and 686.99(ab) (Glossary)- A Person-centered plan is developed by an individual's chosen service coordinator, the individual and/or the parties chosen by the individual, often known as the person's circle of support, that describes the services, activities and supports, regardless of the funding source, and that constitutes the person's individualized service environment. The goal of the plan is to ensure the provision of those things necessary to sustain the person in his/her chosen environment and preclude movement to an ICF/DD. These services, activities and supports, identified in the plan, are to reflect the preferences, capabilities, and capacities of the person and emphasize the development of self-determination (i.e., making personal choices), independence, productivity, and integration into the community.	<a href="https://opwdd.ny.gov/sites/default/files/documents/INF-2016-Day-Hab-6-23-2016-Branded_KMV.pdf">https://opwdd.ny.gov/sites/default/files/documents/INF-2016-Day-Hab-6-23-2016-Branded_KMV.pdf</a>	
- opportunities to seek employment/ work in			X (Day Habilitation services)	x (SEMP, Pathways to Employment, Site-based prevocational services)	OPWDD Administrative Memorandum (ADM) #2016-01 (Supported Employment) (supersedes ADM #2007-01), page 2 - Supported Employment (SEMP) is a person-centered employment planning and support service that provides assistance for an individual to obtain, maintain, or advance in self-employment or in competitive, integrated employment in the general workforce, for which the individual is compensated at or above the minimum wage. The goal of this service is sustained, paid, integrated employment at or above the minimum wage in the general workforce, in a job that meets the individual's personal and career goals.	OPWDD Administrative Memorandum (ADM) #2015-07 (Service Documentation for Pathway to Employment Service), page 2 - Pathway to Employment is a person-centered career/vocational employment planning and support service that provides assistance for individuals to obtain, maintain, or advance in competitive employment and/or self-employment. The service combines an individualized career/vocational planning process that identifies an individual's support needs, with the provision of services that will strengthen the skills needed to obtain, maintain, or advance in competitive employment. It engages individuals in identifying a career/vocational direction, provides instruction and training in pre-employment skills, and develops a path for achieving competitive, integrated employment at or above the New York State minimum wage or commensurate wage for the job sought.	14 NYCRR Section 635-10.4 (Allowable Services) - The following employment services provide opportunities to seek employment in the community: 14 NYCRR 635-10.4 (h) (Pathway to Employment services) - a person-centered, comprehensive career/vocational employment planning and support service that provides assistance for individuals to obtain, maintain, or advance in competitive integrated employment or self-employment. This service combines an individualized career/vocational planning process that identifies the individual's support needs, with the provision of services that will strengthen the skills needed to obtain, maintain, or advance in competitive integrated employment or self-employment. It engages individuals in identifying a career/vocational direction, provides instruction and training in pre-employment skills, and develops a path for achieving self-employment or competitive integrated employment at or above the State or Federal minimum wage; 14 NYCRR 635-10.4(j) (Supported Employment services) - a person-centered employment planning and support service that provides assistance for an individual to obtain, maintain, or advance in self-employment or in competitive integrated employment in the general workforce, for which the individual is compensated at or above the State or Federal minimum wage (whichever is greater). The goal of this service is sustained self-employment or competitive integrated employment at or above the State or Federal minimum wage (whichever is greater) in the general workforce, in a job that meets the individual's personal and career goals; 14 NYCRR 635-10.4(k) (Site Based Prevocational services) - habilitation services that assist individuals to develop employment readiness skills and that are provided in non-residential facilities certified by OPWDD. The services consist of learning and work experiences that are not job-task specific but contribute to an individual's ability to attain paid employment in the community; and 14 NYCRR 635-10.4(l) (Community Based Prevocational services) - habilitation services that assist the individual to develop employment readiness skills and that are provided in the most integrated setting appropriate to the needs of the individual receiving such services. The services consist of learning and work experiences, including volunteer work, that are not job-task specific but contribute to an individual's ability to attain paid employment in the community.	OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the Federal HCBS Settings Rule.
- engage in community life				x	14 NYCRR Sections 633.4(a)(1), 633.4(a)(2) and 633.4(a)(3) (Rights and Responsibilities of Persons Receiving Services) - The rights set forth in this section are intended to establish the living and/or program environment that protects individuals and contributes to providing an environment in keeping with the community at large, to the extent possible, given the degree of the disabilities of those individuals. These rights include the following: no person shall be deprived of any civil or legal right solely because of a diagnosis of developmental disability. In addition, all persons shall be given the respect and dignity that is extended to others regardless of race; religion; national origin; creed; age; gender; ethnic background; sexual orientation; developmental disability or other handicap; or health condition, such as one tested for or diagnosed as having an HIV infection. In addition, there shall be no discrimination for these or any other reasons.  <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	14 NYCRR Section 635-10.2(a) (Intent) - The intent of home and community-based waiver services is to create an individualized service environment. The purpose of the individualized service environment is to provide, consistent with meeting the person's needs, preferences and personal goals, the supports or services necessary to enable a person with a developmental disability to live, work, socialize and participate in the community. Each support or service is expected to contribute to the person's current or future capacity for self-determination, integration with the community, independence and productivity. Specific services and the intensity with which they are delivered will be set forth in an individualized service plan, and will vary according to individual functional capacities, skill levels, other supports available and the person's personal goals and desires.  <a href="#">Click here to link to 635-10.2 Intent</a>	<a href="#">Click here to link to 635-10.4 Allowable Services</a>	
- control personal resources				x	14 NYCRR Sections 633.15(j)(2) and 633.15(j)(3) (Management of Personal Funds) - This Section describes an individual's Personal Expenditure Planning made up of a team, including the person, advocate and/or service coordinator, and addresses money management including spending options which reflect the person's needs, preferences and personal spending choices, such as entertainment/diversion, hobbies, vacation experiences, family contacts, personal shopping and/or luxury items, weekly activities, and other activities that promote inclusion in the community. Where choices cannot be expressed verbally, preferences may be expressed through body language, eye contact, facial expression, and other non-verbal cues and behavior. Input from others who know the person best, such as family members, advocates, and specific direct care support professional regarding choice if optimal during the expenditure planning process.  <a href="#">Click here to link to 633.15 Management of Personal Funds</a>			
- receive services in the community		x			OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the Federal HCBS Settings Rule.	14 NYCRR Paragraph 635-10.4(b)(3) (Allowable Services) - Community Habilitation services are similar in scope to residential habilitation services and day habilitation services, however, the focus of these services is directed towards service delivery occurring largely in community (non-certified) settings to facilitate and promote independence and community integration.  <a href="#">Click here to link to 635-10.4 Allowable Services</a>	OPWDD Administrative Memorandum (ADM) #2015-01 (Service Documentation for Community Habilitation Services Provided to Individuals Residing in Certified and Non-Certified Locations) (supersedes in part ADM #2010-05), pages 2-3 - This memorandum describes the service documentation requirements for Community Habilitation (CH). With few exceptions, CH services may not be billed when delivered at a site certified by OPWDD or at a site operated by OPWDD which would be required to be certified if it were operated by another provider.  <a href="#">Click here to link to ADM #2015-01 Regulations and Guidance</a>	

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

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
2. Selected by the individual among options including non-disability specific settings,		x			OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls expected by 10/2018 and will comply with the Federal HCBS Settings Rule. These regulations will require that an individual selects his/her day settings among setting options for day services including within the broader community of non-disability specific locations.	14 NYCRR 636-1.3(b)(1) through (b)(6) (Person-centered service plan), 14 NYCRR Subdivisions 635-99.1(bk) (Glossary) and 686.99(ab) (Glossary)- A Person-centered plan is developed by an individual's chosen service coordinator, the individual and/or the parties chosen by the individual, often known as the person's circle of support, that describes the services, activities and supports, regardless of the funding source, and that constitutes the person's individualized service environment. The goal of the plan is to ensure the provision of those things necessary to sustain the person in his/her chosen environment and preclude movement to an ICF/DD. These services, activities and supports, identified in the plan, are to reflect the preferences, capabilities, and capacities of the person and emphasize the development of self-determination (i.e., making personal choices), independence, productivity, and integration into the community.  <a href="#">Click here to link to Person-Centered Planning - Text</a>	
- the options are identified and documented in the person-centered service plan		x			14 NYCRR Part 636-1.3(b)(1) through (6) (Person-centered service plan), 14 NYCRR Subdivisions 635-99.1(bk) (Glossary) and 686.99(ab) (Glossary) - A Person-centered plan is developed by an individual's chosen service coordinator, the individual and/or the parties chosen by the individual, often known as the person's circle of support, that describes the services, activities and supports, regardless of the funding source, and that constitutes the person's individualized service environment. The goal of the plan is to ensure the provision of those things necessary to sustain the person in his/her chosen environment and preclude movement to an ICF/DD. These services, activities and supports, identified in the plan, are to reflect the preferences, capabilities, and capacities of the person and emphasize the development of self-determination (i.e., making personal choices), independence, productivity, and integration into the community.  <a href="#">Click here to link to Person-Centered Planning - Text</a>	OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the Federal HCBS Settings Rule. OPWDD will amend its regulations to include specific language that requires individuals to select the day setting in which they will receive their services including non-disability specific day settings and settings in the everyday broader community. The amended regulations will require that these day settings considered, including non-disability specific day settings, be documented in the person centered service plan.	
- the options are based on the individual's needs, preferences.				x	14 NYCRR Section 636-1.3(b)(4) (Person-centered service plan) - the necessary and appropriate services and supports (paid and unpaid) are based on the individual's preferences and needs (as identified through an assessment of functional and health-related needs) and will assist the individual to achieve his or her identified goals; 14 NYCRR Part 636-1.3(b)(7) (Person-centered service plan) - the individual's residence is chosen by the individual, and alternative residential settings are considered by the individual, including alternative residential settings that are available to individuals without disabilities.  <a href="#">Click here to link to Person-Centered Planning - Text</a>	Care Coordination Organization/Health Home (CCO/HH) Provider Policy Guidance and Manual - Effective July 1, 2018, OPWDD will transition Care Management, both Medicaid Service Coordination (MSC) and Home and Community Based Services (HCBS) Waiver Plan of Care Support Services (PCSS) to the Health Home model of care. This Manual describes the program standards and requirements for the program known as Care Coordination Organization/Health Homes (CCO/HHS) serving individuals with intellectual and developmental disabilities (I/DD). Section 1.4, page 10, Person-Centered Planning Process - "Person-centered planning is a process directed by the individual that helps us learn how they want to live and describes what supports are needed to help them move toward a life they consider meaningful and productive. The planning process empowers the individual by building on their abilities and skills, promoting a quality lifestyle that supports the individual in finding ways to contribute to their community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. Knowing and exploring opportunities to use the individual's skills and abilities helps to set a direction while providing positive motivation, and increasing the likelihood of achieving the desired outcomes that are most important to the individual receiving supports." The manual at page 10 directs readers to the OPWDD person-centered planning regulation (14 NYCRR Part 636).  <a href="#">Click here to link to the Care Coordination Organization Pages</a>	
3. Ensure an individual's rights of privacy.		x			OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the Federal HCBS Settings Rule. It will include that the setting ensures an individual's rights of privacy, dignity, respect and freedom from coercion and restraint.	14 NYCRR Paragraph 633.4(a)(1) (Rights and responsibilities of persons receiving services) - No person shall be deprived of any civil or legal right solely because of a diagnosis of developmental disability. 14 NYCRR Paragraph 633.4(a)(2) (Rights and responsibilities of persons receiving services) - All persons shall be given the respect and dignity that is extended to others regardless of race; religion; national origin; creed; age; gender; ethnic background; sexual orientation; developmental disability or other handicap; or health condition, such as one tested for or diagnosed as having an HIV infection. In addition, there shall be no discrimination for these or any other reasons. 14 NYCRR Paragraph 633.4(a)(3) (Rights and responsibilities of persons receiving services) - The rights set forth in this section are intended to establish the living and/or program environment that protects individuals and contributes to providing an environment in keeping with the community at large, to the extent possible, given the degree of the disabilities of those individuals. Rights that are self-initiated or involve privacy or sexuality issues may need to be adapted to meet the need of certain persons with the most severe disabilities and/or persons whose need for protection, safety and health care will justify such adaptation. It is the responsibility of the agency/facility or the sponsoring agency to ensure that rights are not arbitrarily denied.  <a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a>	

