

# **Methodology for WV's Waiver Transition Plan Application Fifth Iteration**

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## Introduction

In January 2014, the Centers for Medicare & Medicaid Services promulgated a final federal rule (2014 Home and Community Based Services Final Rule. CMS-2249-F and CMS 2296-F) to ensure that individuals receiving long term services and supports (LTSS) through home and community-based services (HCBS) programs under 1915(c) and 1915(i) have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.

West Virginia underwent the process of developing a transition plan pursuant to 42 CFR 441.301(c)(6) that contained the actions the State took to bring all West Virginia waivers into compliance with requirements set forth in 42 CFR 441.301(c)(4-5). West Virginia has four HCBS waivers: Aged and Disabled Waiver (ADW), Individuals with Intellectual and/or Developmental Disabilities Waiver (IDDW), and Traumatic Brain Injury Waiver (TBIW) West Virginia is working with the various providers, members, guardians, and other stakeholders engaged in HCBS to implement the proposed transition plan. This document summarizes the steps West Virginia's Bureau for Medical Services (BMS) undertook to develop the transition plan as well as planned activities related to compliance.

## Phase I

### Regulatory Review

This review has been conducted in two sections. To begin the transition plan development process, BMS conducted a review of the HCBS services provided by the current West Virginia waivers impacted by the new rule (**Exhibit 1**) as well as the waivers' supporting documentation (operation manuals, authorizing legislation, waiver applications, etc.). The State used CMS guidance documents, particularly "Summary of Regulatory Requirements for Home and Community Based Settings" to guide the analysis. The West Virginia Department of Health and Human Resources (WVDHHR) Recommendations from the HCBS Regulatory Review were first published on the BMS Website 2/5/2015 (**Appendix A**). To complete the process, a Crosswalk for the Systemic Assessment for the West Virginia HCBS State Transition Plan was also developed in 1/31/2016. (**Appendix B**).

Services provided by licensed entities were identified for all three waivers. There were no categories or settings either licensed or otherwise that were presumed de facto to comply with the rule. The ADW and the TBIW do not offer services at licensed settings. All services are in home or in the community. **Exhibit 1** lists the services provided by all three waivers and identifies services that may be provided in licensed behavioral health sites. Of the services listed only the IDDW services of Facility Based Day Habilitation and Pre-Vocational services must be provided in a Licensed Behavioral Health Center. While some other services as noted may be provided in a licensed site, this is not mandatory according to the IDDW Manual. All licensed settings where services are provided are assessed for compliance with the HCBS federal requirements.

Exhibit 1

HCBS Waiver	Service/Setting Type	<i>Service may be provided in:</i>  Licensed Behavioral Health Center Non-Residential Facility	<i>Service may be provided in:</i>  Licensed Behavioral Health Center Residential Facility	Community	IDD Waiver  Specialized Family Care Home Settings	Group Home Settings	Original Approval Date	Effective Date
<b>Aged and Disabled Waiver Program</b>	<ul style="list-style-type: none"> <li>Case Management</li> <li>Personal Assistant Services</li> <li>Transportation</li> </ul>	Yes	No	Yes	SFC homes not used in this program at this time	No	07/01/1985	07/01/2015
<b>Intellectual/Developmental Disabilities Waiver Program</b>	<ul style="list-style-type: none"> <li>Case Management</li> <li>Behavior Support Professional</li> <li>Facility Based Day Habilitation*</li> <li>Person - Centered Support</li> <li>Crisis Services</li> </ul>	Yes	Yes	Yes	Yes	Yes	07/01/1985	07/01/2015

	<ul style="list-style-type: none"> <li>Supported Employment</li> </ul>	No	No	Yes	No	No		
	<ul style="list-style-type: none"> <li>Electronic Monitoring Surveillance System and On-Site Response</li> </ul>	No	Yes	No	Yes	Yes		
	<ul style="list-style-type: none"> <li>Skilled Nursing - Nursing Services by a Licensed Practical Nurse</li> </ul>	Yes	Yes	Yes	Yes	Yes		
	<ul style="list-style-type: none"> <li>Skilled Nursing – Nursing Services by a Registered Nurse</li> </ul>	Yes	No	No	No	No		
	<ul style="list-style-type: none"> <li>Pre-vocational Services</li> </ul>	No	Yes	Yes	Yes	Yes		
	<ul style="list-style-type: none"> <li>Job Development</li> </ul>	No	No	Yes	No	No		
	<ul style="list-style-type: none"> <li>Transportation</li> </ul>	No	No	Yes	No	No		
	<ul style="list-style-type: none"> <li>Out of Home Respite</li> </ul>	Yes	Yes	Yes	Yes	Yes		
		No	No	Yes	Yes	Yes		
<b>Traumatic Brain Injury Waiver Program</b>	<ul style="list-style-type: none"> <li>Case Management</li> </ul>	Yes	No	Yes	SFC homes not used in this program at this time	No	12/23/2011	7/1/2015
	<ul style="list-style-type: none"> <li>Personal Attendant Services</li> </ul>	No	No	Yes		No		
	<ul style="list-style-type: none"> <li>Transportation</li> </ul>	No	No	No		No		

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During this review process, BMS conducted interviews of key West Virginia staff conducting waiver implementation to identify strengths and areas for potential growth for the State for inclusion within the report and transition plan.

## **Public/Stakeholder Input**

To promote transparency and encourage stakeholder buy-in and input, West Virginia BMS solicited public/stakeholder input through three main channels: website, publication in the legal section of the State's largest newspaper and a public forum. Additionally, BMS sent emails to all stakeholders' groups asking them to post the flyer referencing the public comment periods and to share the information with the persons they served. Although CMS required only two forms of public comment, BMS utilized three or four forms of public comment. There was a total of four comment periods each using a similar format. They were November 26, 2014 to December 26, 2014, June 13, 2016 through July 13, 2016, July 1, 2018 through July 31, 2018 and March 14, 2019 through April 14, 2019. The Public forum was not held for the 2018 comment period or the 2019 comment periods due to low public response at the first two sessions.

## **Website**

From the period of November 26, 2014 to December 26, 2014, West Virginians were invited to comment on the first version of the proposed Statewide and waiver-specific transition plans drafted by BMS. A new webpage was linked from the HCBS home page of the BMS website and was developed for posting the public notice (**Appendix C**). In addition to the current waivers and proposed transition plans, individuals could also access materials related to background information/documents on the new rule, multiple contact information channels to provide comment (email, phone and mailing address) on the public notice webpage. Upon posting the public notice to the website, BMS widely circulated the link and an invitation to comment to multiple ListServ and contacts (**Appendix E**). ListServ participants were requested to print the public notice and post it in a visible accessible site as well. Agency staff were also requested to share the notice and information with persons they served. It should be noted that the announcement also included a phone number enabling members and interested parties to call and obtain a hard copy of the transition draft. BMS conducted a second 30-day public comment from June 13, 2016 through July 13, 2016, following the same website format. BMS conducted a third 30-day public comment from July 1, 2018 through July 31, 2018, following the same website format. BMS conducted a fourth 30-day public comment from March 14, 2019 through April 14, 2019, following the same website format. After the addition of the Specialize Family Care homes to the IDD Waiver databases and analyses, BMS conducted a fifth 30-day public comment from March 1, 2021 to March 30, 2021, following the same website format.

## **Public Forums**

On December 12, 2014, BMS hosted a public forum to invite the general public to comment on the proposed transition plans. Meeting minutes were captured for the purpose of documenting public comment

and have been included in the full list of comments received (**Appendix F**). Due to the public and open nature of the forum, BMS was unable to predict the level of attendee turnout. In the event that the forum would result in a very large turnout of stakeholders, BMS offered a supplemental comment form (**Appendix D**) to collect additional comments/feedback from attendees who may not have an opportunity to speak during the meeting. The meeting was advertised via many ListServ and contacts (**Appendix E**) as soon as the venue was secured. All background/informational materials posted to the BMS website were also offered as hard copies at the public forum.

On June 22, 2016, BMS hosted a second public forum at the Bureau of Senior Services from 9 am to 12 pm and invited the general public to comment further on the Statewide Transition Plan. The format of this meeting replicated the Public forum conducted in 2014, including documentation of public comments. A supplemental comment form (**Appendix D**) was used after being modified with corrected dates.

BMS did not host a third or fourth public forum due to extremely low participation at the first two forums. Even without use of this milieu, BMS provided three separate forms of public comment for the 2018 comment solicitations. They were website, direct email, and written.

## Summary of Public Comments

During the first Public Comment period of November 1, 2014 to December 26, 2014, several comments from the general public, including from family members, providers and advocacy organizations, were submitted via email. In addition, feedback was provided during the public forum. The received feedback informed BMS that additional details around provider capacity and provider training were needed in the plan. In addition, considerations were submitted for BMS regarding communication and information dissemination to the public. If a comment received was not addressed in the Transition Plan, BMS incorporated the feedback in future related activities. The list of public comments received as well as how BMS has addressed comments is provided in **Appendix F, Section 1**.

A second 30-day Public Comment period from June 13, 2016 to July 13, 2016 was conducted. Again, additional comments were received from the general public via email and the public forum. If a comment received was not addressed in the Transition Plan, BMS incorporated the feedback in future related activities. **Appendix F, section 2**, lists these comments and the BMS response to each.

A third 30-day Public Comment period from July 1, 2018 through July 31, 2018 was conducted. Again, additional comments were received from the general public via website, email and written comments. If a comment received was not addressed in the Transition Plan, BMS incorporated the feedback in future related activities. **Appendix F, section 3**, lists these comments and the BMS response to each.

A fourth 30-day Public Comment period from March 14, 2019 through April 14, 2019 was conducted. Again, additional comments were received from the general public via website, email and written comments. If a comment received was not addressed in the Transition Plan, BMS incorporated the feedback in future related activities. **Appendix F, section 4**, lists these comments and the BMS response to each.

A fifth 30-day Public Comment period from March 1, 2021 to March 31, 2021 was conducted primarily due to the addition of the Specialized Family Care homes under the IDD Waiver. Again, additional comments were received from the general public via website through email and written comments. If a comment received was not addressed in the Transition Plan, BMS incorporated the feedback in future related activities. **Appendix F, section 5**, lists these comments and the BMS response to each.

## **Ensuring Waiver Compliance with the Federal Rule**

A regulatory analysis (**Appendix B**) of existing West Virginia Rules, Regulations and Policies was completed. Compliance with the Federal Rule was also assessed. **Appendix B** contains remedial actions necessary based on these analyses. During the regulatory analysis, BMS also identified settings or services that did not require transition.

This section provides details on those settings and services and is organized by sections under the regulatory requirements for home and community-based settings:

- CMS Descriptions for Institutional Settings and Qualities and Guidance on Settings that May Isolate Individuals
- Provider Controlled Setting Elements to Assess per New Federal Requirements
- Plan of Care Requirements for Modifications or Restrictions of a Participant's Rights; and
- Conflict of Interest Standards.

### **CMS Descriptions for Institutional Settings and Qualities and Guidance on Settings that May Isolate Individuals**

- The Out-of-Home Respite: Agency service clearly specifies that it is not available in medical hospitals, nursing homes, psychiatric hospitals or rehabilitative facilities located either within or outside of a medical hospital which is in full support of the characteristics outlined in rule.
- Services offered in both the ADW and TBIW are offered only in non-institutional settings compliant with the regulation.
- Family Person-centered Support and Participant Directed Goods and Services do not take place in settings that are owned or leased by the provider. All family person-centered support and participant directed goods and services are being provided in the person's private home or in the community.
- Services in the Aged and Disabled and TBI waivers are not delivered at a setting owned, leased or operated by the provider. These services are delivered in the individual's private home or in the community. Electronic Monitoring/surveillance systems and on-site response services are covered in the IDDW section of the Bureau for Medical Services manual (513.13) December 1, 2015. This section was included to remediate a finding of potential non-compliance in the November 14, 2014 Regulatory Review (**Appendix A**) which found that these services may be delivered in settings that may or may not comply with the regulations. The December 2015 manual corrected the sites where this service may be provided, to assure compliance with HCBS.

### **Provider Controlled Setting Elements to Assess per New Federal Requirements**

- The State code for the IDDW provider's licensed behavioral health sites does not conflict with the Integrated Services Rule.
- The State code for the IDDW provider's licensed behavioral health residential sites provides clear guidance surrounding bedroom size, furnishings and quality and goes beyond what is typical for similar regulation found in other States.

- The State code for the IDDW also requires licensed behavioral health centers (including licensed residential settings) to be accessible and compliant with Title III of the Americans with Disabilities Act.
- Supported Employment Services within the IDDW "are services that enable individuals to engage in paid, competitive employment, in integrated community settings. The services are for individuals who have barriers to obtaining employment due to the nature and complexity of their disabilities. The services are designed to assist an individual for whom competitive employment at or above the minimum wage is unlikely without such support and services and need ongoing support based upon the member's level of need." This service is fully compliant with community integration standards outlined in the requirements. It is provided individually to members.

## **Plan of Care Requirements for Modifications or Restrictions of a Participant's Rights**

- The IDDW system has a broad and very easy to understand member handbook that can be used to build upon West Virginia person-centered practices.
- The IDDW manual provides a broad list of rights granted to waiver participants. These address more general, program-wide protections rather than rights associated with or pertaining to any particular service.
- The TBIW manual provides a broad list of rights granted to waiver participants. These address more general, program-wide protections rather than rights associated with or pertaining to any particular service. Additionally, Chapter 512 of the Provider Manual indicates that goals and objectives are "focused on providing services that are person-centered, that promote choice, independence, participant-direction, respect, and dignity and community integration."
- For all three waiver programs, the role of the Human Rights Committee (HRC) provides a firm foundation to the overall protection of basic rights and any restrictions needed to ensure health and welfare.
- For IDDW, the Case Management service supports the requirements of the HCBS rule in principle. The definition specifies that along with the member, case management is "a life-long, person-centered, goal-oriented process for coordinating the supports (both natural and paid), range of services, instruction and assistance needed by persons with developmental disabilities...designed to ensure accessibility, accountability and continuity of support and services... also ensures that the maximum potential and productivity of a member is utilized in making meaningful choices with regard to their life and their inclusion in the community".
- For A&DW, the Case Management service supports the requirements of the HCBS rule in principle. The definition specifies that "case management is a collaborative process that assesses, plans, implements, coordinates, monitors and evaluates the options and services required to meet the member's health and humans service needs."
- For TBIW, the Case Management service supports the requirements of the HCBS rule in principle. The definition specifies that "the case manager is responsible for follow-up with the person to ensure that services are being provided as described in the Service Plan...evaluate social, environmental, service risks and support needs of the person...that will assist the person to achieve optimum function..." and "assure that a person's legal and human rights are protected."

## **Conflict of Interest Standards**

The ADW, IDDW and TBIW programs include guidance that prevents entities and/or individuals that have responsibility for service plan development from steering the provision of direct care waiver services to the agency that is responsible for service plan development. The current language for the TBIW, IDDW and ADW programs meets the requirements of CMS.

## Phase II

### Individuals and Family Members Survey

In addition to surveying providers of waiver services, BMS also surveyed all individuals receiving waiver services and their family members by sending a cover letter (**Appendix J**) and surveys (**Appendices K for ADW and TBIW and L for IDDW**). The survey for individuals in receipt of waiver services and their families was primarily conducted through a handout survey (with follow-up reminders). To develop the survey, BMS solicited input from State agency partners overseeing waiver service implementation. The survey collection was closed 12/31/2015. All members for all three waivers were contacted by mail and given the opportunity to complete the survey. Persons who did not respond were contacted again and requested to respond. A total of 1,251 persons responded (474 IDDW and 777 TBIW/ADW) for a response rate of approximately 13%. 34.5% of the IDD Waiver respondents were persons receiving services. 55% of the IDD Waiver respondents were family members or guardians of persons receiving services. 10.5% of the respondents were advocates for members. 10% of the respondents did not self-identify. The survey participation rates for the IDD Waiver members were also compiled based on setting categories. 57.1% lived in their family home, lived on their own or had their own apartment. 27.1% resided in an intensively supported setting. 10.3% resided in a group home setting.

"Day" setting data was also compiled. 27.1% Stated that they received facility-based day habilitation. 17.6% Stated that they received supported employment services in the community. 48.8 % did not receive facility-based day habilitation or supported employment services. Of the 48.8% not receiving day services, 9.8% Stated that they wished such services were available. Prevocational and Job Development are sub-sets of Facility Based Day Services but were not identified separately in the survey instrument (**Appendix L**).

General information acquired as the result of this survey was used as a part of the State Transition Plan described below.

### Provider Assessment Survey

As part of this transition plan development process, all providers were required to complete a web-based provider assessment survey (**Appendices H and I**). The cover letter sent to providers soliciting the completion is found in **Appendix G**. The purpose of the survey was to identify potential sites or settings that risk being noncompliant with the final rule.

The survey was circulated from 4/1/2015 to 8/19/2015. New settings and/or providers were added to the initial list as they were created. This process is ongoing. As survey information is gathered, BMS reviews the submitted information as follows to identify the following key indicators of non-compliance and to prioritize settings reviews:

Key Indicator: Providers that self-identify as being in compliance, but Member responses indicate otherwise.

Key Indicator: Member responses indicate provider compliance, but Provider response indicates otherwise.

Key indicator: Provider responses that self-identify gross non-compliance among the five requirements of *42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*. These providers are scored as 0, 3 or 4 on the assessment instrument. (Appendices K and N of State Transition Plan).

Key Indicator: Analysis of provider respondents to identify those with licensed (owned or leased settings) which did not respond as instructed.

Key Indicator: Any provider setting for which BMS has received a complaint alleging non-compliance. These Key Indicators translate into Scores based as follows:

Score of 1 No indication of an Institutional Setting AND

No indication of Isolating Effects AND

Score of less than 10% for Conditions that Restrict Choice or Rights (Compliance)

Score of 2 No indication of an Institutional Setting AND

Score of 1-49% for Isolating Effects AND

Score of 10-49% for conditions that Restrict Choice or Rights

Score of 3 No indication of an Institutional Setting AND

Score of 1-49% for Isolating Effects AND

Score of 50% or higher for conditions that Restrict Choice or Rights

Score of 4 Any indication of an institutional setting OR

Score of 50% or higher for Isolating Effects.

(Gross Non-Compliance)

Providers with identified Key Indicators are considered Priority I.

Providers without identified Key Indicators and scoring 1 or 2 on the self -assessment instrument are considered Priority II.

The relation of score to priority is as follows:

Score	0 (no answers)	Priority II
	1	Priority II
	2	Priority II
	3	Priority I
	4	Priority I

No providers were found, based on the self - survey, to be totally compliant. Priority II (Score 1 or 2) providers had self-surveyed to indicate substantive compliance.

## Phase III

### State Transition Plan

The Fifth State Transition Plan will be submitted to CMS on *to be determined*, (after the comments received have been reviewed and any necessary changes made).

In January 2014, the Centers for Medicare & Medicaid Services promulgated a final federal rule (2014 Home and Community Based Services Final Rule CMS-2249-F and CMS 2296-F) to ensure that individuals receiving long term services and supports (LTSS) through home and community based services (HCBS) programs under 1915(c) of the Social Security Act have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as individuals not receiving Medicaid HCBS. West Virginia developed a transition plan pursuant to 42 CFR 441.301(c)(6) that contains the actions the State will take to bring all West Virginia waivers into compliance with requirements set forth in 42 CFR 441.301(c)(4-5).

West Virginia's approach to an environmental scan and subsequent transition plan is based on core values to help individuals to access care at the right time and right place and improve West Virginia's ability to work effectively within and across systems to ensure person-centered care. The transition plan includes action steps West Virginia intends to take over the course of the next five years across the three (3) waivers.

### West Virginia Programs with Residential and Non-Residential Components

HCBS Waiver	Service/Setting Type	Original Approval Date	Effective Date	Expiration Date of Waiver
Aged and Disabled Waiver Program	<ul style="list-style-type: none"> <li>• Case Management</li> <li>• Personal Assistant Services</li> <li>• Transportation</li> </ul>	07/01/1985	07/01/2015	6/30/2020
Intellectual/Developmental Disabilities Waiver Program	<ul style="list-style-type: none"> <li>• Case Management</li> </ul>	07/01/1985	07/01/2015	6/30/2020
	<ul style="list-style-type: none"> <li>• Behavior Support Professional</li> </ul>			
	<ul style="list-style-type: none"> <li>• Facility Based Day Habilitation</li> <li>• Person -Centered Support</li> <li>• Crisis Services</li> <li>• Supported Employment</li> </ul>			
	<ul style="list-style-type: none"> <li>• Electronic Monitoring Surveillance System and On-Site Response</li> <li>• Skilled Nursing - Nursing Services by a Licensed Practical Nurse</li> <li>• Skilled Nursing - Nursing Services by a Registered Nurse</li> <li>• Pre-vocational Services</li> <li>• Job Development</li> <li>• Transportation</li> <li>• Out of Home Respite</li> </ul>			

<b>Traumatic Brain Injury Waiver Program</b>	<ul style="list-style-type: none"> <li>• Case Management</li> <li>• Personal Attendant Services</li> <li>• Transportation</li> </ul>	12/23/2011	7/1/2015	6/30/2020
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## Action Items

In addition to identifying assessment activities and opportunities to solicit ongoing stakeholder input, BMS identified opportunities for remedial actions to bring the ADW, TBIW and IDDW in compliance with the final rule. The remedial actions included but were not limited to activities under the following compliance areas: Provider Remediation (including residential and Non-residential); Outreach and Education; Quality; and Policies and Procedures. When an action item was ongoing, the end date is so noted.