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Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
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- Ensure an individual's rights of dignity and respect.		x			<p>OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the Federal HCBS Settings Rule.</p> <p>14 NYCRR Paragraph 633.4(a)(2) (Rights and responsibilities of persons receiving services) - "All persons shall be given the respect and dignity that is extended to others regardless of race; religion; national origin; creed; age; gender; ethnic background; sexual orientation; developmental disability or other handicap; or health condition, such as one tested for or diagnosed as having an HIV infection. In addition, there shall be no discrimination for these or any other reasons." 14 NYCRR 633.4(a)(4)(i) - (xxvi) - "No person shall be denied: (i) a safe and sanitary environment; (ii) freedom from physical or psychological abuse; (iii) freedom from corporal punishment; (iv) freedom from unnecessary use of mechanical restraining devices; (v) freedom from unnecessary or excessive medication; (vi) protection from commercial or other exploitation; (vii) confidentiality with regard to all information contained in the person's record, and access to such information, subject to the provisions of article 33 of the Mental Hygiene Law and the commissioner's regulations. In addition, confidentiality with regard to HIV-related information shall be maintained in accordance with article 27-F of the Public Health Law, 10 NYCRR Part 63 and the provisions of section 633.19 of this Part; (viii) a written individualized plan of services which has as its goal the maximization of a person's abilities to cope with his or her environment, fosters social competency (which includes meaningful recreation and community programs and contact others who do not have disabilities), and which enables him or her to live as independently as possible; (ix) services, including assistance and guidance, from staff who are trained to administer services adequately, skillfully, safely and humanely, with full respect for the individual's dignity and personal integrity; (x) appropriate and humane health care and the opportunity, to the extent possible, to have input either personally or through parent(s), or guardian(s), or correspondent to participate in the choice of physician and dentist; or the opportunity to obtain a second medical opinion; (xi) access to clinically sound instructions on the topic of sexuality and family planning services and information about the existence of these services, including access to medication or devices to regulate conception, when clinically indicated; (xii) observance and participation in the religion of his or her choice, through the means of his or her choice, including the right of choice not to participate; (xiii) the opportunity to register and vote and the opportunity to participate in activities that educate him or her in civic responsibilities; (xiv) freedom from discrimination, abuse or any adverse action based on his or her status as one who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness; (xv) the receipt of information on or prior to admission, regarding the supplies and services that the facility will provide or for which additional charges will be made, and timely notification of any changes thereafter; (xvi) the use of his or her personal money and property, including regular notice of his or her financial status and the provision of assistance in the use of his or her resources, as appropriate; (xvii) a balanced and nutritious diet; (xviii) individually owned clothing which fits properly, is maintained properly, and is appropriate forage, season and activity; and the opportunity to be involved in the selection of that clothing; (xix) adequate, individually owned, grooming and personal hygiene supplies; (xx) a reasonable degree of privacy in sleeping, bathing and toileting areas; (xxi) a reasonable amount of safe, individual, accessible storage space for clothing and other personal belongings used on a day-to-day basis; (xxii) the opportunity to request an alternative residential setting, whether a new residence or change of room, and involvement in the decisions regarding such changes; (xxiii) the opportunity, either personally or through parent(s), guardian(s) or correspondent, to express without fear of reprisal grievances, concerns and suggestions to the chief executive officer of the facility; the Commissioner of OPWDD; the Justice Center for the Protection of People with Special Needs (Justice Center); for people in developmental centers, and in the community on conditional release from a developmental center, the Mental Hygiene Legal Service and the board of visitors; and for people in developmental centers, the ombudsman; (xxiv) the opportunity to receive visitors at reasonable times; to have privacy when visited, provided such visits avoid infringement on the rights of others, and to communicate freely with anyone within or outside the facility; or (xxv) the opportunity to make, or have made on his or her behalf, an informed decision regarding cardiopulmonary resuscitation, in accordance with the provisions of article 29-B of the Public Health Law, and any other applicable law or regulation. Each developmental center shall adopt policies/procedures to actualize this right; (xxvi) the opportunity, if the person is residing in an OPWDD operated or certified facility, to create a health care proxy."</p> <p align="center"><a href="#">Click here to link to 633.4 Rights and Responsibilities of persons receiving services.</a></p>	<p>14 NYCRR Subparagraph 636-1.2(a)(3)(i) (Person-centered planning process) - The person-centered planning process requires that supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time. 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - Each individual is able to have visitors of his or her choosing at any time.</p> <p align="center"><a href="#">Click here to link to Person-Centered Planning - Text</a></p>	

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Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
- Ensure an individual's rights of freedom from coercion and restraint		x			<p>OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the HCBS Settings Rule.</p> <p>14 NYCRR Paragraph 633.16(c)(2) (Person-centered behavioral intervention) - "All behavioral interventions designed to prevent or modify challenging behaviors shall be in conformance with applicable laws and regulations and agency-specific policies/procedures. Interventions and intervention plans must be individualized and designed for the purpose of enhancing the individual's quality of life, relationships with others, and ability to function as independently as possible. Such interventions shall actively include positive approaches, strategies and/or supports designed to establish or increase the person's adaptive (replacement) behaviors." 14 NYCRR Paragraph 633.16(c)(3) (Person-centered behavioral intervention) - "Behavioral interventions shall be designed and implemented for the purpose of developing or increasing adaptive behaviors (a.k.a. replacement behaviors) that support more independent and personally successful living, and eliminating or decreasing the frequency of challenging behaviors, but never employed for the convenience of staff, as a threat, as a means of retribution, for disciplinary purposes, or as a substitute for treatment or supervision." 14 NYCRR Paragraph 633.16(c)(4) (Person-centered behavioral intervention) - "Positive behavioral approaches, strategies, and supports that are consistent with standards of professional practice shall always be the preferred method for addressing challenging behavior, with the overall goal of increasing the person's repertoire of appropriate behaviors and skills. These positive approaches should include a variety of proactive strategies that may include prevention strategies, setting event strategies, teaching replacement or alternative behaviors such as functional communication and social skills, stress management skills, positive reinforcement, shaping, differential reinforcement procedures, etc." 14 NYCRR Paragraph 633.16(c)(5) (Person-centered behavioral intervention) - "OPWDD discourages the use of restrictive/intrusive interventions. General and specific requirements regarding the use of restrictive/intrusive interventions are imposed in order to limit the use of these interventions to those situations when necessary. Unless there is a clear risk to the health or safety of the person or others, or a violation of others' basic personal rights, any restrictive/intrusive intervention or limitation on a person's rights as specified in a behavior support plan shall be employed only after less intrusive or more positive interventions have been tried and have not been sufficiently successful." 14 NYCRR Paragraph 633.16(c)(6) (Person-centered behavioral intervention) - "The use of aversive conditioning methods is prohibited." 14 NYCRR Paragraph 633.16(c)(7) (Person-centered behavioral intervention) - "There shall be sufficient safeguards and supervision to ensure that the dignity, safety, health, welfare, and civil rights of a person have been adequately protected."</p> <p><a href="#">Click here to link to 633.16 Person-centered Behavioral Intervention</a></p>	<p>14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Paragraph 636-1.2(a)(1) (Person-centered planning process) - "The person-centered planning process involves parties chosen by the individual, often known as the individual's circle of support. The parties chosen by the individual participate in the process as needed, and as defined by the individual, except to the extent that decision-making authority is conferred on another by state law." 14 NYCRR Paragraph 636-1.2(a)(2) (Person-centered planning process) - "The parties chosen by the individual assist the individual in decision-making by, among other things, explaining issues to be decided, answering the individual's questions, encouraging the individual to actively participate in decision-making and, where necessary, assisting the individual to communicate his or her preferences." 14 NYCRR Subparagraphs 636-1.4(a)(3)(i) - (iii) "The person-centered planning process requires that: (i) supports and services are based on the individual's interests, preferences, strengths, capacities, and needs; (ii) supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; and (iii) the individual is satisfied with activities, supports, and services." 14 NYCRR Paragraph 636(a)(4) (Person-centered planning process) - "Person centered planning is a collaborative and recurring process between the individual and the service provider. The planning process is used at the time of initial plan development and during reviews of the plan." 14 NYCRR Paragraph 636-1.2(b)(1) - (5) (Person-centered planning process) - "The person-centered planning process involves: (1) providing necessary information and support to ensure that the individual, to the maximum extent possible, directs the process and is enabled to make informed choices and decisions; (2) scheduling with the individual at times and locations of convenience to the individual; (3) taking into account the cultural considerations of the individual and providing information in plain language and in a manner that is accessible to and understood by the individual and parties chosen by the individual; (4) providing a method for the individual to request updates to the person-centered service plan as needed; and (5) developing strategies that address conflicts or disagreements in the process, including clear conflict of interest guidelines for individuals, and communicating such strategies to the individual who is receiving services as appropriate." 14 Paragraph NYCRR 636-1.4(b)(3) (Documentation of rights modification) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time." 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time." 14 NYCRR Subdivision 636-1.4(b) (Documentation of rights modifications) - "Modifications to these rights must be supported by a specific assessed need and justified in the individual's person-centered service plan." 14 NYCRR Subdivision 636-1.4(d) (Documentation of rights modification) - In the event that a rights modification affects another individual receiving services in the setting who does not require a rights modification, the service coordinator must ensure documentation in such individual's person-centered service plan. 14 NYCRR Paragraph 633.4(b)(6) (Rights and responsibilities of persons receiving services) - "For the person who has had limitations placed on any rights, there is documentation in the person's plan of services as the clinical justification and specific period of time the limitation is to remain in effect."</p> <p><a href="#">Click here to link to Person-Centered Planning - Text</a></p>	



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

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
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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			<p>OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018, and will include that the setting must optimize and not regiment individual initiative, autonomy, and independence in making life choices including, but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>Care Coordination Organization/Health Home (CCO/HH) Provider Policy Guidance and Manual - Effective July 1, 2018, OPWDD will transition Care Management, both Medicaid Service Coordination (MSC) and Home and Community Based Services (HCBS) Waiver Plan of Care Support Services (PCSS) to the Health Home model of care. This Manual describes the program standards and requirements for the program known as Care Coordination Organization/Health Homes (CCO/HHS) serving individuals with intellectual and developmental disabilities (I/DD). Section 1.4, page 10, Person-Centered Planning Process - "Person-centered planning is a process directed by the individual that helps us learn how they want to live and describes what supports are needed to help them move toward a life they consider meaningful and productive. The planning process empowers the individual by building on their abilities and skills, promoting a quality lifestyle that supports the individual in finding ways to contribute to their community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. Knowing and exploring opportunities to use the individual's skills and abilities helps to set a direction while providing positive motivation, and increasing the likelihood of achieving the desired outcomes that are most important to the individual receiving supports." The manual at page 10 directs readers to the OPWDD person-centered planning regulation (14 NYCRR Part 636).</p>	<p>14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Paragraph 636-1.2(a)(1) (Person-centered planning process) - "The person-centered planning process involves parties chosen by the individual, often known as the individual's circle of support. The parties chosen by the individual participate in the process as needed, and as defined by the individual, except to the extent that decision-making authority is conferred on another by state law." 14 NYCRR Paragraph 636-1.2(a)(2) (Person-centered planning process) - "The parties chosen by the individual assist the individual in decision-making by, among other things, explaining issues to be decided, answering the individual's questions, encouraging the individual to actively participate in decision-making and, where necessary, assisting the individual to communicate his or her preferences." 14 NYCRR Subparagraph 636-1.2(a)(3)(i) - (iii) (Person-centered planning process) - "The person-centered planning process requires that: (i) supports and services are based on the individual's interests, preferences, strengths, capacities, and needs; (ii) supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; and (iii) the individual is satisfied with activities, supports, and services." 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time." 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time." 14 NYCRR Paragraphs 636-1.4(c)(1) - (8) (Documentation of rights modification) - "The service coordinator must ensure documentation of the following in the individual's person-centered service plan: (1) a specific and individualized assessed need underlying the reason for any modification; (2) the positive interventions and supports used prior to any modifications; (3) less intrusive methods of meeting the need that were tried but did not work; (4) a clear description of the condition that is directly proportionate to the specific assessed need; (5) a regular collection and review of data to measure the ongoing effectiveness of the modification; (6) established time limits for periodic reviews to determine if the modification is still necessary or can be terminated; (7) an assurance that interventions and supports will cause no harm to the individual; and (8) the informed consent of the individual."</p>
5. Facilitate individual choice regarding services and supports, and who provides them.				x	<p>14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Paragraph 636-1.2(a)(1) (Person-centered planning process) - "The person-centered planning process involves parties chosen by the individual, often known as the individual's circle of support. The parties chosen by the individual participate in the process as needed, and as defined by the individual, except to the extent that decision-making authority is conferred on another by state law." 14 NYCRR Subparagraphs 636-1.2(a)(3)(i) (Person-centered planning process) - The person-centered planning process requires that, among other things, "supports and services are based on the individual's interests, preferences, strengths, capacities, and needs." 14 NYCRR Subparagraphs 636-1.2(b)(1) - (5) (Person-centered planning process) - The person-centered planning process involves: (1) providing necessary information and support to ensure that the individual, to the maximum extent possible, directs the process and is enabled to make informed choices and decisions; (2) scheduling with the individual at times and locations of convenience to the individual; (3) taking into account the cultural considerations of the individual and providing information in plain language and in a manner that is accessible to and understood by the individual and parties chosen by the individual; (4) providing a method for the individual to request updates to the person-centered service plan as needed; and (5) developing strategies that address conflicts or disagreements in the process, including clear conflict of interest guidelines for individuals, and communicating such strategies to the individual who is receiving services as appropriate." 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "Each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time." 14 NYCRR Paragraph 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time." 14 NYCRR Subdivision 636-1.5(a) (Notice of the person-centered planning process and plan) - "The service coordinator must give notice of the individual's right to a person-centered planning process in accordance with section 636-1.2 of this subpart and to a person-centered plan in accordance with section 636-1.3 of this subpart, and of the right to object to services pursuant to section 633.12 of this Title, to the individual and the person upon whom decision-making authority is conferred by state law." 14 NYCRR 635-99.1(bk) (Glossary) and 14 NYCRR 686.99(ab) (Glossary) - "The goal of the ISP is to ensure the provision of those things necessary to sustain the person in his/her chosen environment and preclude movement to an ICF/DD. These services, activities and supports, identified in the ISP, are to reflect the preferences, capabilities, and capacities of the person and emphasize the development of self-determination (i.e., making personal choices)."</p>	<p>Care Coordination Organization/Health Home (CCO/HH) Provider Policy Guidance and Manual - Effective July 1, 2018, OPWDD will transition Care Management, both Medicaid Service Coordination (MSC) and Home and Community Based Services (HCBS) Waiver Plan of Care Support Services (PCSS) to the Health Home model of care. This Manual describes the program standards and requirements for the program known as Care Coordination Organization/Health Homes (CCO/HHS) serving individuals with intellectual and developmental disabilities (I/DD). Section 1.4, page 10, Person-Centered Planning Process - "Person-centered planning is a process directed by the individual that helps us learn how they want to live and describes what supports are needed to help them move toward a life they consider meaningful and productive. The planning process empowers the individual by building on their abilities and skills, promoting a quality lifestyle that supports the individual in finding ways to contribute to their community. Other factors which impact the individual's life, such as health and wellness, are also considered during the planning process. Knowing and exploring opportunities to use the individual's skills and abilities helps to set a direction while providing positive motivation, and increasing the likelihood of achieving the desired outcomes that are most important to the individual receiving supports." The manual at page 10 directs readers to the OPWDD person-centered planning regulation (14 NYCRR Part 636).</p>	<p>OPWDD Administrative Memorandum (ADM) #2010-04 Program Standards: Individualized Service Plan Format, pages 1 and 2 - The purpose of this advisory is to review the applicable program standards resulting from changes/clarifications to the required format and distribution timeframes of the revised Individualized Service Plan (ISP). The goal of the ISP changes is to streamline the ISP by eliminating duplicative information and removing information that does not add value to the individualized person-centered planning process and informed choice while streamlining the workload of service coordinators. Individuals with developmental disabilities who are enrolled in PCSS or MSC. It summarizes the help a person wants and needs to live a successful life in the community and pursue his or her valued outcomes. The ISP is the blueprint for achieving a person's valued outcomes. It is a flexible information tool used to focus and direct efforts to assist the person with developmental disabilities throughout their lives. The ISP is reviewed at least twice annually with the individual and other persons close to the individual which may include service providers, family members, and others who can help the person to make informed choices and choose and amend valued outcomes when the person's needs, goals and/or aspirations change as life progresses.</p>