## Assessment

Applicable Waiver	Compliance Area	Action Item	Start Date	End Date	Person Responsible
ADW, TBIW, IDDW	General	1. Conduct a review of West Virginia regulations and supporting documents across the 3 waiver programs with residential and non-residential settings. <u>Post Report on BMS website.</u>	10/20/14	11/25/14	Bureau for Medical Services
ADW, TBIW, IDDW	General	2. Develop and conduct a provider self-assessment survey across all three waivers; residential and non-residential via web and mail, mandatory for all providers to complete. Perform analyses of survey responses.	10/20/14	*8/21/15	Bureau for Medical Services
ADW, TBIW, IDDW	General	3. Develop a survey for individuals and families to provide input on settings by type and location, residential and non-residential via web and mail. Perform analyses of survey responses.	10/20/14	*12/30/15	Bureau for Medical Services
ADW, TBIW, IDDW	General	4. Prepare a list of settings that meet the residential and non-residential requirements, those that do not meet the residential and non-residential	10/24/14	*6/1/18	Bureau for Medical Services

Applicable Waiver		Compliance Area	Action Item	Start Date	End Date	Person Responsible
			requirements, may meet the requirements with changes, and settings West Virginia chooses to submit under CMS heightened scrutiny. The list will be distributed to provider agencies and posted to the website.			
IDDW		General	5. Prepare a list of SFC Homes that met the Specialized Family Care provider owned or controlled residential requirements, those that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings West Virginia chooses to submit under CMS heightened scrutiny. The list will be distributed to provider agencies and posted to the website.	12/1/18	*12/31/19	Bureau for Medical Services
ADW, TBIW, IDDW		General	6. Post findings from the review of Action Item 1 and aggregate survey results to the website	2/1/15	*12/30/15	Bureau for Medical Services

- In December 2018, Specialized Family Care Homes were added to the list of residential providers. All these homes were found to be in compliance by 12/31/19. (see page 25)

### Remedial Actions

Applicable Waiver	Compliance Area	Action Item	Start Date	End Date	Person Responsible
ADW, TBIW, IDDW	Provider Remediation - Residential	<ul style="list-style-type: none"> <li>• Incorporate the outcomes of the assessment of settings within existing licensure and certification processes to identify existing settings as well as potential new settings in development that may not meet the requirements of the rule.</li> </ul>	1/2/16	1/30/17	Bureau for Medical Services with assistance from individual Waiver Quality Councils
ADW, TBIW, IDDW	Outreach and Education	<ul style="list-style-type: none"> <li>• Provide training to licensure/certification staff, individuals and family</li> </ul>	7/1/15	2/28/17	Bureau for Medical Services and the

		members on new settings requirements.			appropriate Waiver's Administrative Services Organization (ASO)
ADW, TBIW, IDWW	Provider Remediation	<ul style="list-style-type: none"> <li>Strengthen enrollment and re-enrollment procedures to identify settings that may have indicators of non-compliance and require more thorough review.</li> </ul>	10/20/14	1/1/17	Bureau for Medical Services and the appropriate Waiver's Administrative Services Organization (ASO)
ADW, TBIW, IDWW	Outreach and Education	<ul style="list-style-type: none"> <li>Conduct a webinar series to highlight the settings requirements (residential, non-residential including principles of person-centered planning). Post webinar archives on BMS website.</li> </ul>	7/1/15	3/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDWW	Outreach and Education	<ul style="list-style-type: none"> <li>Provide strategic technical assistance by issuing fact sheets, FAQ's and responding to questions related to the implementation of the transition plan (action steps, timelines, and available technical assistance).</li> </ul>	7/1/15	1/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDWW	Outreach and Education	<ul style="list-style-type: none"> <li>Provide training to enrollment staff to heighten scrutiny of new providers/facilities.</li> </ul>	7/1/15	1/31/17	Bureau for Medical Services, appropriate Waiver ASO and Office of Health Facility and Licensure (OHFLAC), if applicable
ADW, TBIW, IDWW	Outreach and Education	<ul style="list-style-type: none"> <li>Develop and include ongoing provider training on rights, protections, person-centered thinking, and community inclusion.</li> </ul>	7/1/15	3/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDWW	Outreach and Education	<ul style="list-style-type: none"> <li>Provide training to quality improvement system on new settings outcomes measures.</li> </ul>	7/1/15	5/30/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDWW	Outreach and Education	<ul style="list-style-type: none"> <li>Update applicable Member Handbooks to strengthen person centered HCBS requirements.</li> </ul>	7/1/15	3/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDWW	Quality	<ul style="list-style-type: none"> <li>Quality Measures <ul style="list-style-type: none"> <li>a. Develop or revise on-site monitoring tools to meet compliance (e.g.</li> </ul> </li> </ul>	7/1/15	12/30/16	Bureau for Medical Services, appropriate Waiver QIA and ASO

		<p>opportunities for “informed” choice, choice of roommate and setting, freedom from coercion).</p> <p>b. Include outcomes measures on settings within the current 1915c waiver quality improvement system.</p> <p>c. Build community character indicators within the 6 CMS Quality Assurances reviewed through the provider self-review process.</p>			
ADW, TBIW, IDWW	Quality	<ul style="list-style-type: none"> <li>Expand upon the QIA council to include responsibility to monitor data associated with meeting transition plan action items and outcomes data. Establish a baseline of outcomes data and measure throughout transition plan implementation.</li> </ul>	7/1/15	12/30/16	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDWW	Quality	<ul style="list-style-type: none"> <li>Crosswalk quality assurance tools against settings characteristics and person-centered planning requirements to identify areas of potential enhancement to the quality improvement system.</li> </ul>	7/1/15	12/31/16	Bureau for Medical Services, appropriate Waiver QIA and ASO
IDWW	Policies and Procedures	<ul style="list-style-type: none"> <li>Modify regulations to ensure community characteristics are reflected across IDWW waiver services with particular attention on ISS, group homes and specialized family care homes as well as facility-based day habilitation.</li> </ul>	7/1/15	5/1/18	Bureau for Medical Services, IDWW Waiver QIA and ASO
IDWW	Provider Remediation	<ul style="list-style-type: none"> <li>Develop a transition plan approval process which requires the provider to submit progress reports on the implementation of the specific setting identified.</li> </ul>	7/1/15	4/3/16	Bureau for Medical Services, IDWW Waiver QIA and ASO
IDWW	Provider Remediation	<ul style="list-style-type: none"> <li>Prepare a formal letter indicating the need for the provider to develop a transition plan for EACH setting. Include guidance and a template transition plan that requires action steps and timelines for compliance.</li> </ul>	7/1/15	4/3/16	Bureau for Medical Services, IDWW Waiver QIA and ASO

IDDW	Provider Remediation	<ul style="list-style-type: none"> <li>Develop a plan to manage non-compliance with the transition plans submitted by providers (e.g. disenrollment, sanctions). Include a decision flow and timeline within the management plan. Connect the plan with the quality improvement system. Assist providers in either becoming compliant or being terminated as a provider of HCBS because they are unable to become compliant.</li> </ul>	7/1/15	3/1/17	Bureau for Medical Services, IDDW Waiver QIA and ASO
IDDW	Provider Remediation	<ul style="list-style-type: none"> <li>Using lessons learned from the State's MFP program, develop a process for helping individuals to transition to new settings as appropriate.</li> </ul>	7/1/15	7/1/17	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	<ul style="list-style-type: none"> <li>Building upon the MFP program, develop a housing strategic plan to address the potential need for transition to new housing as well as prepare the LTSS system for future need.</li> </ul>	7/1/15	3/1/17	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	<ul style="list-style-type: none"> <li>Work with the stakeholder group to <ul style="list-style-type: none"> <li>a) Identify challenges and potential solutions to support provider changes that may be necessary.</li> <li>b) Develop a toolkit for provider use that includes housing resources and person-centered planning strategies.</li> </ul> </li> </ul>	7/1/15	1/1/16	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	<ul style="list-style-type: none"> <li>Require provider owned or controlled residences to ensure residents' rights are protected by legally binding agreements (lease or other).</li> </ul>	7/1/15	7/1/18	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	<ul style="list-style-type: none"> <li>Develop template leases, written agreements or addendums to support providers in documenting protections and appeals comparable to those provided under West Virginia landlord tenant law. Ensure that written language describes the required environment to comply such as locked doors and use of common areas.</li> </ul>	7/1/15	7/1/18	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP

IDDW	Provider Remediation-Non-Residential	<ul style="list-style-type: none"> <li>Develop strategies for moving away from more congregate employment to naturally occurring learning environments and access to community activities and events. Build upon the supported employment model by including more person-centered and inclusionary supports including access to a variety of settings for participants to interact with non-disabled individuals (other than those individuals who are providing services to the participant) to the same extent that individuals employed in comparable positions would interact.</li> </ul>	7/1/15	3/31/17	Bureau for Medical Services, IDDWW QIA, ASO and WV Employment First through WV Developmental Disabilities Council
IDDW*	Provider Remediation	<ul style="list-style-type: none"> <li>Develop a site visit and compliance protocol to validate provider assessments and remediate provider compliance issues.</li> </ul>	9/1/15	3/31/16	Bureau for Medical Services
IDDW*	Provider Remediation	<ul style="list-style-type: none"> <li>Conduct site visits and implement remedial actions.</li> </ul>	8/25/15	1/12/18	Bureau for Medical Services: ASO
IDDW*	Provider Remediation	<ul style="list-style-type: none"> <li>Develop a process for heightened scrutiny as part of the compliance protocol and using information gathered through validation and remedial action.</li> </ul>	12/1/15	9/1/16	Bureau for Medical Services
IDDW*	Provider Remediation	<ul style="list-style-type: none"> <li>Implement heightened scrutiny process including any necessary request for CMS review.</li> </ul>	6/1/17	9/1/17	Bureau for Medical Services
IDDW*	Provider Remediation	<ul style="list-style-type: none"> <li>Implement relocation process as needed.</li> </ul>	6/1/17	Ongoing	Bureau for Medical Services

## Public Input, Stakeholder Engagement and Oversight

Applicable Waiver	Compliance Area	Action Item	Start Date	End Date	Person Responsible
ADW, TBIW, IDDW	Oversight	1. Convene a subcommittee across the WV Bureau for Medical Services to monitor the implementation of the transition plan.	10/20/14	9/1/16	Bureau for Medical Services
ADW, TBIW, IDDW	Oversight	2. Develop a communication strategy to manage the public input required by the rule as well as ongoing communication on the implementation of the transition plan. Adapt the	10/20/14	Ongoing	Bureau for Medical Services

		strategy to different audiences including State legislators.			
ADW, TBIW, IDWW	Stakeholder Engagement	3. Reach out to providers and provider associations to increase the understanding of the rule and maintain open lines of communication.	10/20/14	Ongoing	Bureau for Medical Services and other stakeholder associations
ADW, TBIW, IDWW	Stakeholder Engagement	4. Reach out to individuals, families and organizations representing these groups to increase the understanding of the rule and maintain open lines of communication.	10/20/14	Ongoing	Bureau for Medical Services
ADW, TBIW, IDWW	Stakeholder Engagement	5. Create a space on an existing State website to post materials related to settings and person-centered planning.	10/20/14	10/15/16	Bureau for Medical Services
ADW, TBIW, IDWW	Stakeholder Engagement	6. Develop and issue required public notices. Collect comments and summarize for incorporation in the transition plan and within communication tools (e.g. FAQs).	10/20/14	Ongoing	Bureau for Medical Services
ADW, TBIW, IDWW	Stakeholder Engagement	7. Convene a cross-disability workgroup to identify solutions for compliance that represents all stakeholders including individuals, families, advocates and providers, among others	6/1/15	Ongoing	Bureau for Medical Services and other stakeholder associations
ADW, TBIW, IDWW*	Stakeholder Engagement	8. Post updates to the Statewide transition plan at least annually seeking feedback on progress made and lessons learned.	9/1/15	Ongoing	Bureau for Medical Services
ADW,TBIW,IDWW*	Stakeholder Engagement	9. Develop an external stakeholder process and innovation dissemination strategy using the existing quarterly provider update schedule as a starting point.	9/1/15	10/1/16	Bureau for Medical Services and other stakeholder associations
ADW,TBIW, IDWW*	Oversight	10. Facilitate Quality Council monitoring of STP progress and identification of innovations for dissemination	1/1/16	Ongoing	Bureau for Medical Services and other stakeholder associations

## Milestones for Implementation

Milestones for Implementation of the State Transition Plan with cross reference to Remedial Actions if warranted:

- WV 01.0** Completion of Systemic Assessment: Conduct a review of West Virginia regulations and supporting documents across the 3 waiver programs with residential and non-residential settings. Post Report on BMS website.
- WV 02.0** Complete modifying rules and regulations, including provider manuals, inspection manuals, procedures, laws, qualification criteria, etc. Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer employment and work in competitive integrated settings.
- WV02.1 Strengthen enrollment and re-enrollment procedures to identify settings that may have indicators of non-compliance and require more thorough review.
- WV02.2 IDWW - Building upon the MFP program, develop a housing strategic plan to address the potential need for transition to new housing as well as prepare the LTSS system for future need.
- WV02.3 Update applicable Member Handbooks to strengthen person centered HCBS requirements.
- WV02.4 Revise the service definition of Personal Attendant Services in the policy manual for the TBIW and Personal Assistance/Homemaker for the ADW to include language that supports the use of this service to promote individuals' integration in and access to the greater community.
- WV02.5 IDWW - Develop template leases, written agreements or addendums to support providers in documenting protections and appeals comparable to those provided under West Virginia landlord tenant law. Ensure that written language describes the required environment to comply such as locked doors and use of common areas. (See **Appendix Q**)
- WV02.6 IDWW - Require provider owned or controlled residences to ensure residents rights are protected by legally binding agreements (lease or other) that provide protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. Modify 64CSR11 of the State Rules to include that integration for persons receiving HCBS is required to the same degree of access to the community as individuals not receiving Medicaid HCBS and opportunities to seek employment and work in competitive integrated settings for persons receiving HCBS is required to the same degree of access to the community as individuals not receiving Medicaid HCBS. See: <http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-11> for the complete document.
- WV02.7 IDWW - Modify regulations to ensure community characteristics are reflected across IDWW waiver services with attention on ISS, group homes and specialized family care homes as well as facility-based day habilitation. Modify 64CSR11 of the State Rules to include that integration for persons receiving HCBS is required to the same degree of access to the community as individuals not receiving Medicaid HCBS and opportunities to seek employment and work in competitive integrated settings for persons receiving HCBS is required to the same degree of access to the community as individuals not receiving Medicaid HCBS. See: <http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-11> for the complete document.
- WV03.0** **Effective date of new rules and regulations: 50% complete.**
- WV04.0** **Effective date of new rules and regulations: 100% complete.**
- WV05.0** Completion of site-specific assessment. Prepare a list of settings that meet the residential and nonresidential requirements, those that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings West Virginia chooses to submit 'under CMS heightened scrutiny. The list will be distributed to provider agencies and posted to the website and labeled 'Status Report'.
- WV06.0** Incorporate results of settings analysis into final version of the **STP** and release for public comment. Incorporate the outcomes of the assessment of settings within existing licensure and certification

processes to identify existing settings as well as potential new settings in development that may not meet the requirements of the rule.

WV06.1 Completion of site visits. Completion of Priority I and II site visits. Completion of Priority I site visits. Completion of Priority II site visits. Conduct site visits and implement remedial actions.

WV06.2 Incorporate results of settings analysis into final version of the STP and release for public comment.

**WV07.0 Submit final STP to CMS**

**WV08.0 Completion of residential provider remediation: 25%** There are 113 residential settings that fall under this rule. 17 were non-sample. (34%) Of 33 sampled settings, as of 3/10/18, all were in compliance. As of 12/31/19 all 113 residential settings are in compliance.

**WV09.0 Completion of residential provider remediation: 50%** There are 113 residential settings that fall under this rule. 17 were non-sample. (34%) Of 33 sampled settings, as of 3/10/18, all were in compliance. As of 12/31/19 all 113 residential settings are in compliance.

**WV10.0 Completion of residential provider remediation: 75%** There are 113 residential settings that fall under this rule. 17 were non-sample. (34%) Of 33 sampled settings, as of 3/10/18, all were in compliance. As of 12/31/19 all 113 residential settings are in compliance.

**WV11.0 Completion of residential provider remediation: 100%** There are 113 residential settings that fall under this rule. 17 were non-sample. (34%) Of 33 sampled settings, as of 3/10/18, all were in compliance. As of 12/31/19 all 113 residential settings are compliance.

WV11.1 Develop a plan to manage non-compliance with the transition plans submitted by providers (e.g. disenrollment, sanctions). Include a decision flow and timeline within the management plan: Plan is connected with the quality improvement system and contains provisions to assist providers in either becoming compliant or being terminated as a provider of HCBS because they are unable to become compliant. This is contained in

**Appendix M.**

WV11.2 Require provider owned or controlled residences to ensure residents rights are protected by legally binding agreements (lease or other). We neglected to include the lease/agreement issue in the SFC reviews. We remediated this by:

- A. Adding the question to the protocol as follows: Is the unit or dwelling a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state, county, city or other designated entity. Yes, No Not Applicable. This has been changed in the Protocol.
- B. The SFC Family Based Care Specialist/Case Manager visits each home monthly. Case Managers are asked to get the answer to this specific question during their next home visit. This information has been added to the SFC database and the data analysis (page 265) is changed to reflect these findings.
- C. If any homes are not in compliance, a plan of compliance with a completion date will be required. It is expected that all homes will comply on this issue within 3 months.
- D. SFC homes were identified and added to the residential listings 12/1/18. All settings were independently assessed by 7/17/19 including the residency agreement. All settings were found in compliance as of 12/31/19.

**WV12.0 Completion of nonresidential provider remediation: 25%** All nonresidential settings passed as of 1/5/2018.

**WV13.0 Completion of nonresidential provider remediation: 50%** All nonresidential settings passed as of 1/5/2018.

**WV14.0 Completion of nonresidential provider remediation: 75%** All nonresidential settings passed as of 1/5/2018.

**WV15.0**      **Completion of nonresidential provider remediation: 100%** All nonresidential settings passed as of 1/5/2018.

**WV16.0**      **Identification of settings that will not remain in the HCBS System.** IDWW - Using lessons learned from the State's MFP program, develop a process for helping individuals to transition to new settings as appropriate.

**WV16.1**      Prepare a list of settings that meet the residential and non-residential requirements, those that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings West Virginia chooses to submit under CMS heightened scrutiny. The list is distributed to provider agencies and posted to the website.

**WV17.0**      **Identification of settings that overcome the presumption and will be submitted for heightened scrutiny and notification to provider.** Prepare a list of settings that meet the residential and non-residential requirements, those that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings West Virginia chooses to submit under CMS heightened scrutiny. The list is distributed to provider agencies and posted to the website.

**WV18.0**      **Complete gathering information and evidence on settings requiring heightened scrutiny that it will present to CMS.** Develop a process for heightened scrutiny as part of the compliance protocol and using information gathered through validation and remedial action. IDWW — Implement heightened scrutiny process including any necessary request for CMS review.

**WV19.0**      **Incorporate list of settings requiring heightened scrutiny and information and evidence referenced above into the final version of STP and release for public comment.** This issue is incorporated into the State Transition Plan, **Appendix M**, Section 8. There have been no settings identified as of 8/1/19.

**WV20.0**      **Submit STP with Heightened Scrutiny information to CMS for review.**

**WV 21.0**      **Complete notifying member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCBS settings requirements and that relocation or alternate funding sources need to be considered: 25%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV 22.0**      **Complete notifying member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCBS settings requirements and that relocation or alternate funding sources need to be considered: 50%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV 23.0**      **Complete notifying member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCBS settings requirements and that relocation or alternate funding sources need to be considered: 75%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV 24.0**      **Complete notifying member, guardians, case managers, facility support staff and any other identified responsible parties that the setting is not in compliance with HCBS settings requirements and that relocation or alternate funding sources need to be considered: 100%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV25.0**      **Complete beneficiary relocation or alternate funding across providers: 25%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV26.0**      **Complete beneficiary relocation or alternate funding across providers: 50%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this

occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV27.0 Complete beneficiary relocation or alternate funding across providers: 75%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**WV28.0 Complete beneficiary relocation or alternate funding across providers: 100%** There have been no provider settings identified as not in compliance and unable or unwilling to attain compliance. Should this occur in the future, as a part of the review protocol delineated in **Appendix M**, the procedure will be followed as described.

**Quarterly progress reports will be provided to CMS subsequent to final approval of the State Transition Plan.**

## **Initial Provider/Setting Reviews**

**IDD Waiver:** Information acquired as the result of the Member, Provider and Stakeholder surveys was used as a part of the site/setting review procedure. (**Appendix M**). Actual site visits have revealed that some providers misidentified or failed to complete surveys on actual sites. When this was discovered, the database for sites was updated. How the agency responded to the survey was not altered.

BMS conducted initial on-site visits or reviews for all licensed Facility Based Day Habilitation settings. (Completion date 1/5/2018)

Site visits were conducted for all residential settings housing 4 or more individuals. (Completion date 1/12/2018 for Waiver homes, 7/17/19 for SFC homes )

Site visits were conducted for 50% of all 1-3 bed settings. All Priority I 1-3 bed settings were reviewed. A random sample of Priority II settings identified additional 1-3 bed settings with the sample skewed to assure that all providers have at least one setting reviewed. It was recognized that the percentage of site visits conducted for Priority II settings exceeded the 50% target in order to assure that all providers had at least one setting review. (Completion date was 1/12/2018).

Follow up visits were conducted for all settings not found in compliance. The timelines were based on Plan of Compliance Dates.

Annual reviews (and follow-ups if necessary) will be conducted for **all** settings in subsequent years by the ASO. All settings will have had at least one review no later than December 31, 2018.

At the time of the Provider Survey BMS had implemented a 4-bed maximum ruling for licensed residential homes under the IDD Waiver. There were 11 homes which had been approved and licensed prior to this ruling. These homes were ‘grandfathered’ as they had more than the 4-bed maximum but were otherwise in compliance. They were reviewed in the same manner as the other homes. They were not required to decrease their bed capacity. These are so noted in the analyses found in **Appendix N**.

Any new providers or settings will receive their initial review by BMS. When BMS has determined that the provider/setting is compliant with the 2014 Home and Community Based Services Final Rule, the provider/setting is referred to the ASO and all subsequent reviews and follow-ups, if necessary, will be conducted by the ASO.

As new providers or settings owned or leased by the provider falling under the Integrated Services Rule are created, these settings shall receive an initial State Transition Plan review prior to beginning services at the setting. This review would include technical assistance and general compliance determination. Then when the setting is fully operational, BMS would conduct a full review within two to four weeks as they have for all other provider settings, following the procedures in **Appendix M**.

In December 2018, Specialized Family Care Homes were added to the list of residential providers. As of 7/31/19, 43% were found to be in compliance. Reviews of these homes are/were conducted by the Family Based Care Specialists (case manager) assigned to the home. All these homes were found to be in compliance by 12/31/19. These homes are also reviewed by the advocacy group Disability Rights of West Virginia under that agency's PADD contract.

In addition, all settings (whether licensed or not) where HCBS services are provided are visited and reviewed by the member's Case Manager monthly. These include Specialized Family Care Homes (which are settings owned by an unrelated caregiver who is paid for providing HCBS services to the individual member). These settings and services are assessed using the Case Manager monthly contact forms described in **Appendix 0** to assure that the settings are compliant.

**Appendix 0** contains the form used by the Case Manager to document the review of member rights, needs and compliance with the Integrated Services Rule. This form is also used for the Bi-monthly Case Manager visit to Day Habilitation, Pre-vocational, Job Development and Supported Employment settings, again to ensure member rights and needs are being met in compliance with the Integrated Services Rule.

In addition, Specialized Family Care Home providers housing Waiver members are required to "maintain the service standards for individuals residing in Specialized Family Care Homes by providing the individuals in placement the opportunities to live, work, and receive services in integrated, community settings as outlined in the Integrated Services Rule 42 CFR 441.301(c)(4)/441.71 (a)(1)/441.530 (a)(1)." This agreement is included in **Appendix P**. Specialized Family Care Home providers must also adhere to the Room and Board Policy and Discipline Policy for these homes. A Specialized Family Care Home Room and Board Agreement, signed by both the provider and the member, must also be completed. These are included in **Appendix Q**. West Virginia DHHR, Bureau for Medical Services attests that the experiences of any child receiving services in a Specialized Family Care Home will be the same as any child not receiving Medicaid HCBS.

### **Aged and Disabled, Traumatic Brain Injury and Children with Serious Emotional Disturbance**

**Waivers:** The Aged and Disabled Waiver and the Traumatic Brain Injury Waivers both have Case Managers that contact each member served at least monthly. Case Management Worksheets are the case management review tool that is used to assess 100% of the individuals served monthly for the TBI and Aged and Disabled Waivers respectively. These tools were revised to assist case management in effectively evaluating the settings and completing the tool correctly. These Worksheet forms are contained in **Appendix 0** as well.

The Children with Serious Emotional Disturbance Waiver is currently in application development. It is anticipated that in this program the case manager will visit each member monthly, following the same general format as the other waivers. This is pending approval of the Waiver by CMS.

### **Monitoring of Ongoing Compliance**

For Waiver homes, Initial Setting Reviews and follow ups were completed 1/12/18 and all revisits conducted after that time are by the ASO, using the same review tool found in **Appendix M, Attachment 6**. The

tools from **Appendix M** were incorporated verbatim into the ASO monitoring tool. Analysis of the resulting data will be compiled annually and provided to the Quality Improvement Advisory Council. For Specialized Family Care homes, Initial Setting Reviews were completed by 7/17/19. Family Based Care Specialists will conduct follow ups and revisits using the same review tool found in Appendix O. These homes are also reviewed by the advocacy group Disability Rights of West Virginia under that agency's PADD contract.

Any deficient practices discovered during these reviews will be addressed in the same manner. There will be a Statement of Deficiencies to which the provider must respond with a Plan of Compliance. The ASO or the Family Based Care Specialist will conduct a follow up review within 6 months after the full review to assure compliance. This review is announced 48 hours in advance. All settings are reviewed at least annually.

In addition, the CEO of each IDD provider agency will be contacted by letter annually with a list of each setting which BMS has listed as being owned or leased by that provider. The CEO will verify annually that this is a complete listing of all settings owned or leased by the provider agency wherein IDD Waiver services are provided. This list will include both residential and non-residential settings. Provider agencies should be notified through this letter that if there is any change to the status of a setting, either added to the list or deleted from the list, BMS shall be notified within 15 days of the change in status.

Upon completion of the initial setting reviews, the quality assessment review tool questions (**Appendix M, Section 11, Attachments 1, 2 and 3**) were compared with the setting characteristics and the Person-Centered Planning components to identify areas of the system in need of remediation. Using statistical analysis of both independent and dependent variables, and seeking a  $p < .05$  level of significance, areas of Integration, Person Centered Services, Privacy and Choice were compared and contrasted among the types of settings reviewed. Sub-areas of analysis to be queried were determined based on the recommendations of the Quality Improvement Advisory Council. The results of these analyses gave the stakeholders information on the areas and topics for retraining, increased monitoring and trends. These analyses will be ongoing and completed at least annually.

**Appendix N** contains the first, second and third of these analyses. The third analysis also incorporates the information from Case Manager reviews (**Appendix O**) to compare and contrast, (using statistical analysis of both independent and dependent variables and seeking a  $p < .05$  level of significance) the areas of Integration, Person Centered Services, Privacy and Choice among the types of settings reviewed. This will provide additional assurance of member rights and compliance for settings reviewed by the case manager.

Note : The Case Management Worksheets are a case management review tool that is used to assess 100% of the individuals served in the Aged and Disabled and Traumatic Brain Injury Waivers. The tools were revised to assist case management in effectively evaluating the settings and completing the tool correctly. In addition, Quality Assurance staff conduct annual on-site surveys to assess all applicable rules.

## Setting Review Procedure

The Protocol for review of settings is included in **Appendix M**. It contains the following sections:

1. Purpose of the Protocol
2. Member and Provider Data Analysis
3. Validation Process for Provider Responses and Key Indicators
4. Setting/Site Visits and Revisits
5. Individual Setting/Site Visit Procedures

6. Plan of Compliance
7. Review of Assessment Results and Follow-up
8. Heightened Scrutiny if Necessary
9. Transition of Members to Integrated Settings
10. On Going Monitoring
11. Ongoing Reports

Each distinct setting/address received a separate review and report. Providers received multiple reports if they owned or leased more than one setting. In addition, when a provider had multiple settings a policy/procedure review was conducted for the whole agency. This eliminated the redundancy of policy/procedure reviews in each setting. **Appendix M** includes the assessment instruments and forms used for each type of review.

For Waiver providers, subsequent to 1/12/2018 the ASO/KEPRO assumed the setting review function. The Survey Protocol (**Appendix M**) was shared with KEPRO staff to assure consistency with the survey process. KEPRO staff also follow this protocol and received training in its implementation. For Specialized Family Care homes, Family Based Care Specialists received the protocol and training as needed. The process for setting reviews contained in **Appendix M** will continue into 2022 and subsequently. Possible member transition, provider notification and timelines for resolution events will continue into 2022 and subsequently if necessary, following the procedures contained in **Appendix M**.

## Heightened Scrutiny Overview

As the State reviewed each distinct setting/address, settings were sorted into one of five categories. These included:

- The setting meets the HCBS characteristics and is compliant.
- The setting does not currently meet HCBS characteristics but intends to become compliant.
- The setting cannot meet the HCBS characteristics.
- The setting is presumptively institutional and is determined incompatible with HCBS.
- Settings that are Intermediate Care Facilities for Individual with Intellectual Disabilities (ICFs/IID), Institutions for Mental Disease (IMD), Nursing Facility (NF) or Hospitals do not provide HCBS and were not subject to transition.

The State of West Virginia worked with Settings in Category 2 to monitor their plans to come into compliance. Repeat Annual Monitoring and Follow-Ups of settings that fall in Category 1 and 2 assure continued compliance. If a setting is unable or unwilling to become compliant with remediation, as determined by on-site review of the setting, then the state will initiate the process for resolution of beneficiary concerns when in a setting that will not be compliant.

Settings deemed during the review process to be in Category 3 or 4 would be presumptively non-HCBS settings that isolate. They would fall into one of three categories:

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

- i. Where members have limited, if any, opportunities for interaction in and with the broader community, including with individuals not receiving Medicaid funded HCBS
- ii. Where the setting restricts member choice to receive services or to engage in activities outside of the setting
- iii. Where the setting is physically located separate and apart from the broader community and does not facilitate member opportunity to access the broader community and participate in community services, consistent with the member's person-centered service plan

Settings in any one of these three categories would be subject to the heightened scrutiny process. These are those settings that the state has determined are presumed institutional and that the state has determined have or will overcome the institutional presumption and comply with the settings criteria by the end of the transition period. In such cases, the setting would be submitted to CMS for a heightened scrutiny review. Evidence compiled by the State will accompany this submission. This evidence will include review documents, stakeholder interviews and comments and other evidence as necessary. Check underline/strike out

At present there are no such determined settings. West Virginia does not have any Waiver settings that are located in a building that provides inpatient institutional treatment. West Virginia does not have any Waiver settings on the grounds of, or adjacent to, a public institution. All settings where Waiver services are provided have been evaluated through the Setting Review Process for each respective Waiver and all provide integration into the broader community. Data analysis from these evaluations are included in Appendix N.”

Settings that are in Category 5 are not included in the State Transition Plan.

**Appendix M** provides an overview of this process from the provider perspective, including the provider appeal process. It addresses times when the setting review finds that the site is not HCBS compliant and the BMS actions to be taken. The process for transition, provider notification and timelines for resolution events will continue into 2022 and subsequently.

## **Transition of Members Overview**

Should a review determine that a setting does not meet the characteristics necessary for HCBS, the provider setting will be dis-enrolled from the Medicaid program. Notification to the provider will be by certified mail as well as electronically. The provider is responsible for notification of members, with all correspondence or contacts copied to the Bureau for Medical Services.

BMS will also notify the individual members five working days after the provider notification, to assure that all stakeholders are notified of the dis-enrollment. This Information will include material on transition assistance and extensions and will be provided through 1) the specific time frame letter sent to each member by letter and 2) through the general informational meetings for members as noted below.

While the transitions of members to other providers or settings will begin as soon as the provider is notified, the provider will have 90 calendar days from the date of the notification to assist individuals to transition to other services and/or settings that do comply with the Rule. The Provider will have 10 calendar days from the date of its notification of disenrollment to notify all participants of the disenrollment and actions the provider will take to ensure person centered planning. BMS will be copied on all provider to member correspondence. The ASO will also notify the member within 10 calendar days of the date of notification.

Individuals may remain at the setting, but HCBS services may not be billed for that individual. Individual team meetings will be held and the individual and their legal representative (if applicable) will make the final choice of available settings/sites. Provider disenrollment will occur at the end of the 45 days or when all members are successfully transitioned.

Within 30 working days of the date of the notification, the provider will submit to BMS an Agency Transition Plan. This plan will list 1) setting location which is non-compliant; 2) the member(s) by name and Medicaid Number; 3) the service(s) provided to each listed member; 4) the date for the Critical Juncture transition meeting for each listed member; 5) The result of the meeting including setting/location of services that do comply with the rule; 6) The date of the change of provider/setting. The provider will submit updates to the Agency's Transition plan weekly to BMS, completing items 4-6 as these events occur. This plan update will be provided to BMS until all member transitions are complete.

BMS shall be copied on all correspondence with members and/or families.

The provider will hold a general informational meeting for all members, legal representatives and other interested parties. BMS will attend this meeting to answer any questions. Members will also be encouraged to call BMS should they have any questions with BMS contact information made available to all affected members at Critical Juncture meetings and on the BMS website.

Should an individual member request assistance beyond that given by the provider, BMS will assist the member in the timely transition to another provider and/or setting. Requests should be made through phone, email or letter. In isolated instances, BMS may extend the 60-day transition period for an individual member to assure that there is no interruption of services to the individual member. It is anticipated that approximately 10% of members in an affected setting would have need of some mode of direct intervention from BMS.

This procedure would also apply to a provider which concurs with the setting review that the site is not HCBS compliant.

## **Building Capacity for Increased Non-Disability Specific Setting Access**

WEST VIRGINIA Waiver participants have the choice of where they would like to receive services, and that choice includes private residences and non-disability specific settings. West Virginia's service delivery system has been impacted heavily by the Hartley and Medley Consent Decrees which evolved over many years to become one that optimizes the ability of individuals to receive HCBS and also remain in the community to the fullest extent possible. People who had resided, sometimes for decades, in large, congregate, state-run facilities were placed in smaller "group homes" located in communities. These community placements were viewed as more normal, and hence more beneficial, than the segregated, walled compounds which typified the institutions of the 19th and 20th

centuries. The concept of disabled persons as contributing members of society at-large replaced the philosophy of protectionism and isolation, which governed public policy and practice for over a century. We have made great strides in expanding the availability of non-disability specific service options. The provision of services for HCBS participants is based on the person-centered planning process, where individuals make informed choices about the type of care they receive, the providers from whom they receive care and the setting in which that care is provided.

Services were enhanced as we:

a. Increased waiver slots for all eligible populations

b. Added a new waiver for Children with Severe Emotional Disturbance

c. Implementing a comprehensive monitoring system (described in Appendix M) of all settings falling under the State Transition Plan. This includes the identification of areas of non-compliance such as the use of age-inappropriate items and the practice of reverse integration (bringing the community into the setting but not taking the members into the community). When a provider/setting is found out of compliance, the area must be corrected. It must be re-evaluated and deemed compliant by BMS or its contracting agencies.

d. Ensuring that the monitoring system includes the evaluation of integration components such as choice of physician, cases manager and other services.

e. Working with WVADE (West Virginia Association for Disability Employment) and Employment agencies to ensure that all individuals have access to the most integrated competitive employment possible.

f. Take Me Home is a program through WV BMS which identifies qualifying residents of long-term care facilities who wish to return to their own homes and apartments in the community and provides them the supports and services they need to do so. The Bureau developed a booklet distributed to members who may be interested in this option. <https://dhhr.wv.gov/bms/Programs/Takemehome/Pages/Eligibility-and-Services.aspx>

Non-disability setting options are expanded and include any community environment that is chosen by the member for services. Member choice is the primary criteria. The State of West Virginia encourages providers to develop additional settings, both residential and non-residential, as member needs indicate. There continues to be an increase in the number of providers throughout the state, averaging the addition of one every 3-4 months. Initial Setting Reviews and follow ups were completed 1/12/18 and all revisits conducted after that time are by the ASO, using the same review tool found in Appendix M, Attachment 6. As new settings were identified as falling under the Integrated Services Rule, they also were subject to the same review process. Any deficient practices discovered during these reviews will be addressed. There will be a Statement of Deficiencies to which the provider must respond with a Plan of Compliance for any deficient practice. The ASO or the Family Based Care Specialist will conduct a follow up review within 6 months after the full review to assure compliance. This review is announced 48 hours in advance. All settings are reviewed at least annually. Providers must correct deficient practices in a timely manner in order to continue to provide HCBS. The correction of deficient practices is verified by follow-up on site reviews as per the Review Protocol found in Appendix M.

The State of West Virginia will expand the identification of non-disability setting options through a review of existing best practices in current provider settings. A webinar will be developed and posted on the DHHR website to assist providers, members and other stakeholders in the identification and development of non-disability setting options.

Non-disability setting options are expanded and include any community environ that is chosen by the member for services. Member choice is the primary criteria. The State of West Virginia encourages providers to develop additional settings, both residential and non-residential, as providers indicate. There continues to be an increase in the number of providers throughout the state, averaging the addition of one per every 3-4 months.

## Summary

This is a summary of the process West Virginia is using to assess and validate all types of settings that were assessed for the HCB Settings criteria.

A reviewer conducted site visits for all Specialized Family Care Homes. Case Managers visit the Aged and Disabled and Traumatic Brain Injury Waiver Members monthly. BMS staff, ASO staff, Case Managers and Family Based Care Specialists work with providers of services to correct any deficient practices, should they occur.

A reviewer conducted site visits for each IDD agency that owns or leases settings where waiver services are provided. When a site review is completed, the waiver agency will receive a separate report stating the site was in compliance with this rule or to what degree it was not in compliance. There was one report for each site detailing why the setting was not in compliance with this Rule. The waiver agency is required to submit a Plan of compliance for each site not in compliance within 30 days of receipt of the report. The Plan details the agency's plan to come into compliance. BMS or Kepro reviews each plan and either accepts it or returns it to the agency for further remediation. The flow chart below (Exhibit 2) exemplifies this process. When a Plan of compliance was accepted, the agency received a letter stating such and was told to expect a return visit to review the agency's compliance at a future unannounced date.

If a waiver provider had failed to submit a Plan of compliance and was not actively working toward completing a Plan of compliance within an approved time frame, then BMS would have met with the agency to discuss how the members being served would be transitioned to other providers well before March 2022. As of February 28, 2019, no providers have necessitated these steps by BMS. In the event that these steps are found necessary, the process for transition protocol, including provider dispute resolution, is included in **Appendix M**, Section 9. The process for transition, provider notification and timelines for resolution events will continue into 2022 and subsequently.

The initial round of reviews yielded the following data.

(No Settings were identified for Heightened Scrutiny)

**Provider Self-Assessment Results -2015**

Setting Type	Total	Compliant*	Non-Compliant
<b>Facility Based Day Habilitation</b>	51	0	51
<b>Supported Employment *</b>	13	0	13
<b>Participant Centered Support</b>	54	0	54
ISS (serving 1-3 people)			
<b>Participant Centered Support —</b>	18	0	18
Group Home (serving 4 or more people)			
TOTAL 136			

\*No providers were found, based on the self-assessment survey, to be totally compliant. (**Appendix M**, page 138)

**Desk Review Results - 2016 (Appendix M Page 131)**

Setting Type(no settings were initially compliant)

	Priority I	Priority
Facility Based Day Habilitation*	10	41
Supported Employment *	1	12
Participant Centered Support - ISS (serving 1-3 people)	9	45
Participant Centered Support * Group Home (serving 4 or more people)	3	6

TOTALS 121/115

\*All Facility Based Day Habilitation settings, Supported Employment settings and Group Homes serving 4 or more people received an initial on-site review. See Page 131 and 132 for Priority determining criteria.

### Initial On-Site Results 2016-2017

Setting Type	Compliant	Non-Compliant	Closed***
Facility Based Day Habilitation	0	55	6
Supported Employment* - no SE in licensed settings			
Participant Centered - ISS (serving 1-3 people)	1	33	3
Participant Centered Support Group Home (serving 4 or more people)	0	14	0
TOTAL* *	1	102	9

\*Page 5 of CMS Informational Bulletin September 16, 2011 regarding employment and employment related services **States that** "Waiver funding is not available for the provision of vocational services delivered in facility based or sheltered work settings." Supported Employment is not provided in settings licensed or leased by a provider or where members are grouped together to receive supported employment services.

\*\*Providers incorrectly identified themselves in the provider survey. For example, some incorrectly identified settings as owned or leased by the provider when an on-site revealed this was not the case. Some listed a setting that was actually an office for case managers only.

\*\*\*Reasons for closure were not directly related to the Integrated Services Rule.

### Follow Up On-Site Results 2016 -2018

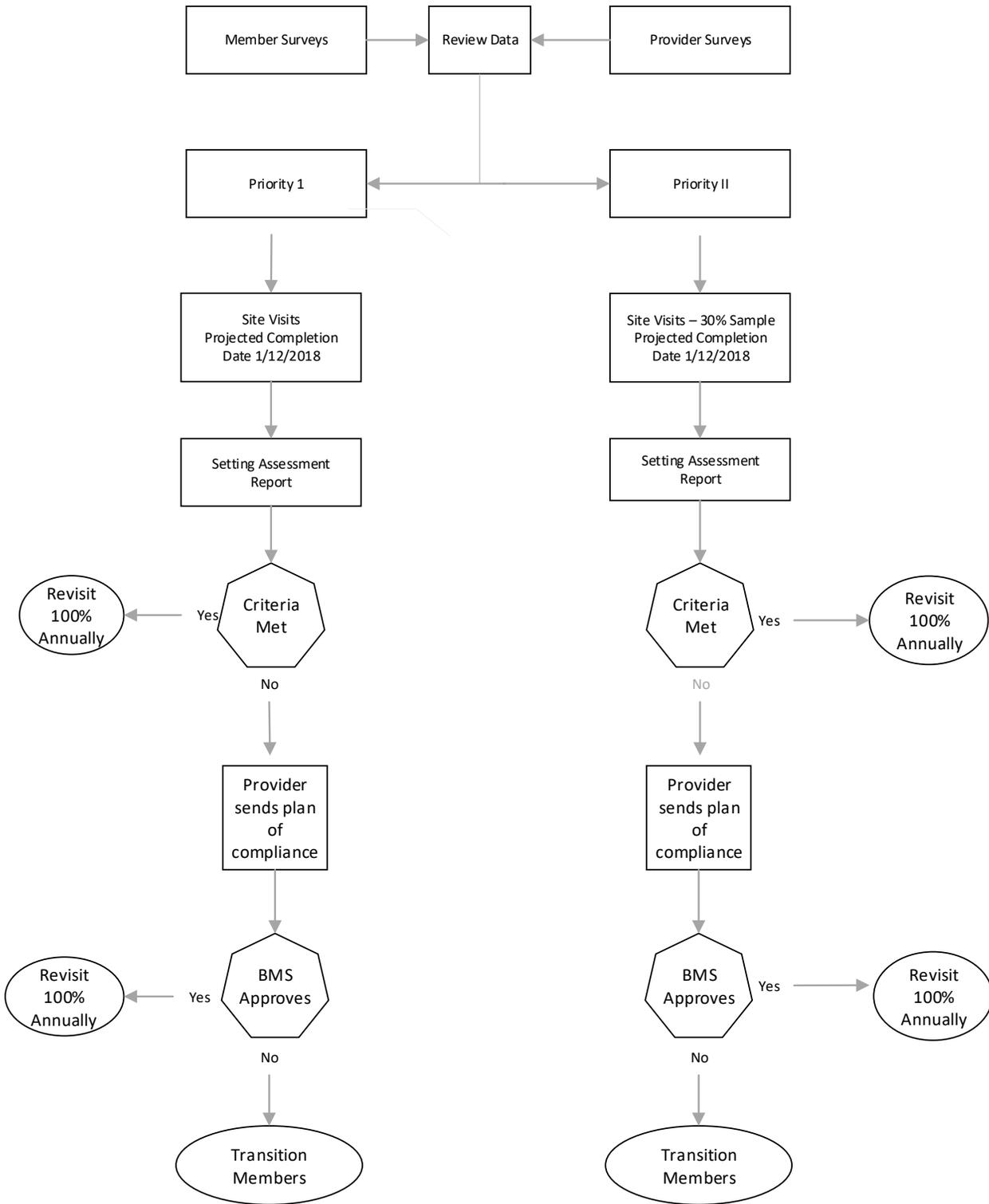
Setting Type	Compliant	Non-Compliant	Closed***
Facility Based Day Habilitation	55	0	0
Supported Employment* - no SE in licensed settings			
Participant Centered - ISS (serving 1-3 people)	33	0	0
Participant Centered Support Group Home (serving 4 or more people)	14	0	0
TOTAL* *	102	0	0

**Follow Up On-Site Results 2019 for Specialized Family Care**

<u>Setting Type</u>	<u>Compliant</u>	<u>Non-Compliant</u>	<u>Closed</u>
Specialized Family Care	27	36	0

NOTE: Specialized Family Care Homes are included in settings to be evaluated. These were added in the late 2018.

Exhibit 2



# Appendix A: Recommendations from the HCBS Regulatory Review

11/24/14

A complete copy of this report with appendices may be found at:

<http://www.dhhr.wv.gov/bms/Programs/Documents/WV%20Regulatory%20Review%20Report%20Final%20%2811-25-14%29.pdf>

## Introduction

In January 2014, the Centers for Medicare & Medicaid Services promulgated a final federal rule (CMS-2249-F and CMS 2296-F) to ensure that individuals receiving long term services and supports (LTSS) through home and community based services (HCBS) programs under 1915(c) and 1915(i) have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.

West Virginia contracted with The Lewin Group to guide development of a transition plan pursuant to 42 CFR 441.301(c)(6) that contains the actions the State will take to bring all West Virginia waivers into compliance with requirements set forth in 42 CFR 441.301(c)(4-5). West Virginia intends to work with the various providers, participants, guardians, and other stakeholders engaged in HCBS to implement this proposed transition plan.

This report documents one component of the methodology and approach used to develop the transition plan, to conduct a regulatory review of the HCBS system. This report covers the methodology and the findings from the regulatory review process.

## Regulatory Review Methodology and Source Documents

The development of a matrix of West Virginia waivers and supporting documentation provided a systematic method to assess areas of compliance and non-compliance with the new rule. The Lewin Group developed the matrix through a series of steps.

### Step 1: Framing of Key Elements to Assess Compliance and Non-Compliance

Lewin completed a comprehensive review of the new federal regulations and all supporting guidance released by CMS as contained in the Settings Requirements Compliance Toolkit<sup>1</sup>. Based on this review, the “Summary of Regulatory Requirements for Home and Community Based Settings” guided our analysis.

### Step 2: Comprehensive Inventory of Waiver Services and Provider Types Across All Populations

We conducted a basic review of waiver applications and amendments for all three of West Virginia’s waivers (see **Appendix B**) and created an inventory of relevant services and provider types for inclusion in the analysis. The three waivers and proposed services/settings types to include in our analysis are listed in the table below.

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<sup>1</sup> <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>

HCBS Waiver	Services/Setting Type	Original Approval Date	Effective Date	Expiration Date
Aged and Disabled Waiver Program (ADW)	<ul style="list-style-type: none"> <li>Case Management</li> <li>Personal Assistance/Homemaker Service</li> </ul>	07/01/1985	07/01/2010	06/30/2015
Intellectual/Developmental Disabilities Waiver (IDDW)	<ul style="list-style-type: none"> <li>Facility Based Day Habilitation</li> <li>Participant -Centered Support</li> <li>Respite</li> <li>Case Management</li> <li>Supported Employment</li> <li>Electronic Monitoring/Surveillance System and On-Site Response</li> <li>Skilled Nursing - Nursing Services by a Licensed Practical Nurse</li> </ul>	07/01/1985	07/01/2010	06/30/2015
Traumatic Brain Injury Waiver Services (TBIW)	<ul style="list-style-type: none"> <li>Case Management</li> <li>Personal Attendant Services</li> </ul>	12/23/2011	02/01/2012	01/31/2015

### Step 3: Creation of a Qualitative Data Set

Using the inventory, Lewin created a comprehensive qualitative data set that captured all relevant language from waiver applications, State regulatory documents, surveys and checklists on compliance and quality, and provider trainings. The data was cleaned for consistency and accuracy. The Lewin Group conducted a review across waivers globally, as well as settings/services that may be impacted by the rule across the categories listed in the table below.