[Click here to link to Person-Centered Planning - Text](#)

[Click here to link to the Care Coordination Organization Pages](#)

[Click here to link to ADM 2010-04 Program Standards: Individualized Service Plan Format](#)

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

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant			
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.				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 individual with only appropriate staff having keys				N/A			
- individuals sharing units have a choice of roommates 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			OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls are expected by 10/2018 and will comply with the Federal HCBS Settings Rule.	14 NYCRR Subdivision 636-1.2(a) (Person-centered planning process) - "A person-centered planning process is a process in which, to the maximum extent possible, an individual directs the planning of his or her services and makes informed choices about the services and supports that he or she receives. The planning process guides the delivery of services and supports to an individual in a way that leads to outcomes or results in areas of the individual's life that are most important to him or her (e.g., health, relationships, work, and home)." 14 NYCRR Subparagraphs 636-1.2(a)(3)(i) - (iii) (Person-centered planning process) - "The person-centered planning process requires that: (i) supports and services are based on the individual's interests, preferences, strengths, capacities, and needs; (ii) supports and services are designed to empower the individual by fostering skills to achieve desired personal relationships, community participation, dignity, and respect; and (iii) the individual is satisfied with activities, supports, and services." 14 NYCRR Paragraphs 636-1.2(b)(1) and (2) (Person-centered planning process) - "A person-centered planning process is required for developing the person-centered service plan (see section 636-1.3 of this subpart), including the HCBS Waiver service habilitation plan, with the individual and parties chosen by the individual. The person-centered planning process involves: (1) providing necessary information and support to ensure that the individual, to the maximum extent possible, directs the process and is enabled to make informed choices and decisions; (2) scheduling with the individual at times and locations of convenience to the individual." 14 NYCRR Paragraph 636-1.4(b)(3) (Documentation of rights modifications) - "each individual has the freedom and support to control his or her own schedules and activities, and has access to food at any time."	
9. Individuals are able to have visitors of their choosing at anytime		x			OPWDD HCBS Settings regulations for Day Habilitation With/Without Walls expected by 10/2018 which will comply with the Federal HCBS Settings Rule	14 NYCRR Subdivision 636-1.4(b)(4) (Documentation of rights modifications) - "Each individual is able to have visitors of his or her choosing at any time."	
10. The setting is physically accessible to the individual.				x	14 NYCRR Subdivision 635-7.3(h) (Safety and Welfare Requirements for all Facilities) - "All facilities, except family care homes and IRAs for eight or fewer persons, shall comply with the following requirements: (1) Toilet rooms and bathrooms shall provide personal privacy. (2) Safe, continuous and unobstructed exits are maintained from the interior of a facility to the exterior at a street or to a yard, courtyard or passageway leading to an open public area. A landlocked courtyard must have unrestricted access to a location which is at least 30 feet away from the building. (3) All ramps, doors, handrails, elevator controls, telephones and similar devices installed for use by individuals with physical disabilities, are in an operable/usable condition." <a href="#">Click here to link to 635-7.3 Safety and Welfare Requirements for all Facilities</a>	14 NYCRR Subdivision 635-7.4(b)(3) (Family care homes and Individualized Residential Alternatives (IRAs) for eight or fewer persons) - "(xiii) Safe, continuous and unobstructed exits shall be maintained from the interior of the home or IRA to the exterior at a street or to a yard, courtyard or passageway leading to an open public area. A landlocked courtyard must have unrestricted access to a location which is at least 30 feet away from the building. (xiv) All ramps, doors, handrails, elevator controls, telephones and similar devices installed for use by individuals with physical disabilities are in operable/usable condition. (xv) Any hazardous conditions that present a threat to an individual's safety or welfare are repaired in a timely manner."	
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>			<b>No</b>	<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>		
11. Are any settings in facilities that also provide inpatient institutional services?					to be determined		
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 sheer 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 4 to 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

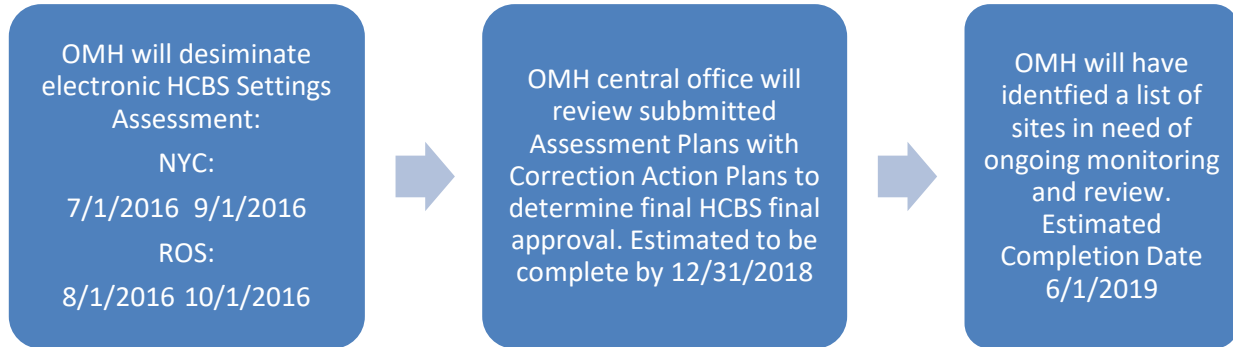
OMH may complete a full assessment and review of these settings at a future date. Based upon the standards set forth by the federal settings regulation, OMH has pre-determined that the following OMH funded settings are in need of further review for compliance and must complete a HCBS Settings Residential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

OMH SED Waiver

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant		
<p><b>All Settings:</b> All services are provided in private homes which New York State presumes compliant with the HCBS rule</p> <p>1. Fully integrated into the broader community to the greatest degree possible for individuals not receiving Medicaid HCBS</p>		x			<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include "Fully integrated into the broader community to the greatest degree possible for individuals not receiving Medicaid HCBS" by March 2019.</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families: Webpage header "The least restrictive environment is the environment of choice for a child and family's success. Services are provided in the home and the community, making full use of natural supports."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>
- opportunities to seek employment/work in			x		<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include opportunities to seek employment/work in.</p>	
- engage in community life			x		<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include engage in community life by March 2019.</p>	
- control personal resources		x			<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include control personal resources" by March 2019.</p>	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families: Webpage header <b>Child and Families participation and freedom of choice are essential to planning and strategizing for effective outcomes</b> "The unique strengths and needs of each individual family direct the design of every service plan." "Priorities identified by the child and family guide the development of goals and services to be delivered." "To ensure families the choice of providers, Waiver ICC agencies are expected to develop the workbooks for the remaining five services."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>
- receive services in the community				x	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families states the waiver will "serve children with the most complex and significant mental health needs in their homes and communities."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families: Webpage header <b>Goals:</b> "...to serve children with the most complex and significant mental health needs in their homes and communities." "to provide (FSS) Family Support Services for activities that are specifically needed to enhance the health and growth of the child and family to the extent possible in their communities." "to provide services that are specifically needed to enhance the health and growth of the child and family to the extent possible in their communities." "to provide services that are specifically needed to enhance the health and growth of the child and family to the extent possible in their communities."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>
2. Selected by the individual among options including non-residential settings		x			<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include Selected by the individual among options including non-residential settings and in option for private unit in residential setting" by March 2019.</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families: "Child and family participation and freedom of choice are essential to planning and strategizing for effective outcomes... To ensure families the choice of providers."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>
- the options are identified and documented in the person-centered service plan		x			<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include the options are identified and documented in the person-centered service plan" by March 2019.</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families Web Header <b>Child and family participation and freedom of choice are essential to planning and strategizing for effective outcomes</b> "The unique strengths and needs of each child and family direct the design of every service plan."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>
- the options are based on the individual's needs, preferences, and residential settings, resources available for room and board		x			<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include the options are based on the individual's needs, preference, and residential settings, resources available for room and board" by March 2019.</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>	<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families Web Header <b>Psychiatric diagnosis alone does not define the child. The family environment plays a key role in child's progress and continued success</b> "Agree upon goals and services that mutually work to support change in the home environment that enforce child's healthy development."</p> <p><a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a></p>
3. Ensure individual's rights to privacy			x		<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include documentation to ensure individual's rights to privacy" by March 2019.</p>	
- Ensure individual's rights to dignity and respect			x		<p>Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DMH to include language to ensure individual's rights to dignity and respect" by March 2019.</p>	

- Ensure individual's rights to freedom from coercion and restraint.			x0		Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DPH to include language to ensure individual's rights to freedom from coercion and restraint" by March 2019.	
4. Optimize and doesn't regiment individual's initiative, autonomy, and independence in making choices, including but not limited to, daily activities, physical environment, and with whom to interact.			x		Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised to optimize and doesn't regiment individual's initiative, autonomy, and independence in making choices, including but not limited to, daily activities, physical environment, and with whom to interact" by March 2019.	
5. Facilitate individual's choice regarding services and supports, and who provides them.			x0		Home and Community Based Services Waiver Guidance Document Division of Children and Families will be revised by DPH to include facilitate individual's choice regarding services and supports, and who provides them" by March 2019.	
<b>Provider Owned or Controlled Settings:</b>						
6. A specific place that is believed, rented or occupied under a legally enforceable agreement by the individual receiving services. The individual has, to a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's landlord/tenant law or equivalent.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
7. A place where an individual has privacy in their sleeping or living unit.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
- units have entrance doors lockable by the individual with only appropriate staff having keys.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
- individuals sharing units have a choice of roommates in that setting.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
- individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
- control their own schedules and activities.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
- have access to food at any time.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
9. Individuals are able to have visitors in their housing at any time.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	
10. The setting is physically accessible to the individual.				N/A	Home and Community Based Services Waiver Guidance Document Division of Children and Families. "Services are provided in the home and community, making full use of natural supports." <a href="#">Click here to access Home and Community Based Services Waiver Guidance Document Division of Children and Families</a>	

				<a href="#">Click here to access HomeBased Community Based Services Waiver Guidance Document Division of Children &amp; Families</a>	
<b>Heightened Scrutiny: (Note: If any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>	<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>	
11. Are there any settings or facilities that also provide inpatient institutional services?		x0			
12. Are there any settings or facilities on the grounds of, and immediately adjacent to, a public institution?		x0			
13. Do any of the settings serve or isolate individuals in receipt of Medicaid-funded HCBS from the broader community?		x0			

\*OMH will ensure compliance with CMS' ruling on person-centered planning process by disseminating guidance to providers by March 2019.



OMH 1115 HARP Care Management

Standard/Quality	Degree of Compliance				Documentation/Citations	Documentation/Citations	Documentation/Citations	Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant				
<p>All Settings:                      1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid/HCSB</p>		x			<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: OMH1115.11                      revise to include language stating that settings should be fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid/HCSB by March 2019.</p> <p><a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: (Pg. 3-4) The Behavioral Health Home and Community Based Services (BH HCSB) provide opportunities for adults Medicaid beneficiaries with mental illness and/or substance use disorders to receive services in their own home or community.                      (p. 38) In addition, the final rule 11.1014(c)(5)(v) specifies that the following settings are presumed to have the qualities of an institution and therefore likely do not meet the HCSB standard without documentation to support otherwise: ...                      • Any other setting that has the effect of isolating individuals receiving Medicaid/HCSB from the broader community by individuals not receiving Medicaid/HCSB.  <a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>		
- opportunities to seek employment/work				x	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: (Pg. 3-4) A recovery model is one that emphasizes and supports personal goals 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 Oriented: Services should be provided based on the principle that 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 Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual.</p> <p><a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: Section IV, Person Centered Planning and Service Delivery, Fig. 5. The Plan of Care must include services to assist the individual to support independent community living in the setting of his or her own choice and must support integration in the community, including opportunities to seek employment, engage in community life, control personal resources, and to receive services within the community.</p> <p><a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>		
- engage in community life				x	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: (Pg. 3-4) Services should be provided based on the principle that 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 Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual.</p> <p><a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: Section IV, Person Centered Planning and Service Delivery, Fig. 5. The Plan of Care must include services to assist the individual to support independent community living in the setting of his or her own choice and must support integration in the community, including opportunities to seek employment, engage in community life, control personal resources, and to receive services within the community.  <a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>		
- control personal resources				x	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: Section IV, Person Centered Planning and Service Delivery, pg. 5. "The Plan of Care must include services chosen by the individual to support independent community living in the setting of his or her own choice and must support integration in the community, including opportunities to seek employment, engage in community life, control personal resources, and to receive services within the community."  <a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>			
- receive services in the community				x	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: (Pg. 3-4) Services should be provided based on the principle that 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 Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual.</p> <p><a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>	<p>NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual: Section IV, Person Centered Planning and Service Delivery, (pg. 5) The Plan of Care must include services chosen by the individual to support independent community living in the setting of his or her own choice and must support integration in the community, including opportunities to seek employment, engage in community life, control personal resources, and to receive services within the community.  <a href="#">NYS Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BH HCSB) Provider Manual</a></p>		