Types of source documents	Relevant categories by source
<ul style="list-style-type: none"> <li>Waiver applications</li> <li>Authorizing Legislation</li> <li>State Rules and Operations</li> <li>Provider training and manuals</li> <li>Member handbooks</li> <li>Setting-specific survey and certification review criteria</li> </ul>	<ul style="list-style-type: none"> <li>Definitions of services and settings</li> <li>Certification and licensing (as applicable)</li> <li>Participant rights</li> <li>Participant choice of provider</li> <li>Care planning processes including conflict of interest provisions</li> <li>Enrollment procedures</li> <li>Environmental standards</li> <li>Restrictive interventions</li> <li>Staff training</li> <li>Support coordination/case management</li> <li>(Others as appropriate)</li> </ul>

### Step 4: Analysis of Source Language Against Federal Regulatory Requirements

Using the “[Summary of Regulatory Requirements for Home and Community Based Settings](#)” as a guide, Lewin then synthesized the qualitative data for each setting and compiled areas of compliance and non-compliance. Settings that may potentially isolate individuals and support coordination activities considered in potential violation of the new federal rules are included within the list of recommendations for potential change. In addition to the data set, Lewin drew upon interviews of key West Virginia staff, as well as years of Lewin experience in the LTSS field, to identify strengths and areas for potential growth for the State for inclusion within the report and transition plan.

## Results and Recommendations

The Lewin Group presents recommendations across all waivers (Aged and Disabled Waiver Program, Intellectual/Developmental Disabilities and Traumatic Brain Injury Waiver Programs included in the review and when specific to a particular waiver, references are made. The information is organized by sections under the regulatory requirements for home and community-based settings:

- CMS Descriptions for Institutional Settings and Qualities and Guidance on Settings that May Isolate Individuals
- Provider Controlled Setting Elements to Assess per New Federal Requirements
- Plan of Care Requirements for Modifications or Restrictions of a Participant's Rights; and
- Conflict of Interest Standards.

### **CMS Descriptions for Institutional Settings and Qualities and Guidance on Settings that May Isolate Individuals**

Lewin reviewed the waiver source documents against CMS guidance and descriptions for institutional settings and qualities. Settings under this category are not home and community-based and include: a nursing facility; an institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital; or any other locations that have qualities of an institutional setting, as determined by the Secretary. Those settings that are presumed to have qualities of an institution include:

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

CMS also provided guidance on settings that may isolate individuals and Lewin applied this guidance during our review of the source documents. Settings with the following two characteristics may, but will not necessarily, meet CMS criteria for having the effect of isolating individuals: the setting is designed specifically for people with disabilities, and often even for people with a certain type of disability; and the individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them. Settings that may isolate individuals receiving HCBS from the broader community may have any of the following characteristics:

- The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.
- People in the setting have limited, if any, interaction with the broader community.
- Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

Lewin's findings from the analysis are provided below.

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### ***Positive Findings/Areas of Compliance***

- The following IDDW services are compliant with, or not subject to, the regulation as it relates to settings within the IDDW: Case Management and Patient-Centered Support. Case Management and Patient Centered Support are provided in community settings which are not owned or leased by the provider.
- Additionally, the Respite Agency service clearly specifies that it is not available in medical hospitals, nursing homes, psychiatric hospitals or rehabilitative facilities located either within or outside of a medical hospital which is in full support of the characteristics outlined in rule. Respite: Agency is time limited and may not exceed limited to 30 days per year.

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## ***Recommendations / Areas of Potential Non-Compliance***

The following settings with the IDDW are meant to deliver and/or support community integration to waiver participants, although one or more items found in the language for each may need to be revised and updated to specifically comply with the CMS regulations.

- **Facility Based Day Habilitation-** The facility-based nature of the service implies that participating individuals are isolated from the community. Additionally, the documents reviewed do not show that this service provides for meaningful community integration.
- **Supported employment-** The documents reviewed say the supported employment must be offered in “an integrated community work setting,” however there is no specification as to what the State does and does not classify as such a setting. Specific clarifying language surrounding this may be helpful.
- **Skilled Nursing (Nursing Services by a Licensed Practical Nurse)** – In addition to private homes, this service is allowable in licensed group home, any ISS (Intensively Supported Setting), a licensed day program facility, and/or crisis sites. While the service and its related document do not appear to isolate the individual, the setting in which the service takes place may not comply with the regulations.
- **Electronic Monitoring/Surveillance System and On-Site Response-** This service is allowable in licensed group home, any ISS, a licensed day program facility, and/or crisis sites.” While the service and its related document do not appear to isolate the individual, the setting in which the service takes place may not comply with the regulations.

Services offered in both the ADW and TBIW appear to be offered in non-institutional settings compliant with the regulation.

The exact setting(s) of services across the three waivers cannot be fully known without a provider survey. Lewin recommends that the State use results from the upcoming provider survey to determine compliance with the regulation.

## **Provider Controlled Setting Elements to Assess per New Federal Requirements**

Under the new HCBS rule, particular elements of provider-controlled settings will be assessed. Lewin reviewed the State’s source documents and applied the CMS guidance on provider-controlled settings. This guidance includes that the participant receiving services shall have the following rights and freedoms:

- Settings that are integrated within the community
- A choice in where to live with as much independence as possible
- Exercise informed choice
- A setting that ensures the one’s rights and protections; and
- A setting that optimizes personal autonomy.

Lewin’s findings from the analysis are provided below.

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## ***Positive Findings/Areas of Compliance***

- The State code for the IDDW provides clear guidance surrounding bedroom size, furnishings and quality and goes beyond what is typical for similar regulation found in other States.
- The State code for the IDDW also requires licensed behavioral health centers to be accessible and compliant with Title III of the Americans with Disabilities Act.
- Supported Employment Services within the IDDW “are services that enable individuals to engage in paid, competitive employment, in integrated community settings. The services are for individuals who have barriers to obtaining employment due to the nature and complexity of their disabilities. The services are designed to assist individuals for whom competitive employment at or above the minimum wage is unlikely without such support and services and need ongoing support based

upon the member's level of need." This service is fully compliant with community integration standards outlined in the requirements.

## ***Recommendations / Areas of Potential Non-Compliance***

- For the IDDW, the behavioral health center regulation makes no reference to a limit on the number of beds in any given location. This could mean that subject settings could have more bedrooms than allowed by the CMS regulations and thus be considered as institutional settings. To amend this, the State could implement a cap on bedrooms per location in the regulations.
- Chapter 513 of the Provider Manual defines an ISS as a "residential home setting that is not licensed by the Office of Health Facility and Licensure with one to 3 adults living in the home. The member's name is either on the lease or the member pays rent. No biological, adoptive or other family members reside in the home setting with the member." To comply fully with characteristics outlined for provider-controlled settings, it may be beneficial to modify the definition of ISS to require a lease or written agreement with tenant/landlord protection to document protections that address eviction processes and appeals similar to those provided under West Virginia Tenancy law.
- Given that the Utilization Management Contractor (UMC) is responsible for provider education, it may be beneficial to request that the ASO include the characteristics of community as well as steps to reach compliance within training content.
- The State code for the IDDW nor any other document reviewed mentions that participants living in licensed behavioral health centers have access to the following elements required in the HCBS regulation:
  - Entrance doors lockable by the individual, with only appropriate staff having keys to doors- not addressed in waiver documents. The State may need to add language addressing keys and locks to the behavioral health center regulation.
  - Roommate choice- not addressed in waiver documents. The State may need to add language addressing roommate choice to the behavioral health center regulation.
  - Freedom to furnish or decorate sleeping or living units-pg. 18 of the latest behavioral licensure regulation States: "6.6.e. Furnishings shall be homelike and personalized." It may benefit the State to add language giving discretion on furnishing to the participant.
  - Access to visitors- The regulation calls for 24/7 access to visitors. The State may need to add language addressing visitors to the behavioral health center regulation.
  - Access to food- The regulation calls for 24/7 access to food. The behavioral licensure regulation says 6.6.n. Food services, when provided, shall: 6.6.n.1. Meet or exceed national nutritional standards; 6.6.n.2. Be planned with regularly documented assistance of a dietitian; and 6.6.n.3. Provide well-balanced meals and snacks (pg. 19). It does not guarantee around the clock access to food.
  - Control over schedules and activities- The service definition of facility-based day habilitation does not appear to grant participants control over schedules and activities (e.g. "carry out assigned duties", "attendance to work activity"). The other service offerings do not appear to be relevant to this section of the regulation.

## **Plan of Care Requirements for Modifications or Restrictions of a Participant's Rights**

Under the new federal regulations, CMS provides guidance on plan of care requirements for modifications or restrictions of an individual's rights. For Lewin's analysis of the source documents, we applied the CMS guidance to our review. The guidance notes if a right or freedom is modified or restricted, the following requirements must be documented in the person-centered service plan:

- A specific assessed need which requires a modification or restriction of a specific right or freedom.
- Positive interventions and supports used prior to any modifications to the person-centered service plan.
- Less intrusive methods of meeting the need that were tried but did not work.
- A clear description of the modification or restriction that is directly proportionate to the specific assessed need.
- Regular collection and review of data to measure ongoing effectiveness of restricted right.
- Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
- Informed consent of the individual.

- An assurance that interventions and supports will cause no harm to the individual.

Any modification or restriction of the participant’s rights and freedoms must be supported by a specific assessed need and be approved by the participant or a legally authorized representative, who has the authority to restrict the specific right.

Lewin’s findings from the analysis are provided below.

## **Positive Findings/Areas of Compliance**

- The ADW has participant-directed goods and services that align with CMS HCBS guidelines and address person centered requirements.
- The IDWW system has a broad and very easy to understand member handbook that can be used to build upon West Virginia person-centered practices.
- The IDWW manual provides a broad list of rights granted to waiver participants. These address more general, program-wide protections rather than rights associated with or pertaining to any particular service.
- The TBIW manual provides a broad list of rights granted to waiver participants. These address more general, program-wide protections rather than rights associated with or pertaining to any particular service. Additionally, Chapter 512 of the Provider Manual indicates that goals and objectives are “focused on providing services that are person-centered, that promote choice, independence, participant-direction, respect, and dignity and community integration.”
- For all three waiver programs, the role of the Human Rights Committee (HRC) appears to provide a firm foundation to the overall protection of basic rights and any restrictions needed to ensure health and welfare.
- The Case Management service supports the requirements of the HCBS rule in principle given that the definition specifies that along with the member, case management is “a life-long, person-centered, goal-oriented process for coordinating the supports (both natural and paid), range of services, instruction and assistance needed by persons with developmental disabilities...designed to ensure accessibility, accountability and continuity of support and services... also ensures that the maximum potential and productivity of a member is utilized in making meaningful choices with regard to their life and their inclusion in the community”.

## **Recommendations / Areas of Potential Non-Compliance**

- Consider shifting from “member” and “participant” over to “person”. “Person (or people) who receives services” or “person who uses services” is most acceptable. These kinds of language changes will move West Virginia toward person-centered thinking and full person-centered planning. Additionally, consider changing “direct care worker” to “direct support professional”. There is significant advocacy and structured processes nationally to professionalize the direct service workforce.
- Throughout each waiver person-centered planning policy and practices, consider changing the word “goal” to “outcomes” or adding the word “outcomes” to the description. The HCBS rule uses the language of “goals and outcomes”. To further advance the culture change toward person-centered thinking, training providers on the meaning of “outcomes” will prove critical.
- For all three waivers, consider shifting from a starting point on “needs” (which focuses on what is “wrong” or seen as “problematic”) to what matters TO the person – wishes, desires and interests; then move onto needs. Additionally, consider changing language that requires attendance of key staff to requiring contributions even if key staff are unable to be present or not present at the request of the individual.
- The ADW program indicates that “the primary purpose of the meeting is to evaluate health and safety. All identified concerns with member health and safety must be addressed and reported using the IMS, and as appropriate, referred to Adult Protective Services”. Recommend that the language be revised to ensure that the meeting ensures that services and supports continue to meet the person’s needs AND review any concerns for health or safety. Further, recommend expanding

the description of concerns to include risk in levels such as the health and safety concern is worrisome to the team but generally okay with the person; very worrisome and requires some kind of response plan that everyone can agree upon, etc.

- For the IDDW, interdisciplinary teams (IDTs) are historically different than a person-centered planning team and routinely come from a medical model approach, not a person-centered and person-directed approach. The current IDT process does not fully meet the HCBS regulations on person-centered planning. For example, the HCBS rule requires that the planning process is clear that the person can request an update and revision at any time, the plan must reflect risk factors and measures in place to minimize them, and the plan must address when a member does not want a “required” IDT participant. To more fully address the requirement that person-centered planning “includes strategies for solving conflict or disagreement within the process”, West Virginia could add language in policy and operations such as;

*Service coordinators must work with the person who receives services and their legal/non-legal representatives and/or family members to choose a time and location that is convenient to them. Case Management agencies must support service coordinators to facilitate and/or participate in person centered planning meetings that are not held during the traditional working hours of 8 am to 5 pm, Monday through Friday. The person who receives services and/or their legal/non-legal representative may indicate they do not wish to “attend” their person-centered planning meeting in person; and/or they may also indicate that they do not wish for someone else to attend in person. As the person in charge of the meeting process, it is the decision of the person who uses services regarding who actually attends the planning meeting. Should the person request that one of the “required” team members not be in attendance, the Service Coordinator is required to:*

*1) Find out from the person receiving services why they have requested the individual not attend; and see if any mutually agreeable resolution regarding their attendance can be reached;*  
*2) If a mutually agreeable resolution cannot be reached in time for the person-centered planning meeting, the Service Coordinator is required to gather information ahead of time so that the individual being requested to not attend can still contribute necessary information. 3) Document as part of the planning process who the person did not wish to have in attendance and why; what steps were taken to resolve any existing conflict and what steps will be taken going forward to address the situation.*

- Cultural considerations should also be included in all three waiver person-centered planning processes. For example, West Virginia could add to policy the following;  
*The entire planning meeting process must take into consideration the culture of the person receiving services and their legal/non-legal representatives. Cultural considerations could include:*  
*Accessibility for people with disabilities and others with limited English proficiency, Time and location of meeting, Methods by which others are invited to the meeting, Clothing worn to the meeting, Language used during the meeting, Refreshments served during the meeting, Process for the meeting and Roles of each person in the meeting.*
- Based on the reviewed documents, West Virginia’s ADW lacks surveys and/or quality documents that address the rights of individuals. Updating the ADW Participant Experience Survey is one potential way to address this area of non-compliance.
- The participant rights language within the IDDW may not provide depth as required by the HCBS regulation. Specifically, there is no language that includes the rights of participants within each service to ensure full community integration across the waiver. For example, Chapter 513 specifies the member’s right to have a choice of provider, address dissatisfaction, and to be free from abuse, neglect and financial exploitation. They also have a right to choose who attends their IDT meeting, but the “outcomes-oriented” right to receive services in a community integrated setting, to visit and choose setting options, to control personal resources and furnish and decorate living space, to name a few, is not evident and therefore not likely consistently applied across provider-controlled settings.
- The IDDW Member handbook specifies that regardless of Service Delivery Model, members are assigned a Case Manager /Service Coordinator. Chapter 513 of the provider manual implies that the member can choose the Case Manager/ service coordinator. Some clarity in the Member handbook may be helpful.
- The provided quality and review tools are similarly broad for the IDDW and only collect high-level data surrounding participant rights. With these tools, there is no way to fully and adequately measure whether participants are able to

meaningfully act upon their rights. The State may need to update their participant rights section of the provider manual to reflect this, as well as update the IPP components to ensure rights are adequately conveyed and implemented.

- Based on the reviewed documents, West Virginia’s TBIW lacks comprehensive quality and/or review tools that address the rights of individuals. A participant and/or provider survey(s) is one potential way to address this area of non-compliance. A crosswalk between the provider review tool and person-centered planning requirements outlined in rule may be beneficial to identifying areas to strengthen. Similarly, working with UMC to modify, as appropriate, the self-review tool to collect outcomes associated with rights may prove useful to providing an overall picture of the quality of services.
- While the Human Rights Committee role is critical to ensuring protection, it may benefit West Virginia to strengthen provider training and quality provisions to clearly specify the characteristics outlined within the HCBS rule for inclusion in a person-centered plan (e.g. clearly articulating the assessed need which requires a modification or restriction, the interventions used prior to the modification or restriction, a clear description of the modification or restriction as proportionate with the need, and periodic review and collection of data to monitor).
- Consider updating the member handbooks for the ADW and TBIW programs to match new CMS person centered requirements.

## **Conflict of Interest Standards**

Under the new HCBS rule, the conflict-of-interest standards apply to all individuals and entities, public or private. Lewin reviewed the West Virginia source documents applying the CMS guidance that at a minimum, the agents must not be any of the following:

- Related by blood or marriage to the individual, or to any paid caregiver of the individual.
- Financially responsible for the individual.
- Empowered to make financial or health-related decisions on behalf of the individual.
- Have a financial relationship, compensation, and ownership or investment interest<sup>2</sup> in any entity that is paid to provide care for the individual.

Conflict of interest standards must be defined in a manner that ensures the independence of individual and agency agents who conduct (whether as a service or an administrative activity) the independent evaluation of eligibility for State plan HCBS, who are responsible for the independent assessment of need for HCBS, or who are responsible for the development of the service plan.

Lewin’s findings from the analysis are provided below.

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### ***Positive Findings/Areas of Compliance***

- The ADW and TBIW program includes guidance that prevents entities and/or individuals that have responsibility for service plan development from providing other direct waiver services to the participant.

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### ***Recommendations / Areas of Potential Non-Compliance***

- The IDDW manual does not appear to include language that explicitly prohibits conflict of interest and/or provides guidance on “firewalls” and other conflict mitigation techniques for providers offering both case management and direct services. To comply with CMS regulation, the State may wish to adopt language found in the TBIW and/or ADW programs to include conflict of interest guidance for IDDW providers.
- Chapter 501 of the Provider Manual indicates that an agency may provide both Case Management (CM) and Personal Assistance/Homemaker Services for members of the ADW program. There are requirements around the need for the provider to have a separate certification and provider number and separate staffing. Additionally, it is Stated that “Conflicts

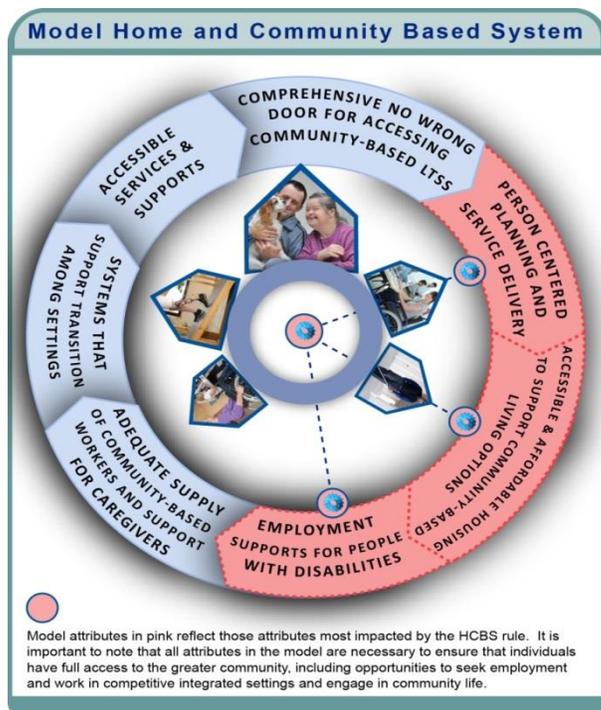
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<sup>2</sup> As defined in § 411.354 found at <https://www.kirschenbaumesq.com/article/pdf/001838-42-cfr-411354-financial-relationship-compensation-and-ownership-or-investment-interest.pdf>

of interest and self-referral are prohibited.” The provider must have written policies and procedures that protect the rights of members to request a transfer to a different agency, address dissatisfaction, and maintain confidentiality to name a few. The ADW program monitors conflict of interest by monitoring providers initially and on an ongoing basis in the Continuing Certification process. There is separation of agency types: Case Management and PA/Homemaker. Case Management agencies are certified and monitored separately, and PA/Homemaker agencies are monitored separately. The ADW Monitoring tool could be strengthened to monitor conflict of interest more closely. The CM Monitoring tool does not appear to include a review of conflict of interest. The same may be true for the TBIW as well given that the TBIW does allow case management and direct services as long as similar provisions are in place.

The current language for the TBIW and ADW programs appears to meet the requirements of CMS but could be strengthened, while there is no indication of conflict-of-interest prevention or mitigation in any IDDW document. The State should consider amending the provider manual and other appropriate policies and/or guidelines to strengthen conflict of interest standards.

## Conclusion



The passage of the final HCBS rule adds value to the regulatory nature of HCBS

by establishing characteristics of residential and non-residential settings and further promoting opportunities for individuals to have access to the benefits of community living available to all U.S. citizens. The changes to the HCBS regulation essentially establish an outcomes-oriented foundation to Medicaid funded HCBS and further solidifies the individual as the center of the system in a position of choice and control. The new rule supports and builds upon the longstanding CMS vision to “create a sustainable, person-driven long-term support system in which people with disabilities and chronic conditions have choice, control and access to a full array of quality services that assure optimal outcomes, such as independence, health and quality of life”. West Virginia can use the new rule as another tool in the toolbox (along with other federal opportunities such as the Administration for Community Living No Wrong Door Planning Grants and existing Money Follows the Person Demonstrations) to meet State desired goals for Medicaid HCBS. A model home and community-based system is driven by a State’s vision and infrastructure and developed through strong stakeholder involvement. The final HCBS rule has direct impact on person-centered planning, housing and employment and associated State infrastructure. This regulatory review provides a foundation to changes that will strengthen the home and community-based service delivery system. Blended with the provider survey process, a component of the State’s environmental scan, West Virginia will have a solid plan to transform the delivery system to fully include all individuals regardless of need, within their communities in a meaningful way.

# Appendix B: Crosswalk for the Systemic Assessment of Existing Code and Regulations Relevant to the West Virginia HCBS State Transition Plan

The following West Virginia Code, Rules, Regulations and Policies were reviewed in the completion of this document:

- Chapter 501(Aged and Disabled Waiver)Bureau for Medical Services Manual, <http://www.dhhr.wv.gov/bms/Pages/Chapter-501-Aged-and-Disabled-Waiver.aspx>
- Chapter 512 (Traumatic Brain Injury Waiver) Bureau for Medical Services Manual <http://www.dhhr.wv.gov/bms/Pages/Chapter-512-Traumatic-Brain-Injury-Waiver.aspx>
- Chapter 513 (Individuals with Developmental Disabilities Waiver) Bureau for Medical Services Medicaid Manual, <http://www.dhhr.wv.gov/bms/Pages/Chapter-513-Intellectual-and-Developmental-Disabilities-Waiver-%28IDDW%29.aspx>
- Code of State Rules 64 CSR 11, Behavioral Health Centers, <http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-11>. This includes to IDD Waiver Programs.
- Code of State Rules 64 CSR 74, Behavioral Health Consumer Rights. This includes the rights of “...individuals with mental illness, developmental disabilities or substance abuse.” (Section 2.4), <http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-74> This includes IDD Waiver Programs.
- Code of State Rules 76 CSR 3, West Virginia State Plan for Aging. This includes individual rights for the ADW members. <http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=76-03>
- DHHR Room and Board Policy for Individuals with Developmental Disabilities. <http://www.dhhr.wv.gov/bcf/Documents/RBC%20Request%20to%20Provide%20Policy> and Appendix Q
- Code of State Rules 37 CSR 1 Real Property <http://www.legis.State.wv.us/WVCODE/ChapterEntire.cfm?chap=37&art=1>
- Note: - 64 CSR 74 does not have an enforcement section.
- Chapter 501(Aged and Disabled Waiver) and Chapter 512 (Traumatic Brain Injury Waiver) do not have provisions for services to be provided in provider owned or leased settings. <http://www.dhhr.wv.gov/bcf/Documents/RBC%20Request%20to%20Provide%20Policy.pdf>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
<b>The setting is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community...to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c) (4)(i)</b>	The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]), TBIW (Chapter 512 Traumatic Brain Injury Waiver)Bureau for Medical Services Manual [compliant]) and IDDW (Chapter 513 Individuals with Developmental Disabilities	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals have access to the greater community to the same degree of access as individuals not receiving Medicaid HCBS. These	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>Waiver Bureau for Medical Services Medicaid Manual [compliant]) require person-centered plans.</p> <p>In addition, IDWW providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules [silent], but integration is not specifically required to the same degree of access to the community as individuals not receiving Medicaid HCBS.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>characteristics include but are not limited to Facility Based Day Habilitation, Supported Employment, Skilled Nursing, and Electronic Monitoring (<b>Appendix M</b>, Attachments 1 and 2). (1/1/2019)</p> <p>The Protocol (<b>Appendix M</b>) will be modified to specifically include Skilled Nursing and Electronic Monitoring in integrated settings. (9/30/2018)</p> <p>Implement the HCBS setting evaluation tools designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that are integrated. (6/1/2016)</p> <p>Include in IDD Waiver policy that settings owned or leased by the provider shall be integrated to the same degree of access to the community as individuals not receiving Medicaid HCBS. (1/1/2019)</p>	
<p><b>The setting is integrated in, and ... [includes] opportunities to seek employment and work in competitive integrated settings ... to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c) (4)(i)</b></p>	<p>The Bureau for Medical Services waiver manual for the IDWW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]), requires person-centered plans to include and support opportunities for competitive community employment and that individuals</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals have access to opportunities to seek employment and work in competitive integrated settings to the same degree of access as</p>	<p>5/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>with developmental disabilities are presumed capable of community employment.</p> <p>In addition, IDWW providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules [silent], but integration, and employment opportunities are not specifically required to the same degree of access to the community as individuals not receiving Medicaid HCBS.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>individuals not receiving Medicaid HCBS.</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer employment and work in competitive integrated settings. (6/1/2016)</p> <p>Include in IDD Waiver policy that individuals in all settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including the right to integration and employment opportunities to the same degree of access as individuals not receiving Medicaid HCBS. (1/1/2019)</p>	
<p><b>The setting...includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.</b></p> <p><b>42 CFR 441.301(c) (4)(i)</b></p>	<p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>Revise the service definition of Personal Attendant Services in the policy manual for the TBIW and Personal Assistance/Homemaker for the ADW to include language that supports the use of this service to promote individuals' integration in and access to the greater community. (3/1/2018)</p> <p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals have access to</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
		<p>opportunities to engage in community life the same degree of access as individuals not receiving Medicaid HCBS. These characteristics include but are not limited to Facility Based Day Habilitation, Supported Employment, Skilled Nursing, and Electronic Monitoring (<b>Appendix M</b>, Attachments 1 and 2). (1/1/2019)</p> <p>The Protocol (<b>Appendix M</b>) will be modified to specifically include Skilled Nursing and Electronic Monitoring in integrated settings. (9/30/2018)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer individuals access to opportunities to engage in community life the same degree of access as individuals not receiving Medicaid HCBS. (9/30/2018)</p> <p>Include in IDD Waiver policy that individuals in all settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including the right to engage in community life to the same degree of access as individuals not</p>	

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
		receiving Medicaid HCBS. (1/1/2019)	
<p><b>The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.</b></p> <p><b>42 CFR 441.301(c) (4)(i)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]), TBIW (Chapter 512 Traumatic Brain Injury Waiver, Bureau for Medical Services Manual [compliant]) and IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) require members' opportunities to control personal resources.</p> <p>IDDW Waiver providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules [silent], but opportunities to control personal resources are not specifically required to the same degree of access to the community as individuals not receiving Medicaid HCBS (64CSR11.5.4.e-h).</p> <p>The West Virginia Department of Health and Human Resources Room and Board Policy for Individuals with Developmental Disabilities, revised March 1, 2015 [compliant] requires that individuals have the opportunity to manage their own finances.</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals have access to opportunities to control personal resources to the same degree as individuals not receiving Medicaid HCBS. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer individuals access to opportunities to control personal resources to the same degree of as individuals not receiving Medicaid HCBS. (6/1/2019)</p> <p>Include in IDD Waiver policy that individuals in all settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including the right to services in settings that include opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS. (1/1/2019)</p>	6/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
<p><b>The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c)(4)(ii)</b></p>	<p>IDDW providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules [non-compliant], and the individual’s needs and preferences are an integral part of the treatment plan (64CSR11.7.3. a) Setting options are not required to be documented in the person-centered service plan/treatment plan. Resources and a budget, including residential provisions are included in the Treatment plans.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals have the choice of setting(s) and select a setting from among options including non-disability specific settings, including residential settings, based on resources available. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that individuals have chosen, including residential settings, and that the options are documented. (6/1/2016)</p> <p>Modify 64CSR11 of the State Rule to include that setting options discussed are included in the individual treatment plan. Clarify that ‘treatment plan’ as used in 64CSR11 and ‘person-centered plan’ are synonymous terms. (9/30/2018)</p>	<p>1/1/2019</p>
<p><b>An individual’s essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected. 42 CFR 441.301(c)(4)(iii)</b></p>	<p>Annual review of the rights of individuals is required for all providers of HCBS and is provided to all individuals receiving HCBS. The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals’ rights of privacy, dignity, respect,</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>Medical Services Manual [compliant]), TBIW (Chapter 512 Traumatic Brain Injury Waiver) Bureau for Medical Services Manual [compliant]) and IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) require this.</p> <p>Review and assurance of rights of individuals through the treatment planning/person-centered planning process is ensured in §64CSR11, sections 7.3 and .8.1. a.9 of the State code [compliant]. Seclusion of persons with developmental disabilities is prohibited in West Virginia by the IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid [compliant]).</p> <p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]), TBIW (Chapter 512 Traumatic Brain Injury Waiver, Bureau for Medical Services Manual [compliant]) and IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) were approved 12/1/15 (AD and IDDW) and 10/1/15 (TBI). Recommendations from <b>Appendix A,</b></p>	<p>freedom from coercion and freedom from restraint are protected. Assure that the IDDW system has a broad and very easy to understand member handbook that can be used to build upon West Virginia person-centered practices. (1/1/2019)</p> <p>Assure that the IDDW manual provides a broad list of rights granted to waiver participants. (12/1/2015)</p> <p>Assure that the TBIW manual provides a broad list of rights granted to waiver participants. (12/1/2015)</p> <p>For all three waiver programs, the role of the Human Rights Committee (HRC) provides a firm foundation to the overall protection of basic rights and any restrictions needed to ensure health and welfare. (12/1/2015)</p> <p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that program/treatment plans include identification of any specific need which requires limitation of a member's individual rights or freedoms and assures that rights restrictions are as minimal as possible. (1/1/2019)</p>	

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p><i>Recommendations from the HCBS Regulatory Review, page 22, were incorporated into these Manuals.</i></p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings where individuals' rights of privacy, dignity, respect, freedom from coercion and freedom from restraint are protected.</p> <p>(6/1/2016)</p>	
<p><b>The setting optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact. Individual choice regarding services and supports, and who provides them, is facilitated. 42 CFR 441.301(c) (4)(iv)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]), TBIW (Chapter 512 Traumatic Brain Injury Waiver [compliant]) Bureau for Medical Services Manual) and IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) require person-centered plans.</p> <p>IDDW providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules, but individual choice is not specifically addressed in the Rule. Individuals have the right to treatment and services that support his/her liberty (64CSR11.8.1. a.1 [compliant]).</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals' autonomy and choice are supported.</p> <p>(1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings where individuals' autonomy and choice are supported.</p> <p>(6/1/2016)</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
<p><b>In provider owned or leased residential settings, the unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. 42 CFR 441.301(c) (4)(vi)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]) and TBIW (Chapter 512 Traumatic Brain Injury Waiver) Bureau for Medical Services Manual [compliant]) do not provide for services in provider owned or leased settings.</p> <p>37CSR1, Landlord Tenant Relationships, of the WV State Rules [silent] does not require that persons with disabilities have the same responsibilities and protections as individuals not receiving Medicaid HCBS.</p> <p>Neither the IDDW manual (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual[silent]) nor the State Rule governing licensed residential settings for persons with disabilities, 64CSR11 [silent], specify that individuals residing in provider owned or leased settings must have a lease or legally enforceable agreement protecting his/her rights.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and requires that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS. This includes leases or residency agreements including protections like those in the landlord tenant law. (12/31/19)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings where individuals in residential settings have individual leases when these settings are owned or leased by the provider. (6/1/2016)</p> <p>Include in IDD Waiver policy that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including leases or residency agreements including protections like those in the landlord tenant law. (1/1/2019)</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
<p><b>In provider owned or leased residential settings, each individual has privacy in their sleeping/living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors, including bath and bedroom keys. 42 CFR 441.301(c) (4)(vi)(B)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]) and TBIW (Chapter 512 Traumatic Brain Injury Waiver) Bureau for Medical Services Manual [compliant] do not provide services in provider owned or leased settings.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p> <p>Neither the IDDW waiver manual IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [non-compliant]) nor the State Rule governing licensed residential settings for persons with disabilities (64CSR11 [non-compliant]) specify that individuals residing in provider owned or leased settings must have privacy, including lockable sleeping/bathroom units.</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided including the requirements specific to provider owned or leased settings and requires that individuals have privacy in their sleeping/living units, including lockable bathrooms and bedrooms. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer individuals have privacy in their sleeping/living units, including lockable bathrooms and bedrooms when those units are owned or leased by the provider. (6/1/2016)</p> <p>Modify 64CSR11 of the State Rules to include that individuals have privacy in their sleeping/living units, including lockable bathrooms and bedrooms when those units are licensed and that only appropriate staff will have access to keys. (9/30/2018)</p>	<p>1/1/2019</p>
<p><b>In provider owned or leased residential settings: Individuals sharing units have a choice of roommates in that setting. 42 CFR 441.301(c) (4)(vi)(B)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]), and TBIW (Chapter 512</p>	<p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and requires including the requirements</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>Traumatic Brain Injury Waiver [compliant]) do not provide services in provider owned or leased settings.</p> <p>Neither the IDWW manual (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual[silent]) nor the State Rules governing licensed residential settings for persons with disabilities (64CSR11 [silent]) specify that individuals residing in provider owned or leased settings must have choice of roommates.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>specific to provider owned or leased settings. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer individuals their choice of roommates when those units are owned or leased by the provider. (6/1/2016)</p> <p>Include in IDD Waiver policy that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including the right to choose roommates. (6/1/2016)</p>	
<p><b>In provider owned or leased residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. 42 CFR 441.301(c)(4)(vi)(B)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]), and TBIW (Chapter 512 Traumatic Brain Injury Waiver Bureau for Medical Services Manual [compliant]) do not provide services in provider owned or leased settings.</p> <p>Neither the IDWW manual (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [silent]) nor the State Rules governing licensed residential settings for persons with</p>	<p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including that that individuals residing in provider owned or leased settings must have the freedom to furnish and decorate sleeping and living units subject to the limitations of the lease. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS that individuals residing in provider owned or leased settings must</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>disabilities (64CSR11 [silent]) specify that individuals residing in provider owned or leased settings must have the freedom to furnish and decorate sleeping and living units subject to the limitations of the lease.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>have the freedom to furnish and decorate sleeping and living units subject to the limitations of the lease. (6/1/2016)</p> <p>Include in IDD Waiver policy that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including the freedom to furnish and decorate sleeping and living units subject to the limitations of the lease. (1/1/2019)</p>	
<p><b>In provider owned or leased settings, individuals have the freedom and support to control their own schedules and activities and have access to food at any time. 42 CFR 441.301(c) (4)(vi)(C)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [silent]) and TBIW (Chapter 512 Traumatic Brain Injury Waiver Bureau for Medical Services Manual [silent]) do not provide services in provider owned or leased settings.</p> <p>Neither the IDDW manual (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [silent]) nor the State Rule governing licensed settings for persons with disabilities (64CSR11 [silent]) specify that individuals receiving services in provider owned or leased settings must have access to food at any time.</p>	<p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or leased settings. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer individuals have the freedom to control their activities, schedules and access to food, when those settings are owned or leased by the provider. (6/1/2016)</p> <p>Include in IDD Waiver policy that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>Both the IDDW manual (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) and the State Rule governing licensed settings for persons with disabilities (64CSR11) [compliant] specify that individuals participate in their individual treatment plan/service plan, which includes schedules and activities and rights restrictions, if any.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>individuals not receiving Medicaid HCBS, including the freedom and support to control their own schedules and activities, and have access to food at any time, unless otherwise indicated in the person-centered support plan. (1/1/2019)</p>	
<p><b>In provider owned or operated settings, individuals are able to have visitors of their choosing at any time. 42 CFR 441.301(c)(4)(vi)(D)</b></p>	<p>The Bureau for Medical Services waiver manuals for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [compliant]) and TBIW (Chapter 512 Traumatic Brain Injury Waiver Bureau for Medical Services Manual [compliant]) do not provide services in provider owned or leased settings.</p> <p>Neither the IDDW manual (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [silent]) nor the State Rule governing licensed residential settings for persons with disabilities (64CSR11 [non-compliant]) specify that individuals receiving services in provider owned or leased</p>	<p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or operated settings. This includes that individuals have visitors of their choosing at any time. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that offer individuals the right to have visitors of their choosing at any time when those settings are owned or leased by the provider.(6/1/2016)</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>settings must be able to have visitors at any time.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>Include in IDD Waiver policy that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving Medicaid HCBS, including the right to have visitors at any time. (1/1/2019)</p> <p>Modify 64CSR11 of the State Rules to include that individuals receiving IDD services have the right to have visitors of their choosing at any time when the individual receives services in a setting owned or leased by the provider. (9/30/2018)</p>	
<p><b>In Provider owned or operated settings, the setting is physically accessible to individuals. 42 CFR 441.301(c) (4)(vi)(E)</b></p>	<p>The Bureau for Medical Services waiver manual for IDWW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) requires person-centered plans to address physical accessibility.</p> <p>However, Aged and Disabled and TBIW Waivers (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [silent]) and (Chapter 512 Traumatic Brain Injury Waiver) Bureau for Medical Services Manual [silent]) do not provide services in provider owned or leased settings.</p> <p>IDWW Waiver providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Code, and physical</p>	<p>Implement new HCBS and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or operated settings. (1/1/2019)</p> <p>Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are provided in settings that are accessible to the individual. (6/1/2016)</p> <p>Include in IDD Waiver policy that individuals in residential settings owned or leased by the provider have the same rights and responsibilities as individuals not receiving</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
	<p>accessibility is required under 64CSR11.6.1.g which requires compliance with Title III of the Americans with Disabilities Act.</p> <p>Specialized Family Care Homes are a part of the IDD Waiver program.</p>	<p>Medicaid HCBS, including accessibility. (1/1/2019)</p>	
<p><b>Locations that have qualities of institutional settings, shall not provide HCBS. Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.</b></p>	<p>There are no State rules or standards that address this issue. West Virginia does not have institutions for persons with developmental disabilities. There are none; therefore, State rules do not address this. [compliant]</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and recognizes the individual's opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports. (1/1/2019)</p> <p>Include in the ADW, TBIW and IDDW policy manuals that HCBS services may not be provided in any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution. (1/1/2019)</p> <p>Complete the implementation of the HCBS setting evaluation tool (<b>Appendix M</b> Attachment 1) designed to conduct setting reviews of providers of HCBS, ensuring that there are no HCBS</p>	<p>1/1/2019</p>

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
		provided in institutional settings. (1/1/2017)	
<p><b>Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.</b></p>	<p>64CSR11 of the State Rule for Behavioral Health Centers specifies in Section 3.7 [compliant] that the listed entities may not be defined as Behavioral Health Centers.</p>	<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided and recognizes the individual's opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports. (1/1/2019)</p> <p>Include in the ADW, TBIW and IDDW policy manuals that HCBS services cannot be provided in nursing facilities, institutions for mental diseases, an intermediate care facility for individuals with intellectual disabilities or a hospital. (1/1/2017)</p>	1/1/2019
<p><b>Any modification of additional conditions, under §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be</b></p>	<p>64CSR11 of the State Rule for Behavioral Health Centers specifies in Section 7.2 through 7.6 [silent] that the treatment plan/person centered service plan assess needs and base the plan on those needs.</p> <p>64CSR11 of the State Rule for Behavioral Health Centers</p>	<p>Implement the new Home and Community Based Services Administration rule that describes the characteristics required of all settings in which HCBS are provided including the components of the person-centered service plan. (1/1/2019)</p>	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
<p><b>documented in the person-centered service plan:</b></p> <p><b>1): Identify a specific and individualized assessed need.</b></p> <p><b>(2): Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</b></p> <p><b>(3): Document less intrusive methods of meeting the need that have been tried but did not work.</b></p> <p><b>(4): Include a clear description of the condition that is directly proportionate to the specific assessed need.</b></p> <p><b>(5): Include regular collection and review of data to measure the ongoing effectiveness of the modification.</b></p> <p><b>(6): Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated. (7): Include the informed consent of the individual. (8): Include an</b></p>	<p>specifies in Section 7.4 [compliant] that informed consent be obtained and recorded in the treatment plan/person centered service plan.</p>	<p>Include in IDD Waiver policy that person centered service plans include the identification of specific and individuals assessed needs. (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document the positive interventions and supports used prior to any modifications to the person-centered service plan. (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document that less intrusive methods of meeting the need have been tried but did not work. (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document a clear description of condition(s) that is directly proportionate to the specific assessed need(s). (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document that there must be regular collection and review of data to measure the ongoing effectiveness of the interventions. (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document the time limits for periodic reviews to determine if the modifications/interventions are</p>	

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Completion Date
assurance that interventions and supports will cause no harm to the individual.		<p>still necessary or may be terminated. (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document the informed consent of the individual for treatment, interventions and modifications. (1/1/2019)</p> <p>Include in IDD Waiver policy that person centered service plans document an assurance that interventions and supports will cause no harm to the individual. (1/1/2019)</p>	

## Appendix C:

### First Public Notice for Transition Plan

Information about the Public Notice and comment time period were published to the WVDHHR, Bureau for Medical Services Public Notice page at <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>

The URL for the public notice was: <http://www.dhhr.wv.gov/bms/HCBSSTP/Pages/default.aspx>. The public notice language is below.

### Home and Community Based Services Information About New Rule

The Centers for Medicare & Medicaid Services (CMS) recently released new regulations and guidance on the delivery of home and community-based services (HCBS) offered through Medicaid waiver programs. Through this new rule, CMS intends to ensure that individuals receiving HCBS through Medicaid waivers have full access to integrated, community living including receiving services in the most integrated setting possible. To increase understanding of the rule for individuals receiving services, family members and providers, the West Virginia Bureau for Medical Services will post information and relevant materials on this webpage.

To fully implement the new rule from CMS, West Virginia must submit a transition plan for each Medicaid waiver offering HCBS to ensure compliance of the new rule. The Bureau for Medical Services is soliciting comments on the draft Transition Plans until **December 26, 2014**. There is one transition plan for each waiver. The transition plans will be combined into one Statewide Transition Plan. Comments from the public will be used to complete the final Statewide Transition Plan to submit to CMS.

Please email [WVWaiverTransitions@wv.gov](mailto:WVWaiverTransitions@wv.gov) to submit comments and indicate to which waiver(s) your comments pertain or mail comments to:

Bureau for Medical Services  
ATTN: WV HCBS Waiver Transition Plan  
*(Indicate the waiver(s) to which the comments pertain)*  
350 Capitol Street, Room 251  
Charleston, WV 25301

Links to the draft Statewide Transition Plan, waiver-specific transition plans and other supporting documents for review are provided in the links below.

#### **Draft Transition Plans**

Public Notice  
Statewide Transition Plan  
ADW Transition Plan  
I/DD Waiver Transition Plan  
TBIW Waiver Transition Plan

#### **Current waivers**

Aged and Disability Waiver (<http://www.dhhr.wv.gov/bms/hcbs/ADW/Pages/default.aspx>)  
Intellectual/Developmental Disabilities Waiver  
(<http://www.dhhr.wv.gov/bms/hcbs/IDDW/Pages/default.aspx>)  
Traumatic Brain Injury Waiver (<http://www.dhhr.wv.gov/bms/hcbs/TBIWWS/Pages/TBIWWS.aspx>)

#### **General Background Information**

CMS Fact sheets on Home and Community Based Services  
HCBS Advocacy (Information for advocates about new HCBS rules)

If you have any questions or comments, please email the West Virginia Bureau for Medical Services at [WVWaiverTransitions@wv.gov](mailto:WVWaiverTransitions@wv.gov) or call 304-356-4892

## **Second Public Notice for Transition Plan**

Information about the Public Notice and comment time period were published to the WVDHHR, Bureau for Medical Services Public Notice page <http://www.dhhr.wv.gov/bms/Public%20Notices/Pages/default.aspx>.

The URL for the public notice was: <http://www.dhhr.wv.gov/bms/Public%20Notices/Pages/WV-Home-and-Community-Based-Services-State-wide-Transition-Plan-Available-for-Public-Comment-until-July-13,-2016.-.aspx>. The public notice language is below

PLEASE NOTE THESE HYPERLINKS NO LONGER WORK

### **PUBLIC NOTICE**

Under the provisions of Title 42, Section 431.408, Code of Federal Regulations, public notice is hereby given to the submission of public comment for the WV Home and Community Based Services (HCBS) State-wide Transition Plan (STP) for Integrated Settings which includes the Aged and Disabled (ADW), the Intellectual/Developmental Disability (IDDW) and Traumatic Brain Injury (TBIW) Waivers, effective June 13, 2016. The development and implementation of a HCBS State-wide Transition Plan is a requirement from the Centers for Medicare and Medicaid, the federal agency within the United States Department of Health and Human Services (HHS).

Based upon the State's assessment of the HBCS settings of the WV ADW and TBIW, services are rendered into people who reside in private home dwellings located in the communicate and receive services in their homes or in the local public community. These waiver programs do not provide services to people in residential or non-residential settings that include congregate living facilities, institutional settings or on the grounds of institutions. This information was obtained through a survey of all certified ADW and TBIW providers. IDDW providers have also been surveyed and it has been determined that some people served by this program through residential or non-residential settings may be receiving services in congregate living facilities or in settings that may be institutional in nature. The State Transition Plan can be located for viewing at: <http://www.dhhr.wv.gov/bms/Programs/WaiverPrograms/Pages/default.aspx>

A public hearing regarding the contents of this notification will be held on Wednesday, June 22, 2016 from 9 a.m. to 12 p.m. at the WV Bureau of Senior Services, 3rd floor Charleston Town Center, Charleston, WV.