- Ensure individual's rights to freedom of coercion and restraint				x3	<p>NYS Home and Community Services Application Guide. "Below is a summary of key elements of the final rule related to HCBS settings. The final rule requires that the home and community-based settings meet particular regulatory requirements. These include that the setting:</p> <ul style="list-style-type: none"> <li>• Ensures individual rights to privacy, dignity and respect, and freedom from coercion and restraint;</li> </ul>	
4. Optimize and does not impede individual's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.				x3	<p>New York State Home and Community Based Services Application Guide (Comment 2) The final rule requires that the home and community-based settings meet particular regulatory requirements. These include that the setting:</p> <ul style="list-style-type: none"> <li>• Is integrated and supports full access to the greater community;</li> <li>• Is selected by the individual from among setting options;</li> <li>• Ensures individual rights to privacy, dignity and respect, and freedom from coercion and restraint;</li> <li>• Optimizes autonomy and independence in making life choices;</li> <li>• Facilitates choice regarding services and who provides them.</li> </ul>	<p>Section IV. Person Centered Planning and Service Delivery" (pg. 5) If the Plan of Care must include services chosen by the individual to support independent living in the setting, it must either be the choice and trust support integration in the community, including opportunities to seek employment, engage in community life, control personal resources, and to receive services within the community.</p> <p>NYS Health and Recovery Plan (HARP) Full Behavioral Health Home and Community Based Services (BHCS) Provider Manual</p>
5. Facilitate individual's choice regarding services and supports, and who provides them.				x3	<p>New York State Home and Community Based Services Application Guide (Comment 2) The final rule requires that the home and community-based settings meet particular regulatory requirements. These include that the setting:</p> <ul style="list-style-type: none"> <li>• Facilitates choice regarding services and who provides them.</li> </ul>	<p>New York State Health and Recovery Plan (HARP) Adult Behavioral Health Home and Community Based Services (BHCS) Provider Manual (Pg. 4) Person-Centered Care: Services should reflect individual's goals and emphasize shared decision-making approach that empowers members, provide choice, and minimize stigma. Services should be designed to optimally address and emphasize wellness and attention to the person's overall well-being in the community. Inclusion.</p> <p>Section IV. Person Centered Planning and Service Delivery (Pg. 5)</p> <p>"1. The Plan of Care must include services chosen by the individual to support independent community living in the setting that either be the choice and trust support integration in the community, including opportunities to seek employment, engage in community life, control personal resources, and to receive services within the community."</p> <p>NYS Health and Recovery Plan (HARP) Full Behavioral Health Home and Community Based Services (BHCS) Provider Manual</p>
<b>Provider Owned or Controlled Settings:</b>						
6. Specific place at which a bed is rented, occupied, or used regularly for a lease 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 and/or tenant law in equivalent.				N/A	<p>Medicaid Health Homes- Comprehensive Care Management. "If health home is a physical place, it is a group of health care and service providers working together to help you get the care and services you need to stay healthy."</p> <p>Home Care Health Homes- Comprehensive Care Management</p>	
7. Each individual has privacy in their sleeping arrangements				N/A		
- each have entrance doors lockable by the individual with only appropriate staff having keys				N/A		
- individuals sharing units have choice to communicate with setting				N/A		
8. Individuals have the freedom to furnish and decorate their sleeping quarters within the lease or control their own schedules and activities.				N/A		
- have access to food at any time.				N/A		
9. Individual are able to have visitors of their choosing at any time.				N/A		
10. The setting is physically accessible to the individual.				N/A		
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 Scrutiny Sites - Use Additional Sheets if Necessary	
11. Are any settings in facilities that also provide outpatient/institutional services?			TBD			
12. Are any settings in facilities in the grounds of an immediate placement public institution?			TBD			
13. Do any of the settings serve a state individual who receives Medicaid-funded HCBS from the broader community?			TBD			

\* OMT will ensure compliance with HCBS ruling in person-centered planning process by disseminating guidance to providers by March 2019.

## OMH 1115 Suported Housing

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community so the same degree of accessibility is not			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- opportunities to seek employment/work			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- engage in community life			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- control personal resources			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- receive services in the community			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
2. Selected by the individual among options including non-disability specific settings and an option for private unit residential setting			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- the options are identified and documented in the person-centered service plan			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- the options are based on the individual's needs, preference, and for residential settings, resources available for room and board			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
3. Ensure an individual's rights of privacy			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- Ensure an individual's rights of dignity and respect			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- Ensure an individual's rights of freedom from coercion and restraint			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
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			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
5. Facilitate individual choice regarding services and supports, and who provides them			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
<b>Provider Owned or Controlled Settings:</b>					

<p>6. A specific place that is 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.</p>		x			<p>Supported Housing Guidelines 2014 State on page 11. The Provider often plays a dual role in helping the recipient maintain a micable tenant/landlord relationship. As an advocate for the recipient, the Provider should ensure that the tenant's rights are guaranteed by the lease and under applicable law and that the recipient".</p> <p>OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019. In accordance with 20 CFR 41.301(c)(4)(vi)(F) any modification of the additional conditions, under 20 CFR 41.301(c)(4)(vi)(A) through (D), will be supported by specific assessed need and justified in the person-centered <a href="http://www.omh.ny.gov/omhweb/adults/supportedhousing/supported-housing-guidelines.pdf">www.omh.ny.gov/omhweb/adults/supportedhousing/supported-housing-guidelines.pdf</a></p>
<p>7. Each individual has privacy in their sleeping or living unit.</p>			x		<p>OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019. In accordance with 20 CFR 41.301(c)(4)(vi)(F) any modification of the additional conditions, under 20 CFR 41.301(c)(4)(vi)(A) through (D), will be supported by specific assessed need and justified in the person-centered service plan.</p>
<p>- units have entrance doors lockable by the individual with only appropriate staff having keys.</p>			x		<p>Same as above response in column F row 4.</p>
<p>- individuals sharing units have choice of roommates in that setting.</p>			x		<p>Same as above response in column F row 4.</p>
<p>8. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>			x		<p>Same as above response in column F row 4.</p>
<p>- control their own schedules and activities.</p>			x		<p>Same as above response in column F row 4.</p>

- have access to food at any time.			x	Same as above response in column F row 4.
9. Individuals are able to have visitors of their choosing at any time.			x	Same as above response in column F row 4.
10. The setting is physically accessible to the individual.			x	OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised state guidelines by March 2019.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>	<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
11. Are any settings in facilities that also provide inpatient institutional services?			TBD	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			TBD	
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?			TBD	

\*OMH will ensure compliance with CMS' ruling on person-centered planning process by disseminating guidance to providers by March 2019.

### OMH 1115 SP-SRO

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- opportunities to seek employment/ work in			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- engage in community life			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- control personal resources			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- receive services in the community			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- the options are identified and documented in the person-centered service plan			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- the options are based on the individual's needs, preference, and for residential settings, resources available for room and board			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
3. Ensure an individual's rights of privacy.			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- Ensure an individual's rights of dignity and respect.			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
- Ensure an individual's rights of freedom from coercion and restraint			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
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		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.

5. Facilitate individual choice regarding services and supports, and who provides them.			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
<b>Provider Owned or Controlled Settings:</b>					
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			Supported Housing Guidelines 2014 state on page 11: "The Provider often plays a dual role in helping the recipient maintain an amicable tenant/landlord relationship. As an advocate for the recipient, the Provider should ensure that the tenant's rights are guaranteed by the lease and under applicable law and that the recipient". OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.  <a href="http://www.omh.ny.gov/omhweb/adults/supportedhousing/supported-housing-guidelines.pdf">www.omh.ny.gov/omhweb/adults/supportedhousing/supported-housing-guidelines.pdf</a>
7. Each individual has privacy in their sleeping or living unit			x		OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
- units have entrance doors lockable by the individual with only appropriate staff having keys.			x		Same as above response in column F row 34.
- individuals sharing units have a choice of roommates in that setting			x		Same as above response in column F row 34.
8. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.			x		Same as above response in column F row 34.



- control their own schedules and activities;			x	Same as above response in column F row 34.
- have access to food at any time.			x	Same as above response in column F row 34.
9. Individuals are able to have visitors of their choosing at anytime			x	Same as above response in column F row 34.
10. The setting is physically accessible to the individual			x	OMH is currently updating the Supported Housing Guidelines 2014. OMH will incorporate HCBS standards from column A into revised guidelines by March 2019.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>	<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
11. Are any settings in facilities that also provide inpatient institutional services?			TBD	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			TBD	
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?			TBD	

\*OMH will ensure compliance with CMS' ruling on person-centered planning process by disseminating guidance to providers by March 2019.

1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS		x			<p>OMH 14 NYCRR Part 595 Operations of Residential section (595.1 a) states: "The purpose of residential programs for individuals diagnosed with a severe and persistent mental illness is to provide residential services which support and assist individuals with their goal of integration into the community".</p> <p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p> <p><a href="https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=icb5a98e0b7ec11dd9120824eac0ffce&amp;originationContext=documenttoc&amp;transitionType=Default&amp;contextData=(sc Default)&amp;hhcnc=1">https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=icb5a98e0b7ec11dd9120824eac0ffce&amp;originationContext=documenttoc&amp;transitionType=Default&amp;contextData=(sc Default)&amp;hhcnc=1</a></p>
- opportunities to seek employment/ work in			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- engage in community life			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- control personal resources			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- receive services in the community			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- the options are identified and documented in the person-centered service plan			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- the options are based on the individual's needs, preference, and for residential settings, resources available for room and board			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
3. Ensure an individual's rights of privacy.			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- Ensure an individual's rights of dignity and respect.			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.

- Ensure an individual's rights of freedom from coercion and restraint			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
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		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
5. Facilitate individual choice regarding services and supports, and who provides them.			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 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. 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				OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
7. Each individual has privacy in their sleeping or living unit			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
- units have entrance doors lockable by the individual with only appropriate staff having keys.			x		Same as above response in column F row 34.
- individuals sharing units have a choice of roommates in that setting			x		Same as above response in column F row 34.
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.			x		Same as above response in column F row 34.

- control their own schedules and activities;			x		Same as above response in column F row 34.
- have access to food at any time.			x		Same as above response in column F row 34.
9. Individuals are able to have visitors of their choosing at anytime	x				Same as above response in column F row 34.
10. The setting is physically accessible to the individual			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.

## OMH 1115 Apartment Tx

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS		x			<p>OMH 14 NYCRR Part 595 Operations of Residential section (595.1 a) states: "The purpose of residential programs for individuals diagnosed with a severe and persistent mental illness is to provide residential services which support and assist individuals with their goal of integration into the community". OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p> <p><a href="https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=Ic b5a98e0b7ec11dd9120824eac0ffce&amp;originationContext=documenttoc&amp;transitionType=Default&amp;contentTypeData=(sc Default)&amp;hbrn=1">https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=Ic b5a98e0b7ec11dd9120824eac0ffce&amp;originationContext=documenttoc&amp;transitionType=Default&amp;contentTypeData=(sc Default)&amp;hbrn=1</a></p>
- opportunities to seek employment/ work in			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
- engage in community life			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
- control personal resources			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
- receive services in the community			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
2. Selected by the individual among options including non-disability specific settings and an option for a private unit in a residential setting			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
- the options are identified and documented in the person-centered service plan			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
- the options are based on the individual's needs, preference, and for residential settings, resources available for room and board			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>
3. Ensure an individual's rights of privacy.			x		<p>OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.</p>

- Ensure an individual's rights of dignity and respect.			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
- Ensure an individual's rights of freedom from coercion and restraint			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
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		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
5. Facilitate individual choice regarding services and supports, and who provides them.			x		OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
<b>Provider Owned or Controlled Settings:</b>					
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				OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019. In accordance with 42 CFR 441.301(c)(4)(vi)(F) any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
7. Each individual has privacy in their sleeping or living unit			x		Same response as above row 32 column f.
- units have entrance doors lockable by the individual with only appropriate staff having keys.			x		Same response as above row 32 column f.
- individuals sharing units have a choice of roommates in that setting			x		Same response as above row 32 column f.

8. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.			x	Same response as above row 32 column f.
- control their own schedules and activities;			x	Same response as above row 32 column f.
- have access to food at any time.			x	Same response as above row 32 column f.
9. Individuals are able to have visitors of their choosing at anytime	x			Same response as above row 32 column f.
10. The setting is physically accessible to the individual			x	OMH is currently updating the 14 NYCRR Part 595 Operations of Residential Programs Housing Regulations that will include HCBS standards' language in column A by March 2019.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>	<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
11. Are any settings in facilities that also provide inpatient institutional services?			TBD	
12. Are any settings in facilities on the grounds of, or immediately adjacent to a public institution?			TBD	
13. Do any of the settings serve to isolate individuals in receipt of Medicaid-funded HCBS from the broader community?			TBD	

\*OMH will ensure compliance with CMS' ruling on person-centered planning process by disseminating guidance to providers by March 2019.



# **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 is 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 compliant with the HCBS rules and does not anticipate any actionable items.

The following timeline has been developed for implementation of the HCBS settings assessment:

<b>COMPLETION BY:</b>	<b>ACTIONS:</b>
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 December 31, 2018	Work with providers to develop compliance plan(s), if necessary.

## OASAS Medicaid Redesign Permanent Supportive Hou

Standard/Quality	Degree of Compliance			
	Non-Compliant	Partially Compliant	Silent	Compliant
<b>All Settings:</b>				
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
-- 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
<b>Provider Owned or Controlled Settings:</b>				
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.				X

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
-- 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:				
--control their own schedules and activities;				X
--have access to food at any time.				X
9. Individuals are able to have visitors of their choosing at any time.				X

10. The setting is physically accessible to the individual.				X
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<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>	<b>No</b>
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



## ising Program

Documentation/Citations
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : p8 The setting is integrated in and supports full access to the greater community.
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : p.9 Housing units should be integrated into the broader community.
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : p.9 Residents should be able to seek and access employment, engage in community life, and easily access services within the community.
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : p. 9 Residents shall have the ability to control their personal resources and finances.
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : p.9 Residents should be able to seek and access employment, engage in community life, and easily access services within the community.
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Housing units should be selected by the individual from among a choice of options. Options should be based on the needs of the individual and family
<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Options and selections should be identified in the resident’s person-centered individualized service plan.
<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
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[Click here for OASAS PSH Provider HCBS Guidance:](#) Options should ensure the resident's rights of privacy, including their right to dignity, respect, freedom from coercion, or fear of any retaliation.