Written comments will be received by the HCBS Unit, WVDHHR Bureau for Medical Services, 350 Capitol Street, Room 251, Charleston, WV 25301 or by email at: [wvwaivertransitions@wv.gov](mailto:wvwaivertransitions@wv.gov) until 5 pm on July 13, 2016.

The public notice is available for review at: <http://www.dhhr.wv.gov/bms/Public%20Notices/Pages/default.aspx>. After the 30-day public comment period has closed and the comments are reviewed, the comments will be posted at: <http://www.dhhr.wv.gov/bms/Programs/WaiverPrograms/Pages/default.aspx>.

Cynthia E. Beane

Acting Commissioner

Bureau for Medical Services

West Virginia Department of Health and Human Resources

April 13, 2016

## WV Waiver State-wide and Individual Transition Plan

Contact BMS at 304-558-1700

The above Public Notice was also placed in Charleston Gazette-Mail, Statewide newspaper, on April 13, 2016. A copy of the actual newspaper clipping is on file in the Bureau for Medical Services.

### Third Public Notice for Transition Plan

The WVDHHR Bureau for Medical Services has posted the third iteration of the WV State-wide Transition Plan for the Aged and Disabled, Intellectual and Developmental Disability and Traumatic Brain Injury Waiver Programs at: <https://dhhr.wv.gov/bms/Public%20Notices/Pages/default.aspx> for a 30-day public comment period ending July 31, 2018. Comments may be made through the website or by mailing them to WVDHHR BMS HCBS Unit, 350 Capitol Street, Room 251, Charleston, WV 25301 or by email to [WVWavierSTP@wv.gov](mailto:WVWavierSTP@wv.gov) If you do not have access to the internet, need an accessible format, or a paper copy of the document, please call 304-356-4892.

The above Public Notice was also placed in Charleston Gazette-Mail, Statewide newspaper, on June 27, 2018. A copy of the actual newspaper clipping is on file in the Bureau for Medical Services.

### Fourth Public Notice for Transition Plan

The WVDHHR Bureau for Medical Services has posted the fourth iteration of the WV State-wide Transition Plan for the Aged and Disabled, the Intellectual and Developmental Disability and the Traumatic Brain Injury Waiver Programs at: <https://dhhr.wv.gov/bms/Public%20Notices/Pages/The-Bureau-for-Medical-Services-is-pleased-to-announce-the-fourth-iteration-of-.aspx> for a 30 day public comment period ending April 14, 2019 at 5 pm. Comments may be made through the website or by mailing them to WVDHHR BMS HCBS Unit, 350 Capitol Street, Room 251, Charleston, WV 25301 or by email to: [WVWaiverSTP@wv.gov](mailto:WVWaiverSTP@wv.gov). If you do not have access to the internet, need an accessible format or a paper copy of the document, please call 304-356-4892.

The above Public Notice was also placed in Charleston Gazette-Mail, Statewide newspaper, on March 14, 2019. A copy of the actual newspaper clipping is on file in the Bureau for Medical Services.

### Fifth Public Notice for Transition Plan

The WVDHHR Bureau for Medical Services has posted the fifth iteration of the WV State-wide Transition Plan for the Aged and Disabled, the Intellectual and Developmental Disability and the Traumatic Brain Injury Waiver Programs at: <https://dhhr.wv.gov/bms/Public%20Notices/Pages/default.aspx> for a 30 day public comment period ending March 30, 2021 at 5 pm. Comments may be made through the website or by mailing them to WVDHHR BMS HCBS Unit, 350 Capitol

Street, Room 251, Charleston, WV 25301 or by email to: [WVWaiverSTP@wv.gov](mailto:WVWaiverSTP@wv.gov). If you do not have access to the internet, need an accessible format or a paper copy of the document, please call 304-558-1700.

The above Public Notice was also on the Bureau for Medical Services' website, Face Book page and Twitter feed.

## **Appendix D: Supplemental Form used at Public Forum**

### **Form for Additional Comments (Front)**

Thank you for attending today's meeting! The West Virginia Bureau for Medical Services will take your feedback from today and incorporate it into the final plan. If you have additional comments, please complete this form and mail to:

Bureau for Medical Services  
ATTN: WV Transition Plan  
350 Capitol Street, Room 251  
Charleston, WV 25301

**Comments on Statewide Transition Plan:**

**Comments on Aged and Disability Waiver Transition Plan:**

### **Form for Additional Comments (Back)**

**Comments on Traumatic Brain Injury Waiver Transition Plan:**

**Comments on Intellectual/Developmental Disabilities Waiver Transition Plan:**

**Other Comments:**

## Appendix E:

### First Public Notice Dissemination

**An announcement about the public notice was sent to the following distribution lists (Copies of the actual email distribution lists are on file at BMS):**

- All IDDW Providers
- All TBIW providers
- IDDW Quality Improvement Advisory Council
- IDDW Specialized Family Care / West Virginia UCEDD
- WV Developmental Disabilities Council
- Olmstead Council stakeholders
- West Virginia Advocates (TBIW and ADW) (email and posted on their Facebook)

**A copy of the announcement is below:**

Please send the following announcement to all IDDW and TBIW providers, the quality councils and any other interested stakeholders today. Also, I need you to keep a copy of whoever you send the announcement to and send to me for verification that these groups were notified. Thanks.

On behalf of the Bureau for Medical Services, APS Healthcare is notifying you the WV Statewide Waiver Transition Plan has been posted for public comment until December 26, 2014. You may comment on the entire plan which includes all three Waivers (ADW, IDDW and TBIW) or you may comment on the individual waivers.

You have four ways to make a comment and the particulars of how to do this are in the posted Transition Plan:

1. Respond by email
2. Respond in writing
3. Call the Bureau for Medical Services

Attend the Public Hearing on Dec. 15, 2014 from 1-3 pm at the Bureau of Senior Services in Charleston, WV.

Please go to this website to view the public notice by clicking the blue PUBLIC NOTICE letters: <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>

Please post this in a visible site at your agency and please ask your workers to share this with the members they serve. All members will have an opportunity to complete a survey within this next year.

Thank you!

If you have questions regarding this email, please contact [name] at [phone number].

## **Second Public Notice Dissemination**

**An announcement about the public notice was sent to the following distribution list via email (copies of the actual distribution lists are on file at the Bureau for Medical Services:**

- All IDDW providers
- All TBIW providers
- All ADW providers
- IDDW Quality Improvement Advisory Council
- IDDW Specialized Family Care / West Virginia UCEDD
- WV Developmental Disabilities Council
- Olmstead Council stakeholders
- West Virginia Advocates (TBIW and ADW) (email and posted on their Facebook)

**A copy of the announcement is below:**

*On behalf of BMS, please see the attached flyer announcing the Public Comment period for the Second Version of the WV Waiver State-wide Transition Plan for Integrated Settings. Please post this in a prominent place in your office and ask your service coordinators/case managers to share with their members during the monthly home visits/contacts. Thank you! This message was sent securely using FOPE Encryption.*

# West Virginia Medicaid Seeks Public Comment

The West Virginia Bureau for Medical Services (BMS), Home and Community Based Services (HCBS) Program is seeking comments on the second version of the State-wide Transition Plan for Integrated Settings which includes the Aged and Disabled, the Intellectual/Developmental Disability, and Traumatic Brain Injury Waivers.

The second version of the Transition Plan can be viewed at

[www.dhhrwv.gov/bms/Public%20Notices/Pages/default.aspx](http://www.dhhrwv.gov/bms/Public%20Notices/Pages/default.aspx). Alternative formats can be requested by contacting the HCBS office at 304-356-4892.

Comments on the plan will be accepted until July 13, 2016 at 5 p.m. Ways to comment:

- Attend the public hearing on Wednesday, June 22, 2016 from 9 a.m. to 12 p.m. at the WV Bureau of Senior Services, 3rd floor of the Charleston Town Center

- Submit written comments to the HCBS Unit, WV DHHR BMS, 350 Capitol Street, Room 251, Charleston, WV 25301
- By email [at wvwaivertransitions@wv.gov](mailto:wvwaivertransitions@wv.gov)

**BUREAU FOR  
MEDICAL SERVICES**

**Third Public Notice Dissemination**

An announcement about the public notice was sent to the following distribution lists (Copies of the actual email distribution lists are on file at BMS):

- All IDWW Providers
- All TBIW providers
- IDWW Quality Improvement Advisory Council
- IDWW Specialized Family Care / West Virginia UCEDD
- WV Developmental Disabilities Council
- Olmstead Council stakeholders
- West Virginia Advocates (TBIW and ADW) (email and posted on their Facebook)

A copy of the announcement is below:

The WVDHHR Bureau for Medical Services has posted the third iteration of the WV State-wide Transition Plan for the Aged and Disabled, Intellectual and Developmental Disability and Traumatic Brain Injury Waiver Programs at: <https://dhr.wv.gov/bms/Public%20Notices/Pages/default.aspx> for a 30-day public comment period ending July 31, 2018. Comments may be made through the website or by mailing them to WVDHHR BMS HCBS Unit, 350 Capitol Street, Room 251, Charleston, WV 25301 or by email to [WVWavierSTP@wv.gov](mailto:WVWavierSTP@wv.gov) If you do not have access to the internet, need an accessible format, or a paper copy of the document, please call 304-356-4892.

**Fourth Public Notice Dissemination**

An announcement about the public notice was sent to the following distribution lists (Copies of the actual email distribution lists are on file at BMS):

- All IDWW Providers
- All TBIW providers
- IDWW Quality Improvement Advisory Council
- IDWW Specialized Family Care / West Virginia UCEDD

- WV Developmental Disabilities Council
- Olmstead Council stakeholders
- Disability Rights of West Virginia (formerly West Virginia Advocates (email and posted on their Facebook))

A copy of the announcement is below:

The WVDHHR Bureau for Medical Services has posted the fourth iteration of the WV State-wide Transition Plan for the Aged and Disabled, the Intellectual and Developmental Disability and the Traumatic Brain Injury Waiver Programs at: <https://dhhr.wv.gov/bms/Public%20Notices/Pages/The-Bureau-for-Medical-Services-is-pleased-to-announce-the-fourth-iteration-of-.aspx> for a 30 day public comment period ending April 14, 2019 at 5 pm. Comments may be made through the website or by mailing them to WVDHHR BMS HCBS Unit, 350 Capitol Street, Room 251, Charleston, WV 25301 or by email to: [WVWaiverSTP@wv.gov](mailto:WVWaiverSTP@wv.gov). If you do not have access to the internet, need an accessible format or a paper copy of the document, please call 304-356-4892.

## **Fifth Public Notice Dissemination**

**An announcement about the public notice was sent to the following distribution lists (Copies of the actual email distribution lists are on file at BMS):**

- IDDW Specialized Family Care / West Virginia UCEDD
- WV Developmental Disabilities Council
- Olmstead Council stakeholders
- Disability Rights of West Virginia (formerly West Virginia Advocates (email and posted on their Facebook))

A copy of the announcement is below:

The 5<sup>th</sup> Iteration of the West Virginia State-wide Transition Plan has been posted on the Bureau for Medical Services' website for a 30-day public comment at:

<https://dhhr.wv.gov/bms/Public%20Notices/Pages/default.aspx>

**You may submit public comments from March 1, 2021 until March 30, 2021 at 5:00 pm.** Comments may be made through the website or by mailing them to WVDHHR BMS HCBS Unit, 350 Capitol Street, Room 251, Charleston, WV 25301 or by email to: [WVWaiverSTP@wv.gov](mailto:WVWaiverSTP@wv.gov). If you do not have access to the internet, need an accessible format or a paper copy of the document, please call 304-558-1700.

## **Appendix F: Public Comments Received for First Comment Period**

Below is the table of comments on transition plans received during the period of 11/26/14 – 12/26/14.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
1	11/24/2014	Email	(Not indicated)	<p>The draft plan States “Develop strategies for moving away from more congregate employment to naturally occurring learning environments and access to community activities and events”.</p> <p>We use supported employment as much as possible in our small, rural community. However, opportunities are sparse. Our facility has various departments which include both people with and without diagnosed disabilities. We have customers in and out of our building every day for the purpose of purchasing goods/services and using our UPS site.</p> <p>So I guess our question is, “What is the magic equation that determines if we are integrated or not?”; “What percentage of non-disabled, non-support staff, workers do we need to have before we are considered integrated?” Also, “Where do our DRS clients fall into play here? Are they included in the ‘disability’ count even if they are not being paid a commensurate wage?”</p> <p>If all of our Waiver members must access the community via supported employment, many of them will not be able to retain employment at our facility. Our Waiver employees</p>	<p>This comment and the questions raised in it will be taken under consideration and possibly addressed in future transition plans and/or information offered through Action Item 5 of the Remedial Actions section.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				<p>look forward to attending our facility where they can work, socialize with their coworkers, and earn a paycheck. They most assuredly look forward to their work much more than most people who do not have diagnosed disabilities, making it a shame to jeopardize it.</p>	
1	11/24/2014	Email	(Not indicated)	<p>The only adjustment we can think of to get our Waiver employees out into the community more is to introduce volunteerism billed under facility-based day habilitation training. Many businesses who are not interested in using our supported employment services may welcome volunteerism. However, this would not be an acceptable alternative for those Waiver employees with a higher level of social inappropriateness (sexual, behavioral, or otherwise) or those whose mobility prevents them from easily accessing the community. Not to mention those Waiver employees who do not desire to work in the community. Some type of signed waiver from the guardian stating their desire to remain at the facility would appear to be a good solution to this.</p> <p>Our purpose is to provide those with disabilities competitive employment in the community,</p>	<p>This comment and the points raised in it will be taken under consideration and possibly addressed in future transition plans and/or information offered through Action Item 5 of the Remedial Actions section.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				<p>but when this is not available or feasible, we need an alternative. Right now, our alternative is having the remaining employees work for a fair commensurate wage inside the facility completing various tasks in various departments with people who have various levels of functioning.</p>	
2	12/12/2014	Email	(Not indicated)	<p>My comments are more general. From what I read - I still don't see where coverage is given to children with Autism, no matter what the parents' income is. That is what I want to see. My son has been rejected 3 times for Medicaid because we make "too much ". We are unable to get him therapy outside of school because we just can't afford it. Our private insurance up till now has only allowed 20 therapy sessions per year, and a \$25 copay for each one. Our new insurance will cover as many as needed but that is after deductible is met and then a 20% coinsurance. Also - I would like to see more phone lines available for people to call with questions. Every time over the course of a week when I obtained to call to see if there was some other way I could get coverage for my son -</p>	This comment falls outside of the scope of the Transition Plan

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				<p>the line was busy. Didn't matter what time of day - or if I redialed 10 times in a row. It is a shame that my son is being punished for his parents being married. If I was a single mom this wouldn't even be an issue, and that is just sad. PLEASE!!! Open up the Medicaid coverage to all children with autism, no matter the parents' income.</p>	
3	12/16/2014	Email	(Not indicated)	<p>We are heading in the right direction with self-direction. Agency cannot keep staff and I do not trust staff with my non-verbal child. I do not understand the necessity of Case Management when we choose PPL. Our children live in least restrictive environment with family, friends, and neighbors in own community. Is this not MRDD Waiver is for?. If child is with family, We should not be to have case management, TC, BA all through PPL.</p>	<p>This comment falls outside of the scope of the Transition Plan</p>
4	12/18/2014	Email	I/DD	<p>The Stated timeframe does not appear to be as aggressive as it needs to be to assure State compliance with the Home and Community Based Settings rule.</p>	<p>This Transition Plan is designed as a more high-level overview of the State's plans to comply with the CMS Final Rule. More detailed and specific action items and timelines will be included in future Transition Plans.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
4	12/18/2014	Email	I/DD	According to the CMS Statewide Transition Plan Toolkit, plans should include specific timeframes for identified actions and deliverables. Most of the time frames for the WV Plan are not specific, but encompass the entire five years.	More specific timeframes and actionable items will be released in future versions of the Transition Plan.
4	12/18/2014	Email	I/DD	Other States' plans we have reviewed appear to have sequential action steps and timeframes. They also have completion dates well before the required date of compliance. How will compliance be monitored if most actions include an end date of June 30, 2020?	Compliance will be monitored throughout the five-year period. Specific timeframes and actionable items surrounding compliance will be released in future versions of the Transition Plan.
4	12/18/2014	Email	I/DD	The Council is interested in seeing the results of the review of regulations and other documents reported to have been completed by the [consultant], along with the recommendations for changes to be made. Those documents should be made available to the public.	Lewin's work was under Action Item 1 of the Assessment section of the Transition Plan. Action Item 5 has been added to the Transition Plan to say: 5. "Post findings from the review of Action Item 1 and aggregate survey results to the website"
4	12/18/2014	Email	I/DD	No specificity is given regarding how the surveys for providers and/or individuals and families will be conducted.	Action Items 3 and 4 of the Assessment Section are updated to include survey methods: via web and mail.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
4	12/18/2014	Email	I/DD	Other than surveys, what other methods will the State use to determine settings are or are not in compliance with the new standards?	Specific timeframes and actionable items surrounding compliance will be released in future versions of the Transition Plan. This will include how setting compliance will be determined.
4	12/18/2014	Email	I/DD	A survey, combined with actual visits to sites, can determine setting compliance, but how will the internal workings (person-centered planning, the choices an individual is entitled to make about a variety of things, etc.) of a setting be evaluated for compliance?	The State will consider using site visits as a compliance evaluation method. Specific timeframes and actionable items surrounding compliance will be released in future versions of the Transition Plan.
4	12/18/2014	Email	I/DD	It is good that a listing of settings with their level of compliance will eventually be available on the Bureau's website.	Thank you for this comment.
4	12/18/2014	Email	I/DD	Training for licensure/certification staff on new settings requirements is good, as is the strengthening of enrollment/re-enrollment procedures for providers.	Thank you for this comment.
4	12/18/2014	Email	I/DD	Various means of providing training for providers and enrollment staff is good.	Thank you for this comment.
4	12/18/2014	Email	I/DD	Of grave concern is the fact that no training is mentioned for individuals/families who use HCBS services. How will they	Action Item 2 of the Remedial Actions section is updated to include individuals and families as

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				become aware of the changes that will occur, why their services and the locations of their services may be changing, what services will and will not be allowable under Medicaid HCBS, etc.? Who will be responsible for providing them necessary information in an unbiased manner?	audiences of training. The State will present the information.
4	12/18/2014	Email	I/DD	Re # 12. It is understandable that particular attention would need to be paid to regulations governing group homes to ensure community characteristics are reflected. The issues concerning day habilitation and related settings should be address in a separate action item. It seems self-evident that facility-based day habilitation settings will not meet the new rule requirement.	CMS published guidance addressing non-residential settings under the HCBS Final Rule following the publication of the Transition Plan. Future versions of the Transition Plan will incorporate this guidance and a new action item(s) will be added to reflect the guidance.
4	12/18/2014	Email	I/DD	How will monitoring for transition to compliance be carried out, and by whom? This will certainly be a large task. Will the DHHR/BMS be hiring additional staff whose responsibilities are solely to address this component of the Plan?	Specific timeframes and actionable items surrounding compliance will be released in future versions of the Transition Plan. This will include how setting compliance will be staffed.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
4	12/18/2014	Email	I/DD	Since the Bureau's Money Follows the Person initiative (MFP) does not specifically serve people with intellectual and other developmental disabilities, what "lessons learned" will be used regarding people served through the IDDW Waiver? If this transition plan intends to build upon the MFP initiative, is the initiative being expanded to serve populations not previously included?	The State will consider including I/DD as a population served by MFP. In the meantime, MFP on both the national and State levels have important lessons learned and insights to HCBS that will be included in the State's implementation of the Final Rule.
4	12/18/2014	Email	I/DD	From the wording in "Remedial Actions" # 18 and other items in the Transition Plan, it appears the "stakeholder group" identified is only providers. Individuals served, and their families, are certainly also stakeholders.	Action Item 18 is designed specifically for provider stakeholders. An additional Action Item is added to be more inclusive: "Convene a cross-disability workgroup to identify solutions for compliance that represents all stakeholders including individuals, families, advocates and providers, among others". This is Action Item 7 of the Stakeholder Engagement section. To further address this, Action Item 4 is added to the Stakeholder Engagement section: Reach out to individuals, families and organizations representing these groups to increase the understanding of the rule

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
					and maintain open lines of communication.
4	12/18/2014	Email	I/DD	More thought should be given to find ways to solicit public input, as well as to keep stakeholders informed throughout the process. The announcement posted on the Bureau's website does not stand out in any way and is now buried halfway down the list of numerous items. How will people know to look for announcements on the website, and what other methods will be used to inform stakeholders, particularly people who use Waiver services and/or their families? While the internet is one platform to use to solicit input and to keep people informed, there must also be other means.	CMS requires two public comment opportunities. The online public notice and the public meeting held 12/15/14 satisfy the CMS requirement.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
4	12/18/2014	Email	I/DD	Stakeholder engagement actions are concentrated on provider agencies. There are over 4500 individuals served by the IDDDW Waiver alone, along with family members, advocates, people on the waiting list, and others who may have an interest in the program in the future. Any intentions for any stakeholder engagement for these people are missing from this Plan. How does the Bureau intend to involve them in the transition process? How will they be informed of progress made? How will they be involved in training and other opportunities in order to have the information they need to make informed decisions about services?	Action Item 7 of the Stakeholder Engagement section and Action Item 2 of the Remedial Actions section are added/modified to include individuals and families. In future Transition plans, actionable items will be included that target individuals and families.
4	12/18/2014	Email	I/DD	There is a concern that providers are currently being permitted to develop and open more service settings that clearly do not and will not meet the requirements of the HCBS rule, even after the Centers for Medicare and Medicaid Services (CMS) Rule that will not allow Waiver funds to be used in those settings was finalized. What is being done to prevent those settings from being approved by the State?	Action Item 5 of the Remedial Actions section includes FAQs as an outreach avenue. Future FAQs will address these questions.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
4	12/18/2014	Email	I/DD	The DD Division does not appear anywhere in this draft Transition Plan. Do they not have a role to play in this process?	The Division of Intellectual and Developmental Disabilities does not manage waivers and thus would not be involved in the implementation of the Transition Plan or the HCBS Final Rule.
5	12/18/2014	Email	Statewide	Overall - [Organization] is highly concerned that BMS is planning to take fourteen (14) months to assess its own system. This is a system that has been in place for decades, with the exception of the TBIW Waiver. BMS has access to the licensure reviews done at a CMS mandated minimum every two years by OHFLAC so they certainly have no difficulty identifying who the providers of services are and what facilities are included under each provider's license to provide services. Similar information exists for the Bureau of Senior Services and the Aged and Disabled Waiver Services and TBIW Waiver services, even though those providers are not all behavioral health providers, but are typically home health agencies instead. Between its ASO contractor, APS Healthcare, (does all three waivers) its Personal Options fiduciary contractor, PPL, (does all three waivers) and its contract with	Per CMS requirements, all waiver service providers must be evaluated. The fourteen-month timeline has been identified as sufficient and appropriate by the State and will continue to operate over this timeline.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				<p>Molina to process billing for the Waiver services BMS has an exhaustive and extensive data base available to them going back years from which it should be able to extract data to identify all of the service providers and facilities for which they issue Medicaid payments. This is of even more grave concern given that in November WVBMS announced to the IDDW Waiver providers that BMS is being mandated to cut \$43,000,000 from the IDDW Waiver budget. These cuts appear to be targeted at direct services to waiver members. If money is of such concern certainly there is none to be wasted on duplicative information collecting activities to meet CMS requirements for the new rule. While [Organization] recognizes that assessment of each program/facility is required in reality the only program where an extensive assessment is necessary is for the most part the IDDW Waiver as both other waivers already provide the majority and possible all of their services in people's homes or in integrated community settings. Only IDDW waiver has multiple programs conducted and paid for in segregated settings. So why is it necessary to delay the</p>	

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				assessment phase completion by taking a total of fourteen (14) months to do it?	
5	12/18/2014	Email	Statewide	The impact of this unnecessarily lengthy assessment phase is that it will deny people using the waiver access to integrated, community-based services as required by CMS for a longer period of time than is necessary. This seems unreasonable and should be reconsidered. While we realize this is a labor-intensive process to survey each provider/location and evaluate it, the CMS rule States in several places there is an expectation for the States to be effective and efficient in the application of this mandated transition process. [Organization]	The State believes its Stated action items and approach is in compliance with the CMS Final Rule and associated guidance. This comment will be taken under consideration in future Transition Plans.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				contends that the Assessment section fails to meet these two CMS expectations	
5	12/18/2014	Email	Statewide	1. General # 2. (Self-assessment Survey) - (1) [Organization] believes the time frame of eight (8) months for this Action item is excessively long and demonstrates a lack of efficiency as required in the CMS rule. CMS has already provided an on-line assessment tool so there is no need to engage in a lengthy and costly process to develop an assessment tool as Stated in the Action Item. It is difficult to envision why it will take eight months to collect provider responses to the self-assessment tools provided to them. Since Action Item 4 is preparing the list of settings it would appear the eight-month period in Action Item 2 does not include analysis of data, only collection. It would seem reasonable to expect self-assessments could be distributed, completed and collected back from all providers in sixty days or less.	The survey timeline has been identified as sufficient and appropriate by the State and will continue to operate over this timeline. Action Item 2 is meant to include data analysis. Action item 2 is updated to include "Perform analyses of survey responses."
5	12/18/2014	Email	Statewide	Most of this could be done electronically. [Organization] is concerned that the plan does not State that the completion of self-assessments is mandatory	The survey is available online. All providers are mandated to complete the survey. The State will issue guidance to providers via

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				for all HCBS service providers for all locations. Data will only be reliable and meet CMS requirements if it includes every service/setting and all providers are mandated to report. .	Action Item 5 of the Remedial Action section.
5	12/18/2014	Email	Statewide	General # 3. (1) [Organization] is concerned that this Action Item is too vague. Is it addressing current (and possibly unacceptable) services or proposed new services? Why would resources be spent asking/reporting from consumers on services that do not meet the HCBS rule? What is the purpose of this survey since it is not required by the HCBS rule? Will there be data from every HCBS service recipient? How is this data going to be collected and used? Typically voluntary surveys result in a return rate of 10-30 percent. Research shows those who are either very happy or very unhappy with the subject matter of the survey respond to non-mandatory surveys. This creates a sample far too small and too skewed to be used as reliable data for accurate decision making. Using inaccurate data is more problematic than using no data because if you use bad data for program design and decision	Action Item 3 is designed to identify potentially non-compliant settings through reporting from individuals and families. This comment will be taken under consideration as the State pursues fielding the survey.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				making you can pretty much expect to get bad results.	
5	12/18/2014	Email	Statewide	(2) Why is this step necessary given current BMS budget constraints, including the requirement from the governor to cut total Medicaid spending by ten (10) percent? The CMS mandated transition plan is by definition a costly process and one not necessarily planned for in the budget prior to release of the rule by CMS. WVBMS has already announced to providers in November that BMS will be cutting forty three (43) million dollars from the current /DD Waiver budget. The I/DD Waiver has a wait list of eligible consumers' approaching 1,000 individuals, the majority of whom can be expected to wait five (5) years or more before they receive a slot. The A&D Waiver frequently runs a waiting list. Is it prudent and necessary to add this expense to the transition plan when it is not specifically required by CMS?	This comment will be taken under consideration as the State pursues fielding the survey per Action Item 3.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
5	12/18/2014	Email	Statewide	(3) Why is a survey necessary to get this information? It should already be available to BMS from their ASOs, contractors and Medicaid payment processing data. This appears to be a duplication of effort, which is contrary to the efficiency intent Statements of the CMS rule.	Action Item 3 is designed to identify potentially non-compliant settings through reporting from individuals and families. This data is not otherwise collected and allows individuals and families to identify non-compliant providers.
5	12/18/2014	Email	Statewide	(4) The time frame does not make sense. It allows two (2) months to develop the survey. It does not mention implementing and analyzing the survey? Is that part of the plan? Why does it take 8 (eight) months to survey provider programs of which there are many fewer and only two (2) months to survey participants of whom there are probably between the three waivers about 30,000 individuals?	Action Item 3 will collect data over a five-month period, not 2. More specific action items will be released in addition to Action Item 3 in future Transition Plans.
5	12/18/2014	Email	Statewide	General # 4 - (1) [Organization] believes that one of the Stated CMS required categories of settings has been omitted from this Action Item; settings that meet the residential and non-residential CMS requirements. Hopefully this is an oversight and WVBMS does anticipate there are existing programs that meet this requirement of the CMS rule.	Action Item 4 is updated to say: 4. Prepare a list of settings that meet the residential and non-residential requirements, those that do not meet the residential and non-residential requirements, may meet the requirements with changes, and settings West Virginia chooses to submit under CMS heightened

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
					scrutiny. The list will be distributed to provider agencies and posted to the website.
5	12/18/2014	Email	Statewide	(2) [Organization] believes this Action Item does not meet the intent of the CMS rule. It is our interpretation in reviewing multiple sources of information about the CMS HCBS rule that this work was supposed to be done before the transition plan was written and prior to public comment so the transition plan could address the actual transition work that needs to be done rather than offering a theoretical construct of how to get to the point of identifying the facts of what needs to be done.	WV BMS believes this Action Item does meet CMS requirements. This comment will be taken under consideration in future Transition Plans.
5	12/18/2014	Email	Statewide	(3) Why will it take BMS fourteen months to prepare this list? That is an excessively long period of time and again certainly does not take into consideration CMS' expectation of efficiency and effectiveness in this transition work. It is important to keep in mind these are not new service providers or	WV BMS believes this Action Item does meet CMS requirements. This comment will be taken under consideration in future Transition Plans.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				new services. They have been billing WVBMS HCBS for years for the most part and one would hope BMS would be knowledgeable about the services they have been paying for.	
5	12/18/2014	Email	Statewide	Remedial Actions Overall Comments: (1) [Organization] is concerned that WVBMS does not plan to actually begin any remedial actions targeted at providers of client services for sixteen months from the start of the transition plan. We are recommending no more than four to six months for assessment and then commencing immediate action plans for remediation.	WV BMS believes the timelines included in the Remedial Actions section do meet CMS requirements. This comment will be taken under consideration in future Transition Plans. More specific action items and timelines will be included in future Transition Plans.
5	12/18/2014	Email	Statewide	(2) For at least the IDWW Waiver compliance with the CMS HCBS rule this is a significant game changer and will require a major overhaul in the service delivery systems it currently exists in order to comply with the new rule. Unfortunately, WVBMS' plan for compliance does not appear to recognize that this is a major opportunity to recreate the IDWW Waiver service delivery system so it can become a truly community based, client centered program. There is a critical stage of this transition	This Transition Plan is designed as a more high-level overview of the State's plans to comply with the CMS Final Rule. More detailed and specific action items and timelines will be included in future Transition Plans.

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				<p>into the new rule totally omitted from the action plan. What supports and training are going to be provided to the service providers to help them envision and create new service delivery models? Employment rather than segregated workshops and facility-based day activity programs are good examples. In States that have successfully transitioned into integrated, supported and customized employment programs the State government has provided education, training and incentives to behavioral health service providers for development of new service delivery models focused around employment. That is totally missing from this transition plan. It is extremely short sighted to assume the kind of systemic change required by these new CMS rules, especially for the IDWW Waiver will "just happen" at the service provider end of the equation. This implementation of the new rule will carry a significant price tag for WVBMS. It should be designed in a way that gets more results than the same old segregated services under a new spin off corporation of an existent behavioral health services provider with a new store front location that has the</p>	

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				<p>appearance of being integrated into the community. Riding around town with staff all day in a vehicle for community-based day habilitation is not integrated community-based services either. [Organization] is very concerned that these two alternatives as well as choices being made by providers to totally stop doing day habilitation in the community because it is not effective for their bottom line will be the result of the transition plan as it is currently written. This will have the unintended and unplanned for consequence of waiver members losing services that they currently have.</p>	
5	12/18/2014	Email	Statewide	<p>(3) We are concerned that despite major changes in service delivery there is a very uncompromising position being taken by BMS that there will not be any changes in rates to accompany the changes in services: This is particularly of concern regarding employment services. Job development and other essential functions in developing competitive and supported employment opportunities for people using HCBS are not basic direct care staff level services. They require an entire additional</p>	<p>This Transition Plan is designed as a more high-level overview of the State's plans to comply with the CMS Final Rule. More detailed and specific action items and timelines will be included in future Transition Plans.</p>

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				<p>knowledge/training base. Making these services billable at the same rate as taking clients to Wal-Mart shopping is going to lead to failure of these programs. [Organization] does not believe that the intent of the CMS rule is to substitute riding around in the community all day -for sittings in a segregated day program all day. We believe the intent of the CMS rule is to enhance the quality of life for the individuals using HCBS. However if there is going to be real change in these programs it is going to have to be very deliberately built into the transition plan with clear y delineated expectations for outcomes. That is totally lacking in this transition plan as it is written at this time.</p>	

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5	12/18/2014	Email	Statewide	<p>(4) We are concerned that there is a heavy emphasis on training licensure/certification agencies, ASOs etc. to identify and act upon non-compliance by providers, but there is very little emphasis in the plan to support direct service providers in developing successful transition plans from their current services to services that will meet the new CMS rule requirements. There is training provided for treatment planning and client centered services and client rights, all of which is necessary and important. However, training on the actual service models/options/opportunities that will replace existing services seems to be nonexistent? It appears all of the responsibility to figure out how to develop, and implement a new system is on the individual providers? [Organization] believes that is a very dangerous and unrealistic approach that can be predicted to have less than successful results down the road. Given all of the various major changes from Department of Labor, especially the Companion Care rule, CMS, ACA requirements to offer health care to employees when providers employ 50 or more workers, WV minimum</p>	<p>This Transition Plan is designed as a more high-level overview of the State's plans to comply with the CMS Final Rule. More detailed and specific action items and timelines will be included in future Transition Plans.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				<p>wage laws etc. that are assailing behavioral health and home health service providers in the immediate future, [Organization] strongly recommends that BMS in conjunction with the appropriate agencies within WVDHHR give serious consideration to entering into a collaborative working relationship with the WV Behavioral Health Providers Association and service providers, advocates and others who can assist to truly develop a client centered and productive service delivery system using these Medicaid dollars rather than winding up with a fragmented service delivery system based on whatever each provider decides is their best avenue to fiscal survival under the new rules. One of the undesirable outcomes of that approach is that there will be significant inequities in what services are available in what geographic regions of the State, rather than a comprehensive service delivery system that is reasonably seamless across the State and available to all members. There is a real window of opportunity here. It will be a significant mistake not to take advantage of it and</p>	

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				<p>create and move forward with a real vision for the HCBS of the future in WV. We are also concerned that these impending changes may force smaller providers out of business because they cannot afford to continue to operate. This would create major problems because it would remove the availability of consumer choice of services and providers in some parts of the State, especially very rural areas where choice is already limited. This would potentially leave current members without services and force parents who are employed to provide services through service provider agencies to consider personal options (self-directed) services, not because this is what they want to do, but because it will be personal options or no services. While [Organization] appreciates the value of the personal options choice being available to members• we are also very aware this is not the best choice for every individual and it concerns [Organization] greatly that families are already being forced into this choice, not because they are asking for .it, but because of decisions made by providers not to continue employing parents are putting</p>	

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				members into a situation when they cannot identify any other choices to continue to receive services.	
5	12/18/2014	Email	Statewide	Action Items-Remedial Actions Item # 1: (1) The Action Item does not make sense as written. What is it actually saying? To change licensure (and possibly) certification processes [Organization] believes it is necessary to have the legislature change State code for those areas that need to be changed since the licensure regulations are contained in State code. This is not a	Action Item 5 of the Remedial Actions section includes FAQs as an outreach avenue. Future FAQs will address these process-oriented questions.

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				<p>function that can happen as Stated in any permanent way based on BMS incorporating assessment outcome data into the existing processes. This is not a function that [Organization] believes can be done by any waiver quality council; nor should it be expected that they be involved in this process since their role is advisory and licensure and certification are legal, not advisory requirements.</p>	
5	12/18/2014	Email	Statewide	<p>(2) The second part of the Statement is that they (licensure? Unclear who they is) will identify existing settings that do not meet the requirements of the rule. Wasn't that already completed in the assessment phase which ended 12/30/15? Why would licensure or certification processes be doing this when BMS already did it in terms of new providers/programs wouldn't that screening occur at the time of the application process reaches WVBMS requesting CON agreement before it ever gets to licensure initially?</p>	<p>WVBMS will consider this comment in the development of future Transition Plans surrounding Action Item 1.</p>

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5	12/18/2014	Email	Statewide	Item # 2: [Organization] finds a five (5) year period for training licensure/certification staff absurd. Why would that under any circumstances take five years?	Action Item 2 will take place over five years. Training will take place on an ongoing basis- not just after five years. Future Transition Plans will include more specific Action Items and timelines on training.
5	12/18/2014	Email	Statewide	Item # 3 : While enrollment and re-enrollment procedures may need to be changed, the CMS rule already contains the requirements for compliance. Why would it take six (6) years to strengthen existing procedures when all the requirements are already known and in writing?	Action Item 3 will take place over five years. Training will take place on an ongoing basis- not just after five years. Future Transition Plans will include more specific Action Items and timelines on enrollment and reenrollment procedures.
5	12/18/2014	Email	Statewide	Item # 4- Webinar series: Plan is missing an important element. Who is the target audience for this webinar? Why will it take five (5) years? What is the purpose? Rules already exist. Is this cost effective and necessary?	Action Item 4 will take place over five years. Webinars will take place on an ongoing basis- not just after five years. Future Transition Plans will include more specific Action Items and timelines on webinars.
5	12/18/2014	Email	Statewide	Item # 6 - train enrollment staff -Isn't this part of # 3? Why would this take 5 years? Again, this is another demonstration of lack of concern about being cost effective, timely and efficient.	Action Item 6 will take place over five years. Training will take place on an ongoing basis- not just after five years. Future Transition Plans will include more specific Action Items and timelines on training. Heightened scrutiny is separate from simple compliance/noncompliance

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					and will be addressed through Action Item 6.
5	12/18/2014	Email	Statewide	Item # 7 - training for providers- Much of this already exists, why would it take 5 years to develop it? It States "include" -include in what? All of this is already required for I/DD waiver providers under the current IDWW Waiver manual?	Action Item 7 will take place over five years. Training will take place on an ongoing basis- not just after five years. Future Transition Plans will include more specific Action Items and timelines on training.
5	12/18/2014	Email	Statewide	Item #8 - These are two very separate groups and very separate activities, but seem to be lumped together as one activity?	Action Item 8 is now Action Items 8 and 9:
5	12/18/2014	Email	Statewide	Item #9 -quality measures - [Organization] is particularly disturbed by Statement a ... We are well aware that in the upcoming IDWW Waiver application WVBMS plans to reduce choices, particularly in the area of choice of roommate and setting which will force numerous members, if it is approved by CMS, to change their living arrangements to continue to receive services. We consider that a reduction in quality measures and yet in this plan WVBMS is writing as if they	Now Action Item 10, this will take place throughout the five-year period- not just at the end. WVBMS will consider this comment in the development of future Transition Plans and in the overall implementation of the Final Rule.

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				<p>uphold the right to choice in these issues. We object to something being in this plan which WVBMS knows at the time they write the plan they do not intend to carry out if they are permitted to make the changes they have announced they are planning to make. Again why would this process take 5 years?</p>	
5	12/18/2014	Email	Statewide	<p>Item #10- As a permanent member of the IDDW Waiver QA/QI Council [Organization] has concerns with this as it is written. We have no idea what the words "expand upon" the QIA Councils means. While monitoring data makes sense in the advisory role of the councils; we monitor lots of data, how or why would the Councils establish a baseline of outcomes? What are we measuring? This exceeds the advisory capacity of these Councils. Monitoring data is appropriate and within the ascribed role of the Councils, however, being responsible for establishing baselines and measuring implementation is not an appropriate role for the QIA Councils. A different group (ASO?) should be doing this and summarizing that data and presenting it to the Councils.</p>	<p>WVBMS will consider this comment in the development of future Transition Plans surrounding Action Item 11 (previously 10).</p>

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5	12/18/2014	Email	Statewide	Item #13 &. Transition plan approval - [Organization] absolutely disagrees with this timeline. It is totally unnecessary to give providers 5 years to develop their transition plan. This is not addressing the actual implementation of transition, but just the development of a plan to do it. Our understanding of the CMS requirements is that these transition plans must be fully implemented and in full compliance in five years or less. How can the real work of compliance be completed if BMS gives 5 years for a provider to write the plan to come into compliance?	Providers will not have five years to submit transition plans. Now Action Item 14, the approval process will be an ongoing process. More specific guidance and action items will be included in future Transition Plans and guidance under Action Item 5 of the Remedial Actions section.
5	12/18/2014	Email	Statewide	Item # 14: (1) Timeline makes no sense. Provider assessments according to the written plan will be completed no later than 12/30/15. Then BMS is going to take up to five years to send formal letters to providers notifying them of the need to do a transition plan for specific settings? This certainly does not make sense. It also does not appear to meet the CMS requirements. In reading the CMS rule these things have to be completed at the very latest in five years. How can the CMS timeline be met using this plan?	Now Action Item 15, this will be an ongoing process throughout the five-year period. Letters will be sent throughout the period- not at the end.

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5	12/18/2014	Email	Statewide	<p>Item #21- [Organization] is very concerned about the language used in this Statement. Why are we transitioning from "congregate employment" to "naturally occurring learning environments ...events"? While [Organization] totally supports community-based learning• and productive leisure and other community activities if a person is employed and the facility they are employed in can no longer be a waiver provider because it is a segregated setting that person should be assisted in obtaining new employment integrated in the community, not shifted into community day activities of a leisure nature so behavioral health providers can continue to bill for services. WV has one of the lowest disability employment rates in the country and the highest SSI, SSDI and disability rates in the country. There is an absolute lack of willingness by WVDHHR, WVBHHR and the WV Bureau of Developmental Disabilities to make the types of commitments to employment first initiatives that are occurring in other States. This transition to comply with the CMS CBHS rule is a once in a lifetime opportunity to shift to a serious effort to support</p>	<p>This is now Action Item 22. WV BMS appreciates this comment and will take it under consideration as it considers provider transition plans.</p>

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				<p>disability employment in WV and BMS can play a pivotal role in making this happen. [Organization] is urging BMS to assure that the action plans you approve for transitioning services from segregated to integrated settings require a strong emphasis on employment and limits payment for daytime activities such as riding in the car and going to Wal-Mart all day.</p>	
5	12/18/2014	Email	Statewide	<p>Action Items – Public Input, Stakeholder Engagement and Oversight: [Organization] is very concerned about the current State of the relationship between WVBMS and the stakeholder community, especially the service providers. Any time a system embarks on major change such as the changes to the three Medicaid waivers in WV, success is always predicated upon strong collaboration between stakeholders, including members using the services, providers of the service and funders of the service. At the current time the relationship between WVBMS and the behavioral health providers who provide IDDW Waiver services is severely strained at best and frequently antagonistic. There has been a</p>	<p>WV BMS appreciates this comment and will take it under consideration as it considers stakeholder engagement efforts and the development of more specific action items and timelines in future Transition Plans.</p>

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				<p>gradual destruction of these relationships over the past five years. [Organization] sees nothing in the plan WVBMS is submitting to CMS that shows any effort to interact with providers in a collaborative and supportive way during this enormous sea of change. We are concerned that these changes will require significant changes for many providers. We support and welcome these changes and have been advocating for them unsuccessfully for many years, so we see the new rule as a positive step forward and support WVBMS in implementing the rule. However we are concerned that there are things that need to be in this plan to support providers through the transition that are lacking in the plan. We are pleased that there are necessary and what appear to be positive additional training and oversight requirements in this plan. However we are very concerned that there is no consideration by WVBMS of the fiscal impact these change\$ will have on providers, especially the additional administrative and staff training costs of coming into compliance. Since no rate increases are planned, based on announcements made</p>	

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				<p>by WVBMS, [Organization] is very concerned about the actual implementation of these changes. The concept of client centered services is not new and has over time, even with training, already been a hard sell in WV with for-profit providers who are focused on their bottom line.</p>	
5	12/18/2014	Email	Statewide	<p>Smaller and not for profit providers simply may not be able to absorb the costs of these major transitions. [Organization] strongly suggests that WVBMS consider what it could do to enter into collaboration with stakeholders to make this transition a true success in developing integrated; client centered services rather than a strictly bureaucratic process that further erodes the relationship between behavioral health providers and WVBMS. It will take an invested system to</p>	<p>WV BMS appreciates this comment and will take it under consideration as it considers stakeholder engagement efforts and the development of more specific action items and timelines in future Transition Plans.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				create integrated, client centered services, not just sets of rules.	
5	12/18/2014	Email	Statewide	<p>[Organization] is very concerned that this plan was sent out for public comment without it being included with the I/DD Waiver application for the next 5 years of that Waiver. There is a direct relationship between the required CMS HCBS rule requirements and the overall structure of WV's IDWW Waiver Program. However that critical relationship has been lost by putting the CMS Rule plan for compliance out for public comment in a piecemeal manner separate from planned changes in the IDWW Waiver program as BMS has done. It is our understanding that the application document will not be ready for submission to CMS until February. It is not clear to [Organization] if a public comment period for the full application will be offered prior to submission of the application to CMS, or just when approval is obtained and the new IDWW Waiver Manual is completed. We are highly concerned there are going to be significant cuts to services in that plan which may possibly negate Waiver</p>	This comment falls outside of the scope of the Transition Plan