[Click here for OASAS PSH Provider HCBS Guidance:](#) Options should ensure the resident's rights of privacy, including their right to dignity, respect, freedom from coercion, or fear of any retaliation.

[Click here for OASAS PSH Provider HCBS Guidance:](#) Options should ensure the resident's rights of privacy, including their right to dignity, respect, freedom from coercion, or fear of any retaliation.

[Click here for OASAS PSH Provider HCBS Guidance:](#) p.9 The person-centered individualized service plan should ensure and reflect that participants are making independent decisions regarding their life choices including but not limited to, daily activities, physical environment, access to food at any time, and with whom they wish to interact.

[Click here for OASAS PSH Provider HCBS Guidance:](#) The resident's person centered individualized service plan should facilitate choice regarding services and supports, and the provider delivering services.

[Click here for OASAS PSH Provider HCBS Guidance:](#) p.9 The unit should be owned, rented or occupied under a legally enforceable agreement by the resident. For applicable provider-owned controlled settings, we will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.

[Click here for OASAS PSH Provider HCBS Guidance:](#) The resident should have, at a minimum, the same responsibilities and protections from eviction that tenants have under the local or states jurisdictions landlord/tenant law or equivalent. See also remediation plan in cell 40f


[Click here for OASAS PSH Provider HCBS Guidance:](#) Each resident should have privacy in their housing unit. See also remediation plan in cell 40F

<p><a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> p.9 "Each resident should have privacy in their housing unit with the possession of keys and ability to lock their doors" "Only appropriate housing program staff should have keys to units." See also remediation plan in cell 40F.</p>

[Click here for OASAS PSH Provider HCBS Guidance:](#) Residents should have a choice in roommates, when required to share an apartment unit with an un-related program participant. See also remediation plan in cell 40F

--

[Click here for OASAS PSH Provider HCBS Guidance:](#) ...freedom to furnish or decorate their apartment unit in accordance with the lease agreement. See also remediation plan in cell 40F


[Click here for OASAS PSH Provider HCBS Guidance:](#) Residents shall have the ability to control their own schedule and activities. See also remediation plan in cell 40F

[Click here for OASAS PSH Provider HCBS Guidance:](#) The person centered individualized service plan should ensure and reflect that participants are making independent decisions regarding life choices including...access to food at any time...See also remediation plan in cell 40F

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[Click here for OASAS PSH Provider HCBS Guidance:](#) Residents shall have the ability to have visitors at any time. See also remediation plan in cell 40F




## OASAS Shelter Plus Care Per

Standard/Quality	Degree of Co	
	Non-Compliant	Partially Compliant
<b>All Settings:</b>		
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		
-- 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.		
<b><u>Provider Owned or Controlled Settings:</u></b>		
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.		
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>	
11. Are any settings in facilities that also provide 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?		

# Permanent Supportive Housing

Compliance	
Silent	Compliant
	X
	X
	X
	X
	X
	X
	X
	X
X	
X	
	X
X	
X	
X	
	X
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	X

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	X

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	X

	X

	X
	X

	X
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	X
	X

	X
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	X
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<b>No</b>
X
X
X

## ing Program

### Documentation/Citations

[Click here for OASAS PSH Provider HCBS Guidance](#) : The setting is integrated in and supports full access to the greater community.

[Click here for OASAS PSH Provider HCBS Guidance](#) : Housing units should be integrated into the broader community.

[Click here for OASAS PSH Provider HCBS Guidance](#): Residents should be able to seek and access employment, engage in community life, and easily access services within the community.

[Click here for OASAS PSH Provider HCBS Guidance](#): Residents shall have the ability to control their personal resources and finances.

[Click here for OASAS PSH Provider HCBS Guidance](#):

[Click here for OASAS PSH Provider HCBS Guidance](#): Housing units should be selected by the individual from among a choice of options. Options should be based on the needs of the individual and family

[OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard](#)

[OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard](#)

[Click here for OASAS PSH Provider HCBS Guidance](#): Options and selections should be identified in the resident's person-centered individualized service plan.

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[Click here for OASAS PSH Provider HCBS Guidance](#): p.9 "Each resident should have privacy in their housing unit with the possession of keys and ability to lock their doors" "Only appropriate housing program staff should have keys to units." See also remediation plan in cell 40F

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[Click here for OASAS PSH Provider HCBS Guidance](#): ...freedom to furnish or decorate their apartment unit in accordance with the lease agreement. See also remediation plan in cell 40F

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[Click here for OASAS PSH Provider HCBS Guidance](#): Residents shall have the ability to have visitors at any time. See also remediation plan in cell 40F

[Click here for OASAS PSH Provider HCBS Guidance](#): Options should be based on the needs of the individual and family, including access to disability enabled specific settings.

**List Heightened Scrunity Sites - Use Additional Sheets If Necessary**

# OASAS NY/NY III Permar

Standard/Quality	Degree of Co	
	Non-Compliant	Partially Compliant
<b>All Settings:</b>		
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.		
-- 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.		
<b><u>Provider Owned or Controlled Settings:</u></b>		
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.		
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>	
11. Are any settings in facilities that also provide inpatient institutional services?	20 apartment units	
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?		



# rent Supportive Housing

Compliance	
Silent	Compliant
	X
	X
	X
	X
	X
	X
	X
	X
X	
X	
	X
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<b>No</b>
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<b>X</b>
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<b>X</b>
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# Program

## Documentation/Citations

[Click here for OASAS PSH Provider HCBS Guidance](#) : The setting is integrated in and supports full access to the greater community.

[Click here for OASAS PSH Provider HCBS Guidance](#) : Housing units should be integrated into the broader community.

[Click here for OASAS PSH Provider HCBS Guidance](#): Residents should be able to seek and access employment, engage in community life, and easily access services within the community.

[Click here for OASAS PSH Provider HCBS Guidance](#): Residents shall have the ability to control their personal resources and finances.

[Click here for OASAS PSH Provider HCBS Guidance](#):

[Click here for OASAS PSH Provider HCBS Guidance](#): Housing units should be selected by the individual from among a choice of options. Options should be based on the needs of the individual and family...

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## OASAS Upstate Permanent Supportive Housing Program

Standard/Quality	Degree of Compliance				Documentation/Citations
	Non-Compliant	Partially Compliant	Silent	Compliant	
<b>All Settings:</b>					
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : The setting is integrated in and supports full access to the greater community.
-- opportunities to seek employment/ work in				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Housing units should be integrated into the broader community.
-- engage in community life				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Residents should be able to seek and access employment, engage in community life, and easily access services within the community.
-- control personal resources				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Residents shall have the ability to control their personal resources and finances.
-- receive services in the community				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> :
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 href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Housing units should be selected by the individual from among a choice of options. Options should be based on the needs of the individual and family...
--the options are identified and documented in the person-centered service plan			X		<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.			X		<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
			X		<a href="#">OASAS will revise HCBS provider guidance by March 17, 2019 to include explicit reference to this standard</a>
3. Ensure an individual's rights of privacy.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Options should ensure the resident's rights of privacy, including their right to dignity, respect, freedom from coercion, or fear of any retaliation.

Ensure an individual's rights of dignity and respect.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> Options should ensure the resident's rights of privacy, including their right to dignity, respect, freedom from coercion, or fear of any retaliation.
Ensure an individual's rights of freedom from coercion and restraint.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> Options should ensure the resident's rights of privacy, including their right to dignity, respect, freedom from coercion, or fear of any retaliation.
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	<a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> The person-centered individualized service plan should ensure and reflect that participants are making independent decisions regarding their life choices including but not limited to, daily activities, physical environment, access to food at any time, and with whom they wish to interact.
5. Facilitate individual choice regarding services and supports, and who provides them.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> The resident's person centered individualized service plan should facilitate choice regarding services and supports, and the provider delivering services.
<b>Provider Owned or Controlled Settings:</b>					
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> p.9 The unit should be owned, rented or occupied under a legally enforceable agreement by the resident. For applicable provider-owned controlled settings, we will issue person-centered planning guidance by March 17, 2019 in accordance with 42 CFR 441.301(c)(4)(vi)(F), stating that any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), will be supported by a specific assessed need and justified in the person-centered service plan.
The individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the jurisdiction's				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance:</a> The resident should have, at a minimum, the same responsibilities and protections from eviction that tenants have under the local or states jurisdictions landlord/tenant law or equivalent. See also remediation plan in cell 40F



landlord/tenant law or equivalent.					
7. Each individual has privacy in their sleeping or living unit:				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Each resident should have privacy in their housing unit
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : p.9 "Each resident should have privacy in their housing unit with the possession of keys and ability to lock their doors" "Only appropriate housing program staff should have keys to units." See also remediation plan in cell 40F.
-- individuals sharing units have a choice of roommates in that setting;				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Residents should have a choice in roommates, when required to share an apartment unit with an un-related program participant. See also remediation plan in cell 40F
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : ...freedom to furnish or decorate their apartment unit in accordance with the lease agreement. See also remediation plan in cell 40F
8. Individuals have the freedom and support to:					
--control their own schedules and activities;				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Residents shall have the ability to control their own schedule and activities. See also remediation plan in cell 40F
--have access to food at any time.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : The person centered individualized service plan should ensure and reflect that participants are making independent decisions regarding life choices including...access to food at any time...See also remediation plan in cell 40F
9. Individuals are able to have visitors of their choosing at any time.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Residents shall have the ability to have visitors at any time. See also remediation plan in cell 40F
10. The setting is physically accessible to the individual.				X	<a href="#">Click here for OASAS PSH Provider HCBS Guidance</a> : Options should be based on the needs of the individual and family, including access to disability enabled specific settings.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>
11. Are any settings in facilities that also provide			X		

inpatient institutional services?			
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 consentor'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 DD 1915 (c) Waiver**

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
<u>All Settings:</u>						The B2H waivers are slated for termination upon transition into a 1915(c) consolidated children’s waiver under the Care at Home (CAH) waiver on April 1, 2019, if approved by CMS. The newly consolidated B2H/CAH waiver sub/regulations will address full compliance with all of the HCBS standards contained in this chart.
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.				X	<a href="#">Click here for link to 15-OCFS-ADM 21</a>	Section 111 of the Act, “Supporting Normalcy for Children in Foster Care,” requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child’s participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child’s participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services. 10: To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver’s license. I have the right to ask for and to receive guidance in getting a job. (page 7)
					<a href="#">Click here for link to 18 NYCRR 430.11 (c)</a>	(c) Continuity in the child’s environment. (1)(i) Standard. Whenever possible, a child shall be placed in a foster care setting which permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents, or to which the child will be discharged. It shall be deemed inappropriate to place a child in a setting which conforms with this standard only if the child’s service needs can only be met in another available setting at the same or lesser level of care. The initial placement of the child into foster care and all subsequent placements must take into account the appropriateness of the child’s existing educational setting and the proximity of such setting to the child’s placement location. When it is in the best interest of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child is placed in order that the foster child is provided with immediate and appropriate enrollment in a new school; and the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child previously attended in order that all of the applicable school records of the child are provided to the new school.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
-- opportunities to seek employment/ work in				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Having a part-time job is a normative experience for adolescents. OCFS regulation, 18 NYCRR 441.10 recognizes the importance and value of work experiences for youth in foster care as they offer opportunities for beneficial skill development. Caregivers must apply the reasonable and prudent parent standard when considering whether a child is ready for a part-time job. Considerations should include the age and maturity of the child, the child's history of responsible behavior, the type of job, how the child will travel to/from the job, the number of hours and time in which the child shall work, how the job may impact the child's ability to perform academically, and the types of skills the child will develop from a part time job. (Attachment C, page 10)
					<a href="#">Click here for link to 18 NYCRR 441.10</a>	(a) As part of its services an agency shall provide work experiences which have value by encouraging positive attitudes in children toward work and toward themselves. The particular work experience shall be individualized and related to an evaluation of the child's needs, and shall be appropriate to the child's age, physical strength and readiness to do the task.
-- engage in community life				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services. 10: To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver's license. I have the right to ask for and to receive guidance in getting a job. (page 7)
-- control personal resources				X	<a href="#">Click here for link to 06-INF-10</a>	Youth 12 years of age and older should be able to provide input into selecting and purchasing their clothing. It is recommended that youth involvement begin earlier than 12 years based on developmental appropriateness. Youth 16 years of age and older should be responsible for purchasing their clothing with some support from a caring adult. The replacement clothing allowance should not be reduced when a youth has a part-time job or receives a cash gift. A youth should not be expected to use such funds for needed replacement clothing. A youth should be allowed to use money earned or cash gifts to purchase something extra or special for themselves or to save for the future. (page 5)
					<a href="#">Click here for link to 18 NYCRR 441.12</a>	(a) Each child in care shall receive a regular allowance appropriate to age, which shall not be used to meet basic needs. Any money belonging to a child that is kept in custody by an agency shall be kept separate from agency funds, and account shall be kept of such money. Upon the discharge from care, or transfer of any child to the care of another agency, any money belonging to such child shall be turned over to the person or agency authorized to act as custodian of such money, or to the child, as may be appropriate.(b) An agency shall permit and encourage children to possess personal belongings, in addition to clothing and toilet articles, as may be appropriate.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
--receive services in the community				x	<a href="#">Click here for link to 18 NYCRR 430.11 (c)</a>	(c) Continuity in the child's environment. (1)(i) Standard. Whenever possible, a child shall be placed in a foster care setting which permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents, or to which the child will be discharged. It shall be deemed inappropriate to place a child in a setting which conforms with this standard only if the child's service needs can only be met in another available setting at the same or lesser level of care. The initial placement of the child into foster care and all subsequent placements must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's placement location. When it is in the best interest of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child is placed in order that the foster child is provided with immediate and appropriate enrollment in a new school; and the agency with case management, case planning or casework responsibility for the foster child must coordinate
					<a href="#">Click here for link to 18 NYCRR 441.15</a>	Psychiatric, psychological and other essential services shall be made available appropriate to the needs of the children in care.
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 href="#">Click here for link to 15-OCFS-ADM-14</a>	The Department will require that the Agency with designated case planning responsibility, or the Agency of the associated caseworker, document sufficient assessment information as required by 18 NYCRR 430.10 and 430.11 in the family assessment and service plan to justify the placement of the child into foster care and to justify the placement of a child into a specific type or level of placement. Such assessment must address the issue of educational stability of the foster child in accordance with 18 NYCRR 430.11(c)(1)(i) with regard to the initial and each subsequent foster care placement. If the placement does not meet the standards set out in 18 NYCRR 430.11 for that specific type/level of care, the Department will so notify the Agency and request modified and updated assessment information. (Pages 19-20)
					Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 15-OCFS-ADM-14. 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.	

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 428.6</a>	2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
--the options are identified and documented in the person-centered service plan				X	<a href="#">Click here for link to 18 NYCRR Part 428</a>	428.6 (a)(2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
					<a href="#">Click here for link to 18 NYCRR 430.11</a>	(b) The requirements of this section shall pertain to all children placed in foster care for whom a uniform case record, as described in Part 428 of this Title, is required. The appropriateness of a foster care placement shall be documented on the forms prescribed by the department in Part 428, according to the standards for documentation defined in the standard for continuity in the child's environment and the standards for appropriate level of placement, as set forth in subdivisions (c) and (d) of this section. In the absence of documentation in the uniform case record, the placement shall be deemed inappropriate.
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.				X	<a href="#">Click here for link to 18 NYCRR 430.11 (d)(1)</a>	(d) Standard for appropriate level of placement.(1) The most appropriate level of placement for each child will always be considered to be the least restrictive and most homelike setting in which the child can be maintained safely and receive all services specified in his or her service plan.
3. Ensure an individual's rights of privacy.				X	<a href="#">Click here for link to 18 NYCRR 441.18</a>	(a)(1) A child in care has an unrestricted right to send mail without prior censorship or prior reading; (b)(1) A child in care shall have the right to receive or refuse any and all calls made to him/her during reasonable hours to be set by the authorized agency or foster parent; (c) Nothing contained in subdivision (a) or (b) of this section shall be construed to impede access of a child to either his attorney or his clergyman; (d)(2) Only in instances when the conditions of paragraph (1) of this subdivision are present and, in addition, there is reasonable cause to believe that the child or other persons in the facility or home are in imminent danger of serious harm due to that child's intent to use or distribute an object(s) or substance(s) in his/her possession may the child's person be searched.
Ensure an individual's rights of dignity and respect.				X	<a href="#">Click here for link to 18 NYCRR 441.19</a>	Each child care agency will provide for the safety of children in its care by requiring employees, volunteers and consultants of the facilities which it operates to use appropriate custodial conduct when caring for children.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services.
					<a href="#">Click here for link to 18 NYCRR 443.3 (b)(11)</a>	(11) provide a family atmosphere of acceptance, kindness and understanding and endeavor to give each child the support, attention and recognition that facilitates adjustment to the home and that promotes the child's normal development;
Ensure an individual's rights of freedom from coercion and restraint.				X	<a href="#">Click here for link to B2H Program Manual on OCFS website.</a>	OCFS B2H Program Manual (pg 11-9) Staff from Health Care Integration Agencies and Waiver Service Provider agencies is not authorized to use restraints or restrictive interventions during the provision of Bridges to Health Waiver services. In the event an unauthorized restraint is necessary to ensure an enrollee or another individual's safety, a safety plan is required to be developed as part of the person-centered plan.
					<a href="#">Click here for link to 18 NYCRR 441.19</a>	Each child care agency will provide for the safety of children in its care by requiring employees, volunteers and consultants of the facilities which it operates to use appropriate custodial conduct when caring for children.
					<a href="#">Click here for link to 18 NYCRR 441.17</a>	(b) Restraint shall be used without purposely inflicting pain or harm, and only when other forms of intervention are either inappropriate or have been tried and proved unsuccessful. Restraint, including room isolation, will never be used for punishment or for the convenience of staff.
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	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
5. Facilitate individual choice regarding services and supports, and who provides them.				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 430.12(c)(2)(i)(a)(2)</a>	(a) Efforts must be made to involve the following persons as participants in the development and review of the service plan and in the service plan review: (1) the child, if he or she is at least 10 but less than 14 years of age, unless there is a documented reason related to the current necessity of placement why the child should not be involved; (2) the child, if 14 years of age or older, in accordance with the standards set forth in section 428.3(i) of this Title;
<b>Provider Owned or Controlled Settings:</b>						
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.				X	<a href="#">Click here for link to 15-OCFS-ADM-14</a>	The Agency agrees that in each child care facility (group home or agency boarding home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the reasonable and prudent parent standard to decisions involving the participation of foster children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS. (page 36)
					<a href="#">Click here for link to 18 NYCRR 448.3 (d)(4)</a>	(2) Buildings and grounds. Buildings used in whole or in part as a group home must comply with all applicable laws, ordinances, rules, regulations and codes relating to buildings, fire protection, health and safety.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
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	<a href="#">Click here for link to 18 NYCRR 430.12</a>	(F)(4)(i) (a) Every child discharged to another planned living arrangement with a permanency resource and every child deemed to have been discharged to another planned living arrangement with a permanency resource must remain in a status of trial discharge for at least six months after discharge and must remain in the custody of the local commissioner during the entire period of trial discharge. Trial discharge may continue at the discretion of the district up to the age of 21 if the reassessment and service plan review indicates either the need for continued custody or a likelihood that the child may need to return to foster care. During the period of trial discharge, the district must provide after-care services to the child, including casework contacts with the child, with the number of face-to-face contacts and in-home contacts equal to those required for that child pursuant to section 431.16(c) of this Title during the six months immediately preceding the child's discharge. In addition, after-care services include the provision of services consistent with the service needs of the child identified in the uniform case record which would enable the child to live independently after he or she is discharged from care. In the event that the child becomes homeless during the period of trial discharge, the district must assist the child to obtain housing equivalent to that authorized by clause (c) of this subparagraph. Under no circumstances may a district refer or place a child during the 30-day period following the child's becoming homeless in a shelter for adults, shelter for families, single-room occupancy hotel, or any other congregate living arrangement which houses more than 10 unrelated persons. If appropriate housing is not available within 30 days of the date the child becomes homeless, the district must place the child in a suitable foster boarding home, agency boarding home, group home or institution consistent with section 430.11 of this Part
7. Each individual has privacy in their sleeping or living unit				X	<a href="#">Click here for link to 18 NYCRR 447.2 (b)(13)</a>	(13) Separate and accessible drawer space for personal belongings, and sufficient closet space for indoor and outdoor clothing, shall be available for individual children.
					<a href="#">Click here for link to 18 NYCRR 448.3 (d)(4)</a>	4) Sleeping rooms. (i) Every sleeping room occupied by children shall have good natural light and ventilation and shall have one or more windows opening directly to the exterior. (ii) Separate and accessible drawer space for personal belongings and sufficient closet space for indoor and outdoor clothing shall be available for each child. (iii) No bed shall be located in any unfinished attic, basement, stair hall, or room commonly used for other than bedroom purposes.(iv) Except for mothers and their children, children of different sexes over the age of five shall not sleep in the same room.(v) All single sleeping rooms for children shall contain not less than 80 square feet or floor area and a minimum horizontal dimension of seven feet. (a) No more than three children shall occupy any bedroom.(b) Each child shall have a separate bed spaced at least two feet apart from other beds.(vii) Staff members shall be provided with sleeping quarters separate from those of children.
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				X	<a href="#">Click here for link to 15-OCFS-ADM-14</a>	The Agency agrees that in each child care facility (group home or agency boarding home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the reasonable and prudent parent standard to decisions involving the participation of foster children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS. (page 36)



Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
-- individuals sharing units have a choice of roommates in that setting;				X	<a href="#">Click here for link to 18 NYCRR 428.6</a>	2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
8. Individuals have the freedom and support to: --control their own schedules and activities;				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.
					<a href="#">Click here for link to 18 NYCRR 443.3 (b)(1)</a>	(b) Certified and approved foster parents must execute an agreement with the authorized agency that granted the certificate or letter of approval to operate stipulating that the foster family boarding home parent will: (1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities and to apply the reasonable and prudent parent standard set forth in section 441.25 of this Title;
--have access to food at any time.				X	<a href="#">Click here for link to 18 NYCRR 443.3 (b)(5)</a>	(5) provide children with sufficient nutritious, wholesome and properly prepared food, served at regular hours. Foster children must be permitted to eat meals at the table in the same manner as other family members with due consideration to their age and special needs
					<a href="#">Click here for link to 18 NYCRR 448.3 (g)</a>	(1) Food supplied to the children shall be of good quality, properly prepared, served at regular hours and sufficient in quantity. The diet shall meet the nutritional standards recommended by the National Research Council. All milk and milk products shall be pasteurized.(2) No child will be denied a meal for any reason, except as ordered by a physician; where meals are denied as a result of a doctor's order, the reason for the denial shall be contained in the child's case record.
					<a href="#">Click here for link to 18 NYCRR 447.2 (d) (3)</a>	(3) Food supplied to the children shall be of good quality, properly prepared, and served at regular hours, and sufficient in quantity. Pasteurized milk shall be provided
9. Individuals are able to have visitors of their choosing at any time.				X	<a href="#">Click here for link to 18 NYCRR 443.3 (b)(1)</a>	(b) Certified and approved foster parents must execute an agreement with the authorized agency that granted the certificate or letter of approval to operate stipulating that the foster family boarding home parent will: (1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities and to apply the reasonable and prudent parent standard set forth in section 441.25 of this Title;
10. The setting is physically accessible to the individual.				X	<a href="#">Click here for link to 18 NYCRR 448.3 (d) (ix)</a>	b) In the provision of public assistance, child welfare services, other care and services, no social services district or any member of its staff shall, on the basis of race, color, national origin, age, sex, religion or handicap: (7) make distinction in relation to use of physical facilities, intake and application procedures, caseload assignments, determination of the amount and type of aid, care, services and other benefits under the program and use thereof.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>						
	YES (Indicate How Many)	No		List Heightened Scrutiny Sites - Use Additional Sheets If Necessary		
11. Are any settings in facilities that also provide		X				

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
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inpatient institutional services?						
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	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings:</b>						The B2H waivers are slated for termination upon transition into a 1915(c) consolidated children's waiver under the Care at Home (CAH) waiver on April 1, 2019, if approved by CMS. The newly consolidated B2H/CAH waiver sub/regulations will address full compliance with all of the HCBS standards contained in this chart.
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.				X	<a href="#">Click here for link to 15-OCFS-ADM 21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services. 10: To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver's license. I have the right to ask for and to receive guidance in getting a job. (page 7)
					<a href="#">Click here for link to 18 NYCRR 430.11 (c)</a>	(c) Continuity in the child's environment. (1)(i) Standard. Whenever possible, a child shall be placed in a foster care setting which permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents, or to which the child will be discharged. It shall be deemed inappropriate to place a child in a setting which conforms with this standard only if the child's service needs can only be met in another available setting at the same or lesser level of care. The initial placement of the child into foster care and all subsequent placements must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's placement location. When it is in the best interest of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child is placed in order that the foster child is provided with immediate and appropriate enrollment in a new school; and the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child previously attended in order that all of the applicable school records of the child are provided to the new school.
-- opportunities to seek employment/ work in				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Having a part-time job is a normative experience for adolescents. OCFS regulation, 18 NYCRR 441.10 recognizes the importance and value of work experiences for youth in foster care as they offer opportunities for beneficial skill development. Caregivers must apply the reasonable and prudent parent standard when considering whether a child is ready for a part-time job. Considerations should include the age and maturity of the child, the child's history of responsible behavior, the type of job, how the child will travel to/from the job, the number of hours and time in which the child shall work, how the job may impact the child's ability to perform academically, and the types of skills the child will develop from a part time job. (Attachment C, page 10)

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 441.10</a>	(a) As part of its services an agency shall provide work experiences which have value by encouraging positive attitudes in children toward work and toward themselves. The particular work experience shall be individualized and related to an evaluation of the child's needs, and shall be appropriate to the child's age, physical strength and readiness to do the task.
-- engage in community life				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services. 10: To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver's license. I have the right to ask for and to receive guidance in getting a job. (page 7)
-- control personal resources				X	<a href="#">Click here for link to 06-INF-10</a>	Youth 12 years of age and older should be able to provide input into selecting and purchasing their clothing. It is recommended that youth involvement begin earlier than 12 years based on developmental appropriateness. Youth 16 years of age and older should be responsible for purchasing their clothing with some support from a caring adult. The replacement clothing allowance should not be reduced when a youth has a part-time job or receives a cash gift. A youth should not be expected to use such funds for needed replacement clothing. A youth should be allowed to use money earned or cash gifts to purchase something extra or special for themselves or to save for the future. (page 5)
					<a href="#">Click here for link to 18 NYCRR 441.12</a>	(a) Each child in care shall receive a regular allowance appropriate to age, which shall not be used to meet basic needs. Any money belonging to a child that is kept in custody by an agency shall be kept separate from agency funds, and account shall be kept of such money. Upon the discharge from care, or transfer of any child to the care of another agency, any money belonging to such child shall be turned over to the person or agency authorized to act as custodian of such money, or to the child, as may be appropriate.(b) An agency shall permit and encourage children to possess personal belongings, in addition to clothing and toilet articles, as may be appropriate.

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	Non-Compliant	Partially Compliant	Silent	Compliant		
--receive services in the community				x	<a href="#">Click here for link to 18 NYCRR 430.11 (c)</a>	(c) Continuity in the child's environment. (1)(i) Standard. Whenever possible, a child shall be placed in a foster care setting which permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents, or to which the child will be discharged. It shall be deemed inappropriate to place a child in a setting which conforms with this standard only if the child's service needs can only be met in another available setting at the same or lesser level of care. The initial placement of the child into foster care and all subsequent placements must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's placement location. When it is in the best interest of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child is placed in order that the foster child is provided with immediate and appropriate enrollment in a new school; and the agency with case management, case planning or casework responsibility for the foster child must coordinate
					<a href="#">Click here for link to 18 NYCRR 441.15</a>	Psychiatric, psychological and other essential services shall be made available appropriate to the needs of the children in care.
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 href="#">Click here for link to 15-OCFS-ADM-14</a>	The Department will require that the Agency with designated case planning responsibility, or the Agency of the associated caseworker, document sufficient assessment information as required by 18 NYCRR 430.10 and 430.11 in the family assessment and service plan to justify the placement of the child into foster care and to justify the placement of a child into a specific type or level of placement. Such assessment must address the issue of educational stability of the foster child in accordance with 18 NYCRR 430.11(c)(1)(i) with regard to the initial and each subsequent foster care placement. If the placement does not meet the standards set out in 18 NYCRR 430.11 for that specific type/level of care, the Department will so notify the Agency and request modified and updated assessment information. (Pages 19-20)
					Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 15-OCFS-ADM-14. 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.	
					<a href="#">Click here for link to 18 NYCRR 428.6</a>	2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
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--the options are identified and documented in the person-centered service plan				X	<a href="#">Click here for link to 18 NYCRR Part 428</a>	428.6 (a)(2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
					<a href="#">Click here for link to 18 NYCRR 430.11</a>	(b) The requirements of this section shall pertain to all children placed in foster care for whom a uniform case record, as described in Part 428 of this Title, is required. The appropriateness of a foster care placement shall be documented on the forms prescribed by the department in Part 428, according to the standards for documentation defined in the standard for continuity in the child's environment and the standards for appropriate level of placement, as set forth in subdivisions (c) and (d) of this section. In the absence of documentation in the uniform case record, the placement shall be deemed inappropriate.
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.				X	<a href="#">Click here for link to 18 NYCRR 430.11 (d)(1)</a>	(d) Standard for appropriate level of placement (1) The most appropriate level of placement for each child will always be considered to be the least restrictive and most homelike setting in which the child can be maintained safely and receive all services specified in his or her service plan.
3. Ensure an individual's rights of privacy.				X	<a href="#">Click here for link to 18 NYCRR 441.18</a>	(a)(1) A child in care has an unrestricted right to send mail without prior censorship or prior reading; (b)(1) A child in care shall have the right to receive or refuse any and all calls made to him/her during reasonable hours to be set by the authorized agency or foster parent; (c) Nothing contained in subdivision (a) or (b) of this section shall be construed to impede access of a child to either his attorney or his clergyman; (d)(2) Only in instances when the conditions of paragraph (1) of this subdivision are present and, in addition, there is reasonable cause to believe that the child or other persons in the facility or home are in imminent danger of serious harm due to that child's intent to use or distribute an object(s) or substance(s) in his/her possession may the child's person be searched.
Ensure an individual's rights of dignity and respect.				X	<a href="#">Click here for link to 18 NYCRR 441.19</a>	Each child care agency will provide for the safety of children in its care by requiring employees, volunteers and consultants of the facilities which it operates to use appropriate custodial conduct when caring for children.
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services.
					<a href="#">Click here for link to 18 NYCRR 443.3 (b)(11)</a>	(11) provide a family atmosphere of acceptance, kindness and understanding and endeavor to give each child the support, attention and recognition that facilitates adjustment to the home and that promotes the child's normal development;

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Ensure an individual's rights of freedom from coercion and restraint.				X	<a href="#">Click here for link to B2H Program Manual on OCFS website.</a>	OCFS B2H Program Manual (pg 11-9) Staff from Health Care Integration Agencies and Waiver Service Provider agencies is not authorized to use restraints or restrictive interventions during the provision of Bridges to Health Waiver services. In the event an unauthorized restraint is necessary to ensure an enrollee or another individual's safety, a safety plan is required to be developed as part of the person-centered plan.
					<a href="#">Click here for link to 18 NYCRR 441.19</a>	Each child care agency will provide for the safety of children in its care by requiring employees, volunteers and consultants of the facilities which it operates to use appropriate custodial conduct when caring for children.
					<a href="#">Click here for link to 18 NYCRR 441.17</a>	(b) Restraint shall be used without purposely inflicting pain or harm, and only when other forms of intervention are either inappropriate or have been tried and proved unsuccessful. Restraint, including room isolation, will never be used for punishment or for the convenience of staff.
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	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.
5. Facilitate individual choice regarding services and supports, and who provides them.				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)



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	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 430.12(c)(2)(i)(a)(2)</a>	(a) Efforts must be made to involve the following persons as participants in the development and review of the service plan and in the service plan review: (1) the child, if he or she is at least 10 but less than 14 years of age, unless there is a documented reason related to the current necessity of placement why the child should not be involved; (2) the child, if 14 years of age or older, in accordance with the standards set forth in section 428.3(i) of this Title;
<b>Provider Owned or Controlled Settings:</b>						
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.				X	<a href="#">Click here for link to 15-OCFS-ADM-14</a>	The Agency agrees that in each child care facility (group home or agency boarding home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the reasonable and prudent parent standard to decisions involving the participation of foster children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS. (page 36)
					<a href="#">Click here for link to 18 NYCRR 448.3 (d)(4)</a>	(2) Buildings and grounds. Buildings used in whole or in part as a group home must comply with all applicable laws, ordinances, rules, regulations and codes relating to buildings, fire protection, health and safety.
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	<a href="#">Click here for link to 18 NYCRR 430.12</a>	(F)(4)(i) (a) Every child discharged to another planned living arrangement with a permanency resource and every child deemed to have been discharged to another planned living arrangement with a permanency resource must remain in a status of trial discharge for at least six months after discharge and must remain in the custody of the local commissioner during the entire period of trial discharge. Trial discharge may continue at the discretion of the district up to the age of 21 if the reassessment and service plan review indicates either the need for continued custody or a likelihood that the child may need to return to foster care. During the period of trial discharge, the district must provide after-care services to the child, including casework contacts with the child, with the number of face-to-face contacts and in-home contacts equal to those required for that child pursuant to section 431.16(c) of this Title during the six months immediately preceding the child's discharge. In addition, after-care services include the provision of services consistent with the service needs of the child identified in the uniform case record which would enable the child to live independently after he or she is discharged from care. In the event that the child becomes homeless during the period of trial discharge, the district must assist the child to obtain housing equivalent to that authorized by clause (c) of this subparagraph. Under no circumstances may a district refer or place a child during the 30-day period following the child's becoming homeless in a shelter for adults, shelter for families, single-room occupancy hotel, or any other congregate living arrangement which houses more than 10 unrelated persons. If appropriate housing is not available within 30 days of the date the child becomes homeless, the district must place the child in a suitable foster boarding home, agency boarding home, group home or institution consistent with section 430.11 of this Part. The provisions of this
7. Each individual has privacy in their sleeping or living unit				X	<a href="#">Click here for link to 18 NYCRR 447.2 (b)(13)</a>	(13) Separate and accessible drawer space for personal belongings, and sufficient closet space for indoor and outdoor clothing, shall be available for individual children.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 448.3 (d)(4)</a>	4) Sleeping rooms. (i) Every sleeping room occupied by children shall have good natural light and ventilation and shall have one or more windows opening directly to the exterior. (ii) Separate and accessible drawer space for personal belongings and sufficient closet space for indoor and outdoor clothing shall be available for each child. (iii) No bed shall be located in any unfinished attic, basement, stair hall, or room commonly used for other than bedroom purposes. (iv) Except for mothers and their children, children of different sexes over the age of five shall not sleep in the same room. (v) All single sleeping rooms for children shall contain not less than 80 square feet or floor area and a minimum horizontal dimension of seven feet. (a) No more than three children shall occupy any bedroom. (b) Each child shall have a separate bed spaced at least two feet apart from other beds. (vii) Staff members shall be provided with sleeping quarters separate from those of children.
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				X	<a href="#">Click here for link to 15-OCFS-ADM-14</a>	The Agency agrees that in each child care facility (group home or agency boarding home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the reasonable and prudent parent standard to decisions involving the participation of foster children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS. (page 36)
-- individuals sharing units have a choice of roommates in that setting;				X	<a href="#">Click here for link to 18 NYCRR 428.6</a>	2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
8. Individuals have the freedom and support to:						

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
--control their own schedules and activities;				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.
					<a href="#">Click here for link to 18 NYCRR 443.3 (b)(1)</a>	(b) Certified and approved foster parents must execute an agreement with the authorized agency that granted the certificate or letter of approval to operate stipulating that the foster family boarding home parent will: (1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities and to apply the reasonable and prudent parent standard set forth in section 441.25 of this Title;
--have access to food at any time.				X	<a href="#">Click here for link to 18 NYCRR 443.3 (b)(5)</a>	(5) provide children with sufficient nutritious, wholesome and properly prepared food, served at regular hours. Foster children must be permitted to eat meals at the table in the same manner as other family members with due consideration to their age and special needs
					<a href="#">Click here for link to 18 NYCRR 448.3 (g)</a>	(1) Food supplied to the children shall be of good quality, properly prepared, served at regular hours and sufficient in quantity. The diet shall meet the nutritional standards recommended by the National Research Council. All milk and milk products shall be pasteurized.(2) No child will be denied a meal for any reason, except as ordered by a physician; where meals are denied as a result of a doctor's order, the reason for the denial shall be contained in the child's case record.
					<a href="#">Click here for link to 18 NYCRR 447.2 (d) (3)</a>	(3) Food supplied to the children shall be of good quality, properly prepared, and served at regular hours, and sufficient in quantity. Pasteurized milk shall be provided

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
9. Individuals are able to have visitors of their choosing at any time.				X	<a href="#">Click here for link to 18 NYCRR 443.3 (b)(1)</a>	b) Certified and approved foster parents must execute an agreement with the authorized agency that granted the certificate or letter of approval to operate stipulating that the foster family boarding home parent will: (1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities and to apply the reasonable and prudent parent standard set forth in section 441.25 of this Title;
10. The setting is physically accessible to the individual.				X	<a href="#">Click here for link to 18 NYCRR 448.3 (d) (IX)</a>	b) In the provision of public assistance, child welfare services, other care and services, no social services district or any member of its staff shall, on the basis of race, color, national origin, age, sex, religion or handicap; (7) make distinction in relation to use of physical facilities, intake and application procedures, caseload assignments, determination of the amount and type of aid, care, services and other benefits under the program and use thereof.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>						
	YES (Indicate How Many)		No		List Heightened Scrutiny 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 MedF 1915 (c) Waiver**

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
<b>All Settings:</b>						The B2H waivers are slated for termination upon transition into a 1915(c) consolidated children's waiver under the Care at Home (CAH) waiver on April 1, 2019, if approved by CMS. The newly consolidated B2H/CAH waiver sub/regulations will address full compliance with all of the HCBS standards contained in this chart.
1. Fully integrated into the broader community to the same degree of access as individuals not receiving Medicaid HCBS.				X	<a href="#">Click here for link to 15-OCFS-ADM 21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services. 10: To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver's license. I have the right to ask for and to receive guidance in getting a job. (page 7)
					<a href="#">Click here for link to 18 NYCRR 430.11 (c)</a>	(c) Continuity in the child's environment. (1)(i) Standard. Whenever possible, a child shall be placed in a foster care setting which permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents, or to which the child will be discharged. It shall be deemed inappropriate to place a child in a setting which conforms with this standard only if the child's service needs can only be met in another available setting at the same or lesser level of care. The initial placement of the child into foster care and all subsequent placements must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's placement location. When it is in the best interest of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child is placed in order that the foster child is provided with immediate and appropriate enrollment in a new school; and the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child previously attended in order that all of the applicable school records of the child are provided to the new school.
-- opportunities to seek employment/ work in				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Having a part-time job is a normative experience for adolescents. OCFS regulation, 18 NYCRR 441.10 recognizes the importance and value of work experiences for youth in foster care as they offer opportunities for beneficial skill development. Caregivers must apply the reasonable and prudent parent standard when considering whether a child is ready for a part-time job. Considerations should include the age and maturity of the child, the child's history of responsible behavior, the type of job, how the child will travel to/from the job, the number of hours and time in which the child shall work, how the job may impact the child's ability to perform academically, and the types of skills the child will develop from a part time job. (Attachment C, page 10)

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 441.10</a>	(a) As part of its services an agency shall provide work experiences which have value by encouraging positive attitudes in children toward work and toward themselves. The particular work experience shall be individualized and related to an evaluation of the child's needs, and shall be appropriate to the child's age, physical strength and readiness to do the task.
-- engage in community life				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services. 10: To participate in activities that are appropriate for my age and development, such as after-school activities, summer activities, work experience, to attend or not to attend religious services in my faith, and to practice my religion, if I have one. When I am at least 16 years old, I have the right to apply for my driver's license. I have the right to ask for and to receive guidance in getting a job. (page 7)
-- control personal resources				X	<a href="#">Click here for link to 06-INF-10</a>	Youth 12 years of age and older should be able to provide input into selecting and purchasing their clothing. It is recommended that youth involvement begin earlier than 12 years based on developmental appropriateness. Youth 16 years of age and older should be responsible for purchasing their clothing with some support from a caring adult. The replacement clothing allowance should not be reduced when a youth has a part-time job or receives a cash gift. A youth should not be expected to use such funds for needed replacement clothing. A youth should be allowed to use money earned or cash gifts to purchase something extra or special for themselves or to save for the future. (page 5)
					<a href="#">Click here for link to 18 NYCRR 441.12</a>	(a) Each child in care shall receive a regular allowance appropriate to age, which shall not be used to meet basic needs. Any money belonging to a child that is kept in custody by an agency shall be kept separate from agency funds, and account shall be kept of such money. Upon the discharge from care, or transfer of any child to the care of another agency, any money belonging to such child shall be turned over to the person or agency authorized to act as custodian of such money, or to the child, as may be appropriate.(b) An agency shall permit and encourage children to possess personal belongings, in addition to clothing and toilet articles, as may be appropriate.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
--receive services in the community				x	<a href="#">Click here for link to 18 NYCRR 430.11 (c)</a>	(c) Continuity in the child's environment. (1)(i) Standard. Whenever possible, a child shall be placed in a foster care setting which permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents, or to which the child will be discharged. It shall be deemed inappropriate to place a child in a setting which conforms with this standard only if the child's service needs can only be met in another available setting at the same or lesser level of care. The initial placement of the child into foster care and all subsequent placements must take into account the appropriateness of the child's existing educational setting and the proximity of such setting to the child's placement location. When it is in the best interest of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities to ensure that the child remains in such school. When it is not in the best interests of the foster child to continue to be enrolled in the same school in which the child is currently enrolled, the agency with case management, case planning or casework responsibility for the foster child must coordinate with applicable local school authorities where the foster child is placed in order that the foster child is provided with immediate and appropriate enrollment in a new school; and the agency with case management, case planning or casework responsibility for the foster child must coordinate
					<a href="#">Click here for link to 18 NYCRR 441.15</a>	Psychiatric, psychological and other essential services shall be made available appropriate to the needs of the children in care.
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 href="#">Click here for link to 15-OCFS-ADM-14</a>	The Department will require that the Agency with designated case planning responsibility, or the Agency of the associated caseworker, document sufficient assessment information as required by 18 NYCRR 430.10 and 430.11 in the family assessment and service plan to justify the placement of the child into foster care and to justify the placement of a child into a specific type or level of placement. Such assessment must address the issue of educational stability of the foster child in accordance with 18 NYCRR 430.11(c)(1)(i) with regard to the initial and each subsequent foster care placement. If the placement does not meet the standards set out in 18 NYCRR 430.11 for that specific type/level of care, the Department will so notify the Agency and request modified and updated assessment information. (Pages 19-20)
					Local Department of Social Services Commissioner is responsible for all placement decisions, as stated in 15-OCFS-ADM-14. 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.	
					<a href="#">Click here for link to 18 NYCRR 428.6</a>	2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
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--the options are identified and documented in the person-centered service plan				X	<a href="#">Click here for link to 18 NYCRR Part 428</a>	428.6 (a)(2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
					<a href="#">Click here for link to 18 NYCRR 430.11</a>	(b) The requirements of this section shall pertain to all children placed in foster care for whom a uniform case record, as described in Part 428 of this Title, is required. The appropriateness of a foster care placement shall be documented on the forms prescribed by the department in Part 428, according to the standards for documentation defined in the standard for continuity in the child's environment and the standards for appropriate level of placement, as set forth in subdivisions (c) and (d) of this section. In the absence of documentation in the uniform case record, the placement shall be deemed inappropriate.
--the options are based on the individual's needs, preferences, and for residential settings, resources available for room and board.				X	<a href="#">Click here for link to 18 NYCRR 430.11 (d)(1)</a>	(d) Standard for appropriate level of placement (1) The most appropriate level of placement for each child will always be considered to be the least restrictive and most homelike setting in which the child can be maintained safely and receive all services specified in his or her service plan.
3. Ensure an individual's rights of privacy.				X	<a href="#">Click here for link to 18 NYCRR 441.18</a>	(a)(1) A child in care has an unrestricted right to send mail without prior censorship or prior reading; (b)(1) A child in care shall have the right to receive or refuse any and all calls made to him/her during reasonable hours to be set by the authorized agency or foster parent; (c) Nothing contained in subdivision (a) or (b) of this section shall be construed to impede access of a child to either his attorney or his clergyman; (d)(2) Only in instances when the conditions of paragraph (1) of this subdivision are present and, in addition, there is reasonable cause to believe that the child or other persons in the facility or home are in imminent danger of serious harm due to that child's intent to use or distribute an object(s) or substance(s) in his/her possession may the child's person be searched.
Ensure an individual's rights of dignity and respect.				X	<a href="#">Click here for link to 18 NYCRR 441.19</a>	Each child care agency will provide for the safety of children in its care by requiring employees, volunteers and consultants of the facilities which it operates to use appropriate custodial conduct when caring for children.
					<a href="#">Click here for link to 15-OCFS-ADM-18</a>	As a child or youth in foster care in the State of New York, I have the right: 1: To live in a safe, nurturing, healthy, and suitable residence, to stay safe and to be free from exploitation, where I am treated with respect and where I have enough food and adequate clothing. I have the right to the least restrictive, most home-like setting where I can safely live and receive services.
					<a href="#">Click here for link to 18 NYCRR 443.3 (b)(11)</a>	(11) provide a family atmosphere of acceptance, kindness and understanding and endeavor to give each child the support, attention and recognition that facilitates adjustment to the home and that promotes the child's normal development;



Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
Ensure an individual's rights of freedom from coercion and restraint.				X	<a href="#">Click here for link to OCFS website for B2H Program Manual</a>	OCFS B2H Program Manual (pg 11-9) Staff from Health Care Integration Agencies and Waiver Service Provider agencies is not authorized to use restraints or restrictive interventions during the provision of Bridges to Health Waiver services. In the event an unauthorized restraint is necessary to ensure an enrollee or another individual's safety, a safety plan is required to be developed as part of the person-centered plan.
					<a href="#">Click here for link to 18 NYCRR 441.19</a>	Each child care agency will provide for the safety of children in its care by requiring employees, volunteers and consultants of the facilities which it operates to use appropriate custodial conduct when caring for children.
					<a href="#">Click here for link to 18 NYCRR 441.17</a>	(b) Restraint shall be used without purposely inflicting pain or harm, and only when other forms of intervention are either inappropriate or have been tried and proved unsuccessful. Restraint, including room isolation, will never be used for punishment or for the convenience of staff.
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	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
5. Facilitate individual choice regarding services and supports, and who provides them.				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 430.12(c)(2)(i)(a)(2)</a>	(a) Efforts must be made to involve the following persons as participants in the development and review of the service plan and in the service plan review: (1) the child, if he or she is at least 10 but less than 14 years of age, unless there is a documented reason related to the current necessity of placement why the child should not be involved; (2) the child, if 14 years of age or older, in accordance with the standards set forth in section 428.3(i) of this Title;
<b>Provider Owned or Controlled Settings:</b>						
6. A specific place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services.				X	<a href="#">Click here for link to 15-OCFS-ADM-14</a>	The Agency agrees that in each child care facility (group home or agency boarding home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the reasonable and prudent parent standard to decisions involving the participation of foster children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS. (page 36)
					<a href="#">Click here for link to 18 NYCRR 448.3 (d)(4)</a>	(2) Buildings and grounds. Buildings used in whole or in part as a group home must comply with all applicable laws, ordinances, rules, regulations and codes relating to buildings, fire protection, health and safety.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
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	<a href="#">Click here for link to 18 NYCRR 430.12.</a>	(F)(4)(i) (a) Every child discharged to another planned living arrangement with a permanency resource and every child deemed to have been discharged to another planned living arrangement with a permanency resource must remain in a status of trial discharge for at least six months after discharge and must remain in the custody of the local commissioner during the entire period of trial discharge. Trial discharge may continue at the discretion of the district up to the age of 21 if the reassessment and service plan review indicates either the need for continued custody or a likelihood that the child may need to return to foster care. During the period of trial discharge, the district must provide after-care services to the child, including casework contacts with the child, with the number of face-to-face contacts and in-home contacts equal to those required for that child pursuant to section 431.16(c) of this Title during the six months immediately preceding the child's discharge. In addition, after-care services include the provision of services consistent with the service needs of the child identified in the uniform case record which would enable the child to live independently after he or she is discharged from care. In the event that the child becomes homeless during the period of trial discharge, the district must assist the child to obtain housing equivalent to that authorized by clause (c) of this subparagraph. Under no circumstances may a district refer or place a child during the 30-day period following the child's becoming homeless in a shelter for adults, shelter for families, single-room occupancy hotel, or any other congregate living arrangement which houses more than 10 unrelated persons. If appropriate housing is not available within 30 days of the date the child becomes homeless, the district must place the child in a suitable foster boarding home, agency boarding home, group home or institution consistent with section 430.11 of this Part. The provisions of this
7. Each individual has privacy in their sleeping or living unit				X	<a href="#">Click here for link to 18 NYCRR 447.2 (b)(13).</a>	(13) Separate and accessible drawer space for personal belongings, and sufficient closet space for indoor and outdoor clothing, shall be available for individual children.
					<a href="#">Click here for link to 18 NYCRR 448.3 (d)(4).</a>	4) Sleeping rooms. (i) Every sleeping room occupied by children shall have good natural light and ventilation and shall have one or more windows opening directly to the exterior. (ii) Separate and accessible drawer space for personal belongings and sufficient closet space for indoor and outdoor clothing shall be available for each child. (iii) No bed shall be located in any unfinished attic, basement, stair hall, or room commonly used for other than bedroom purposes.(iv) Except for mothers and their children, children of different sexes over the age of five shall not sleep in the same room.(v) All single sleeping rooms for children shall contain not less than 80 square feet or floor area and a minimum horizontal dimension of seven feet. (a) No more than three children shall occupy any bedroom.(b) Each child shall have a separate bed spaced at least two feet apart from other beds.(vii) Staff members shall be provided with sleeping quarters separate from those of children.
-- units have entrance doors lockable by the individual with only appropriate staff having keys;				X	<a href="#">Click here for link to 15-OCFS-ADM-14</a>	The Agency agrees that in each child care facility (group home or agency boarding home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the reasonable and prudent parent standard to decisions involving the participation of foster children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS. (page 36)

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
-- individuals sharing units have a choice of roommates in that setting;				X	<a href="#">Click here for link to 18 NYCRR 428.6</a>	2) Family assessment and service plans prepared at the time a child enters foster care or is moved from one foster care placement to another, as applicable, must also include but are not limited to the following: (ii) identification of all available placement alternatives and the specific reasons why they were rejected; (iv) the type and level of placement; documentation that the placement has been assessed to be one that can safely provide for the individual needs of the foster child; and the reasons for selecting the placement if it is not the least restrictive environment; (v) documentation that continuity in the child's environment has been maintained in accordance with the standards in section 430.11(c) of this Title, or the reasons why this is not practicable or in the best interests of the child;
-- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
8. Individuals have the freedom and support to: --control their own schedules and activities;				X	<a href="#">Click here for link to 15-OCFS-ADM-21</a>	Section 111 of the Act, "Supporting Normalcy for Children in Foster Care," requires states to support normative experiences for children through the implementation of the reasonable and prudent parent standard. The standard allows for a foster parent or a designated employee of a child care facility to make parental decisions that maintain the health, safety, and best interests of the child, as well as decisions about the child's participation in extracurricular, enrichment, cultural, and social activities that are age and developmentally appropriate, in a way that protects the child while allowing for normative experiences. (Page 2) LDSSs and VAs should explore opportunities in which the child can participate both within and outside of the congregate care setting that will support the child in the development and honing of critical life skills. Such opportunities may include, but are not limited to, the child's participation on sports teams and in other extracurricular activities outside of the congregate care setting; providing and supporting peer-to-peer mentorship; volunteering in the community; and working a part-time job. (page 12)
					<a href="#">Click here for link to 18 NYCRR 441.25</a>	(b) The reasonable and prudent parent standard must be applied by the foster parent with whom the child in foster care has been placed or by the authorized agency that is caring for the child in a child care facility, including a group home, agency boarding or supervised independent living program.

Standard/Quality	Degree of Compliance				Documentation/Citations	Direct quote and Page #
	Non-Compliant	Partially Compliant	Silent	Compliant		
					<a href="#">Click here for link to 18 NYCRR 443.3 (b)(1)</a>	(b) Certified and approved foster parents must execute an agreement with the authorized agency that granted the certificate or letter of approval to operate stipulating that the foster family boarding home parent will: (1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities and to apply the reasonable and prudent parent standard set forth in section 441.25 of this Title;
--have access to food at any time.				X	<a href="#">Click here for link to 18 NYCRR 443.3 (b)(5)</a>	(5) provide children with sufficient nutritious, wholesome and properly prepared food, served at regular hours. Foster children must be permitted to eat meals at the table in the same manner as other family members with due consideration to their age and special needs
					<a href="#">Click here for link to 18 NYCRR 448.3 (g)</a>	(1) Food supplied to the children shall be of good quality, properly prepared, served at regular hours and sufficient in quantity. The diet shall meet the nutritional standards recommended by the National Research Council. All milk and milk products shall be pasteurized.(2) No child will be denied a meal for any reason, except as ordered by a physician; where meals are denied as a result of a doctor's order, the reason for the denial shall be contained in the child's case record.
					<a href="#">Click here for link to 18 NYCRR 447.2 (d) (3)</a>	(3) Food supplied to the children shall be of good quality, properly prepared, and served at regular hours, and sufficient in quantity. Pasteurized milk shall be provided
9. Individuals are able to have visitors of their choosing at any time.				X	<a href="#">Click here for link to 18 NYCRR 443.3 (b)(1)</a>	(b) Certified and approved foster parents must execute an agreement with the authorized agency that granted the certificate or letter of approval to operate stipulating that the foster family boarding home parent will: (1) enable children received at board to mingle freely and on equal footing with other children in the household and in the community, to be accepted as members of the household and share in its pleasures and responsibilities and to apply the reasonable and prudent parent standard set forth in section 441.25 of this Title;
10. The setting is physically accessible to the individual.				X	<a href="#">Click here for link to 18 NYCRR 448.3 (d) (IX)</a>	b) In the provision of public assistance, child welfare services, other care and services, no social services district or any member of its staff shall, on the basis of race, color, national origin, age, sex, religion or handicap: (7) make distinction in relation to use of physical facilities, intake and application procedures, caseload assignments, determination of the amount and type of aid, care, services and other benefits under the program and use thereof.
<b>Heightened Scrutiny: (Note: if any site meets any of the below criteria then they fall under heightened scrutiny)</b>	<b>YES (Indicate How Many)</b>		<b>No</b>		<b>List Heightened Scrutiny Sites - Use Additional Sheets If Necessary</b>	
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			