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				<p>member's right to client centered services and provider choice. Our concerns are based on an announcement in November by WVBMS they are requiring 43 million dollars in cuts to the IDDW Waiver program as it currently exists. The stakeholder community has no idea what those planned cuts are. Much of the stakeholder community that is made up of members receiving IDDW services and their support systems are not even aware these cuts are being planned. It is difficult to imagine that cuts of that magnitude which are planned to target direct member services will not erode client choice and impact negatively on the concept of client centered services.</p>	
5	12/18/2014	Email	Statewide	<p>[Organization] also has a serious concern about what this plan for meeting CMS requirements for the new rule is costing BMS and where that money is coming from to get this done since it was obviously not planned into the FY 2015 BMS budget for the IDDW Waiver. [Organization] raised this question at a public meeting in November and WVBMS did not respond to the questions. We are concerned that a significant amount of money has been</p>	<p>WV BMS appreciates this comment and will take it under consideration as it considers releasing cost information surrounding the Final Rule implementation. This may be included in information offered under Action Item 5 of the Remedial Actions section.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				<p>spent on a contract with the Lewin Group to create the plan and do the assessments required without any transparency about the cost of and duration of that contract. [Organization] cannot find any information to support that it was advertised by bid which is the usual way such contracts usually are done. [Organization] feels it is very important that all of the additional costs created by CMS' mandate to comply with the new rule be made available to stakeholders as well as the source(s) of funds used to pay those costs. We feel it is also very important that WVBMS be very transparent if any of those costs are being paid for with funds in the WVBMS budget that were originally targeted to be spent for IDDW Waiver member services.</p>	
5	12/18/2014	Email	Statewide	<p>[Organization] does not understand why the transition plan fails to address the CMS requirement to transition to independent case management. What is the plan for compliance with this CMS requirement?</p>	<p>This comment falls outside of the scope of the Transition Plan</p>
6	12/15/14 Meeting	Public Meeting		<p>[Individual] asked if we are going to take information from certain groups and [WV BMS]</p>	<p>This is addressed in the Transition Plan, Assessment section, action items 2 and 3.</p>

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				said they would from everybody.	
6	12/15/14 Meeting	Public Meeting		[Individual] said [provider] in Morgantown is not on any bus route and is segregated. [WV BMS] said it's in the facility-based day habilitation and there were only three comments regarding these facilities. [WV BMS] Stated we would lose some providers over this. BMS will put timelines to providers.	Addressed in Remedial Actions section, Action item 14.
6	12/15/14 Meeting	Public Meeting		[Individual] Stated more people should be trained and [Individual] said it was incumbent on all of them to have good information to tell people of the implications of the new State Plan.	Addressed in Remedial Actions section, Action item 2.
6	12/15/14 Meeting	Public Meeting		[Individual] asked why does ADW or TBIW not include employee services; Teresa Stated it was not written in the TBIW application and no one brought it up in public forums.	No action needed
6	12/15/14 Meeting	Public Meeting		[Individual] Stated transportation is necessary for clients to receive employment offers but Susan Given said most people on TBIW were not employed prior to their injuries and were drug users and that the Veterans Administration was not interested in TBIW due to the state recovery provisions.	No action needed

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
7	12/15/14 Meeting	Public Meeting		[Individual] Stated there are a group of stakeholders missing but [WV BMS] Stated they are included on the quality councils. [Individual] Stated there were two missing consumers but she will send comment to [WV BMS] about it.	Follow up with [Individual] for comments from consumer, act as appropriate.
7	12/15/14 Meeting	Public Meeting		[WV BMS] said she is not sure of what they need to transition and [Individual] said she has read other State plans which are more specific.	More detailed and specific action items and timelines will be included in future Transition Plans.
8	12/15/14 Meeting	Public Meeting		[Individual] asked if they would be allowed to watch webinars and [WV BMS] said yes, and that BMS is posting them on the website.	Added to Remedial Action section, action item 4 of transition plan: "Post webinar archives on BMS website."
9	12/15/14 Meeting	Public Meeting		[Individual] asked if the quality improvement plan councils be privy to what Lewin found out and [WV BMS] said yes.	Added new item to Transition Plan: Action Item 5 of Assessment section: "Post findings from the review of Action Item 1 and aggregate survey results to the website"
9	12/15/14 Meeting	Public Meeting		[Individual] asked what does BMS expect OHFLAC to tell providers and [WV BMS] responded that she doesn't know right now since it's in the planning stages.	Addressed in Remedial Actions section, Action item 6.
9	12/15/14 Meeting	Public Meeting		[Individual] said the 21 biggest groups of people are not in congregant homes but are day	Addressed in Assessment section, Action item 2. The

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				rehabilitation which have differences.	survey controls for setting type.
9	12/15/14 Meeting	Public Meeting		[Individual] Stated people didn't know what's at stake with the new plan and [WV BMS] said she was surprised no providers were at this meeting.	Addressed in Public Input, Stakeholder Engagement and Oversight section, Action item 3.
9	12/15/14 Meeting	Public Meeting		[Individual] asked what process is there for compliance and [WV BMS] said CMS has the final say on this question.	This comment will be taken under consideration as the State shares information offered through Action Item 5 of the Remedial Actions section.
9	12/15/14 Meeting	Public Meeting		[Individual] said some people have an address which makes it very easy for mail going to provider agency's mailbox and is deceptive.	Added "via web and mail" to Assessment section action items 2 and 3.

## Appendix F: Public Comments Received for Second Comment Period

Below is the table of comments on transition plans received during the period of 06/13/16 to 07/13/16.

**Comments for Home and Community Based Services (HCBS) Waivers Statewide Transition Plan (STP)  
Second Version Public Comments 06/13/16 to 07/13/16**

<u>Comm ent Numb er</u>	<u>Date Comm ent Receiv ed</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
1	6/13/16	Just like with everyone there is not a one size fits all solution. My son has severe behaviors. He cannot reside with a lot of other people. Even at home with just his mother and father he gets overwhelmed and gets violent. He has ocd and does not tolerate certain household noises. We avoid sudden changes like flipping on lights to name one. Please reconsider the herding of this population they deserve a life like "normal " people!!!	No action needed	This issue is not a part of the STP. The purpose of the STP is to ensure that members have full access to the greater community to the same degree as individuals not receiving Medicaid HCBS.
2	6/16/16	I do not understand the pay why should the parent's make more money than the worker if the parent's would hire workers maybe some could go to work but most of these parents don't want to work they "depend" on the money and they shouldn't and why shouldn't they pay fed taxes how much money do they want maybe if these parents would work and not ask for more and more money then maybe more people could get on the programs and the parent's should only be paid for 40 hours a week not 52 or 56 most people who work only work 40 hours a week why should they bill while their kids sleep I work through Ppl and I get 40 hours per week but I see people complain on these groups that they lose hours they went from 60 hours to 50 somehow much money do they want the normal family works 40 a week and you have some families the husband has a job and the mother stays home to take care of a disabled	No action needed	This issue is not a part of the STP. The purpose of the STP is to ensure that members have full access to the greater community to the same degree as individuals not receiving Medicaid HCBS.

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		child and they he 50 some hours a week and mileage they are making damn good money I think they need to look at the family income as a whole like if you sign up on food stamps that would give the State a guide line as to how much their budget would be the girl I work with the mother gets 20 hours a week and I get forty I think the workers should make more than the parent's because that is our job but there are so many parents that don't want to hire a worker because they don't want to give up their money		
3	6/28/16	<p>Identifying information redacted:</p> <p>As the Parent and Legal Guardian of a Mentally Challenged Son I would like to State the reasons it's so important for my Son to remain in his 2nd Home....XXXXXI in XXXX, WV.....XXXX calls it his "Home"...</p> <p>They have their own rooms....</p> <p>They have their own TV's</p> <p>They can have their own personal items in their room....</p> <p>They have caring Staff that fix them good nourishing meals....</p>	No action needed	The purpose of the STP is to ensure that members have full access to the greater community to the same degree as individuals not receiving Medicaid HCBS. West Virginia has determined that more than 4 individuals with Intellectual and/or Developmental Disabilities living together constitutes a congregate setting. Through on-site visits, BMS is working

<u>Comm ent Numb er</u>	<u>Date Comm ent Receiv ed</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		<p>They are kept clean and looking good....</p> <p>They have a nice yard that they can walk around in....</p> <p>They have a picnic pavilion with picnic tables and Basketball court....</p> <p>They can sit outside without fear of being bothered by Druggies that live in the low-income apartments....</p> <p>They are transported every day to the work center where XXXX attends DayHab as he does not function well enough to be in a workshop setting .....He would not qualify for employment as XXXXX Hospital diagnosed XXXX with XXXX ....</p> <p>The area of his XXXXX that is damaged is XXXXX ... That is why He will never be able to live on his own....</p> <p>They have 24-hour staffing...</p> <p>They can have visitors at any time....</p> <p>They and mostly My Son do not adapt well to moving to a new environment and would create Havoc in his life....This has happened before, and it was a nightmare until we got him back to XXXXX....</p>		<p>with those provider agencies to develop transition plans for some of the individuals in those settings. Some agencies have chosen to break their 6 or 8-person group homes into smaller 3 or 4-person settings in order to comply.</p>

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		<p>It is just a wonderful arrangement for our Guys ...</p> <p>So please let them remain in their "Home" where they can be Happy and in a Safe environment.....</p>		
4	6/30/16	<p>My sons are part of the IDD waiver program. Since the recent changes that have occurred, this has caused more regression with them, due to lack of services that they were previously receiving as opposed to what they have been cut to now under the newest revisions. Our boys are severely autistic. They require 24/7 care every day and night at all hours. They have issues with sleep, even on medication for it. We previously was receiving 8 hours per day of PCSF and 144 hours or respite per month. Now it has been reduced to 5 hours if PCSF a day and 2.5 hours of respite per day. In turn this means dramatically reduced time to be able to work on independent living skills and community skills that they so greatly need. In turn because of these cuts, their dependency on others has significantly risen and their Independence has went backwards. I</p>	No action needed	<p>This issue is not a part of the STP. The purpose of the STP is to ensure that members have full access to the greater community to the same degree as individuals not receiving Medicaid HCBS.</p>

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		<p>understand from previous comments that have been made by public employees thru leading agencies for the waiver program, that this is not a means for not seeking employment for the care givers. However since the dramatic reduction in hours, it has been even more difficult to try to support my Family. I live in a very rural area, like a lot of people in this State. The closest descent jobs are over an hour on way, away from my home. I can't even make a round trip to have a job in the hours that are allowed for respite providers while they are in the home. I don't have family or friends that can just watch my boys, because of the children's disabilities. My family doesn't even remotely live near us to be able to access them for help. My boys have had twice the demands placed on them, which has caused them undue stress and also has caused more behaviors to arise, because they are having to do more in less time. However I do believe this is a great program, but the areas that were cut, weren't the correct areas that needed to be. If my children were in an institution, which is something I hope never has to be done, they would be taken care of 24/7 and all staff would be paid. Unfortunately with the cuts that families are taking, it is driving us back</p>		

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		<p>into the institutional way of thinking. Families can't afford the cuts that were made. One last thing, families should be looked at on more of an individual basis. Our boys are 17 and have completed all academic requirements by the State board of ed. Yet we are stuck in a hole because they are not 18. They are with us all of the time, special services workshops in the area are not adequate for them. So now we can't even get any extra assistance because of their age. Thanks for hearing my comments and I hope this helps and look forward to a brighter future for the waiver program and the families involved.</p>		
5	6/30/16	<p>To Whom It May Concern:</p> <p>First off I would like to thank you ahead of time for reading, listening and acting upon my concerns.</p> <p>I have several issues I would like to address about the changes on monthly reports (i.e., PALs) with Personal Options of WV. I am very concerned</p>	No action needed	This issue is not a part of the STP. The purpose of the STP is to ensure that members have full access to the greater community to the same degree as individuals not receiving Medicaid HCBS.

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		<p>about the amount of time that is being taken away from the client in order to fulfill the demands that have been placed upon the caretaker for extra/tedious paperwork. It is overwhelming and can be quite confusing – in addition to very time consuming.</p> <p>I am concerned as well about the respect received from those demanding all this additional information/documentation – we should be concentrating on those that care is to be provided for; not paperwork. We are not an institution, nursing home, medical facility, etc. We are people who love doing what we are doing in order for those less fortunate to be able to continue to enjoy the comforts of their home.</p> <p>Information that is now asked for on the PALs is Essential Errands/Community Activities/Date/Start/Stop Time/Miles Traveled/How Much Time Spent Driving/Essential Errand Time Spent/Community Activities Time Spent/Was Person With us/Wellness Scale, etc. Seriously? If a worker is</p>		

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		<p>asking for mileage for taking the client out, then let them turn in the mileage form for this – which then should include day traveled, mileage, purpose, etc. But don't require those of us who don't ask for it to be required to complete this useless and unnecessary information on the PAL. This should have been left alone; using the generic form which Personal Options developed and works great; it is much easier to follow and flow with. Why change something if it is working already? Why take something so simplified and make it much more difficult?</p> <p>In the training packet now we are expected to know somewhat as well what the RN and Resource Manager is required to do. Really? How does that apply to us focusing on providing care to the individual we are responsible for? It is their job to know their own work requirements along with their supervisor/manager. Not the caregivers. We are caregivers in the home and should not have to be concerned about whether the RN or Resource Manager is doing their job.</p>		

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		<p>Another request I would like to see changed would be the First Aid/CPR re-certification. Why not require that every three to five years instead of every two years? Nothing seems to change there so that would also help the caregiver with their time needed with the ADW.</p> <p>I would love for you to reconsider the monthly PALs and go back to what the Personal Options Program for West Virginia was using. Not this ridiculous form! Again, I want to stress: we are providing care in the home; NOT in a nursing home, hospital, medical facility, etc.</p> <p>I am confused as well as to why our Resource Consultant is expected to print out all these documents monthly, put them in envelopes and address them to us including mailing them to us, etc. When does he/she have time to do their real job? And how is this saving the State money? We could print out the monthly PALS on our own before – and it was only two simplified pages. Please resort back to the earlier version for us. This way it won't cost the State much and sure saves aggravations and</p>		

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		<p>frustrations on this time-consuming ridiculous form. Give us some respect and appreciation – make us feel valued. That is our goal to those we provide care for and would certainly hope you all would feel the same way to us. We love our jobs. Please don't take the pleasure out of it for us.</p> <p>Personal Options is a separate model from the Traditional Model and that we should not have the same paperwork. You have made the Personal Options program much more difficult in regards to paperwork and accountability measures, not easier! If it's not broke, why fix it? Work smarter, not harder!</p> <p>Thank you so much for your time and looking into this for us. Let's go back to our previous way of doing things including the Annual Training.</p> <p>I greatly appreciate your consideration and making these changes to make it easier on us so that we can focus solely on caring for the patient/client.</p>		

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6	7/1/16	[West Virginia Advocates] WVA does not feel there was adequate notice as evidenced by low attendance at public forum. Public forums should have been held at several locations throughout the State.	No action needed	BMS has followed the CMS requirements for soliciting two forms of public input which included the public advertisement and the public forum. BMS also solicited additional public input through flyers sent to every provider agency announcing the public comment period to share with the members they served as well as posting it on the BMS website and providing a telephone number for additional assistance.
7	7/1/16	The proposal to create a cross-disability workgroup is potentially helpful but the STP includes no evidence that this workgroup has been convened, what its membership is, whether it is playing an	No action needed	At this time no issues that apply to all three waivers (ADW, TBIW and IDDW) have been identified. If and when an issue is

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		active role and has influenced the transition process at all.		identified, then a group comprised of individuals receiving services or their family members from all 3 waiver programs will be developed.
8	7/1/16	The Lewin report does not clearly address silences in the State regulations for compliance. The ADA requirement is not based on accessibility for each individual.	No action needed	Version 1 of the STP did not clearly address this issue, but Appendix B of the second version that was out for this public comment does address these issues and is an expansion of the information found in the Lewin document.
9	7/1/16	Lewin identified several shortcomings in the person-centered planning process and conflict of interest in WV waivers. The person-centered planning process is separate and should be compliant with 2014 regulations.	No action needed	Version 1 of the STP did not clearly address this issue, but Appendix B of the second version that was out for this public comment does address these issues and is an expansion of the information found in the Lewin document.

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10	7/1/16	The State proposed only licensed settings and it is not clear whether other settings are all home based or might be in locations that are provider controlled but not necessarily licensed.	No action needed	CMS requires that only settings that are owned or leased by provider agencies be reviewed.
11	7/1/16	The State is using mandatory provider self-assessments with validation through onsite visits and participant survey. The setting questions for the ADW/TBI waiver raise many questions based on the State's Stated claim that all services occur in individuals' community-based homes.	No action needed	The State is not aware of any ADW/TBIW services not occurring in individual community-based homes or while participating in essential errands or community outings. No other settings are approved for ADW or TBIW.
12	7/1/16	Self-assessment questions should specify all individuals, not just individuals. There are no specific questions on visitation, freedom to decorate, accessible transportation, or details about a setting's efforts to support integration in the community.	No action needed	The self-assessment questionnaire was completed by individuals and other stakeholders and by providers during the initial phases of the development of the State transition plan. It is no longer in use and the information gleaned from these surveys was

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				incorporated into the State Transition Plan.
13	7/1/16	It is not clear the extent the survey provided provider-specific data or whether the State used it to verify provider self-assessments.	No action needed	Both these issues are covered in the Protocol, Sections 3 and 4, beginning on page 157 of the document.
14	7/1/16	The State had no real control over who completes the survey or responses.	No action needed	The member survey was voluntary, and it would have been a violation of the individual's rights to mandate the completion. The provider survey only needed to be completed if the provider owned or leased any settings. The Office of Health Facility Licensure and Certification provided a list of all provider owned or leased settings and BMS did a cross-check.
15	7/1/16	The State's process seems to oversample settings that the State can expect may have more compliance issues, while validating settings that	No action needed	There is such a process to expand reviews if necessary. It is included in the

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		reported being more compliant. The State should have a process to expand on-site reviews if they identify discrepancies between on-site reviews and self-reported responses.		Methodology in the Methodology (Pages 13, 14 and 15) and in Section 2 of the Protocol (page 156)
16	7/1/16	Key details on the nature of the on-site review are missing or problematic. It is not clear why future visits are unannounced while initial visits are announced.	No action needed	<p>The protocol States that initial reviews are announced and that subsequent reviews may be announced or unannounced.</p> <p>The Administrative Services Organization (ASO) now known as the Utilization Management Contractor (UMC) will conduct visits in conjunction with their annual reviews.</p>
17	7/1/16	Heightened scrutiny is not accurately described in the STP. The criteria the State is relying on to identify HS settings are unclear.	No action needed	This item is covered in the Protocol, Section 8 (page 166)
18	7/1/16	The STP does not detail who BMS may consult as part of the review of all provider compliance plans. No clear oversight process to ensure approved STPs are implemented timely fashion.	No action needed	This is covered in the Protocol, Section 4 (page 157)

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19	7/1/16	There is no clear timeline for when individual participants must be provided notice about provider disenrollment. The plan does indicate BMS will disenroll providers after 45 days but having the provider lead the process is not going to ensure person centered planning.	Change	The protocol will be amended to include the following (page 160): "The Provider will have 10 calendar days from the date of its notification of disenrollment to notify all participants of the disenrollment and actions the provider will take to ensure person centered planning."
20	7/1/16	The description in the STP of coming changes in the quality assessment process is vague, poorly described and lacks meaningful detail.	No action needed	The State Transition Plan does not specify coming changes in the quality assessment process, as BMS does not anticipate any substantive changes.
21	7/1/16	The State has not considered a review of its rate structure and need for additional resources to it shifts to integrated day habilitation and supported employment models.	No action needed	This issue is not a part of the STP. The purpose of the STP is to ensure that members have full access to the greater community to the same degree as individuals not

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				receiving Medicaid HCBS.
22	7/1/16	The participant survey questions are the only section not derived from the exploratory questions. Such questions need to be simply worded and are vague.	No action needed	The participant survey questions are based on the exploratory questions and are designed to verify or dispute the Site Review item.
23	7/1/16	The STP never addresses how the State will assess and ensure all individuals are provided an option to receive services in a non-disability setting.	No action need	As part of the IDDW Individual Program Plan process, setting options are identified and documented and are based on the individual's needs, preferences, and for residential settings (owned or leased by a provider agency) within the individual's resources.
24	7/1/16	As of yet, no webinars, FAQs or fact sheets are available on the BMS website. We are nearly half way through the transition planning period and no significant outreach has happened.	No action needed	The completion date for the outreach and education items is 12/1/16 or later. They are in the development stage and will be completed by that date.

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25	07/13/16	What means will be used to continuously survey agencies, individuals and families regarding settings in which services are provided?	No action needed	This is contained in the Protocol section of the State Transition Plan, beginning on page 156. Reviews are conducted annually, with follow-up visits, when an agency is out of compliance.
26	07/13/16	What training has been provided on training needed for those receiving services?	Change	The completion date for these items has been changed to 2/28/2017. The training to the Office of Health Facility, License and Certification, the IDDW Quality Council and the Utilization Management Contractor (formerly known as the ASO) is in the development stages and will be presented after the on-site surveys are completed.
27	07/13/16	What progress has been made on developing training on person-centered thinking or community inclusion?	Change	Each of the new Waiver policy manuals State that a person-planning

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				approach must be utilized. Trainings have been offered and more will be offered. The link to CMS containing information regarding settings and person-centered planning will be added to the BMS Website.
28	07/13/16	The end date for updating Member Handbooks should be a known date.	No action needed	The date given in this document for the completion of updating Member Handbooks is 3/31/17 (page 9). The ADW member handbook was updated in 12/15, the TBIW member handbook was updated in 8/16 and the IDWW member handbook was updated in 12/1/15.
29	07/13/16	There should be an end date for modifying regulations, so providers and others know whether or not they are being met.	No action needed	See page 10 of the document. The end date is given as 5/1/18.

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30	07/13/16	The development of a plan to manage non-compliance and how it will be connected to the quality improvement system should have a completion date.	No action needed	The date given in the Methodology section of the document for this item is 4/3/16. This item has been completed and is in the Protocol, Section 4 on page 157.
31	07/13/16	What steps have been taken to develop a housing strategic plan thus far; what criteria and parameters are being used?	No action needed	The completion date for this action item is on-going and will be completed after the on-site reviews have been completed.
32	07/13/16	Who constitutes the stakeholder group?	No action needed	These are identified in items 3 and 4 of the Stakeholder Engagement and Oversight section (page 132).
33	07/13/16	Is there a date by which the provider remediation date requirement must be met?	Change	The date has been changed from 9/30/16 to 3/31/17. The date may vary from provider to provider based on when the on-site review occurs, and the plan of compliance is approved. The date in the draft plan on page

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				7 has been changed from 9/30/16 to 3/31/17.
34	07/13/16	What progress has been made in the past year regarding development of strategies for moving away from congregate date time settings?	No action needed	BMS assumes that this comment is referring to “day” not “date”. Congregate day time settings are not addressed in the State Transition Plan, however, the IDD Waiver program has policy regarding this issue. The STP does address congregate employment settings.
35	07/13/16	What communication strategy has been developed for ongoing communication on the implementation of the transition plan?	Change	BMS will add a quarterly update to the BMS IDD waiver website and continue to update the QIA Councils and the providers at the quarterly meetings.
36	07/13/16	No identifiable information is given on the BMS website to alert a viewer of the CMS link contains materials related to settings and person-centered planning.	Change	The link to CMS containing information regarding settings and person-centered planning will

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				be added to the BMS Website.
37	07/13/16	Action Item 6 has shown this is minimally met from experience. There is no method for sharing this information with other stakeholders who use waiver services.	No action needed	All stakeholders and any interested party have access to the public notices, and the State Transition Plan via the BMS HCBS website.
38	07/13/16	The ongoing end dates for the second version of the State's transition plan is troubling.	No action needed	Action items such as monitoring must continue 'ongoing'/indefinitely in order to assure continued compliance with HCBS requirements and to assure the safety and rights of members.
39	07/13/16	All action items should have a final end date to ensure the system as a whole transitions in a timely fashion to compliance with HCBS requirements.	No action needed	Action items such as monitoring must continue 'ongoing'/indefinitely in order to assure continued compliance with HCBS requirements and to assure the safety and rights of members.

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40	7/13/16	The Plan presents positive direction for integration. Our fears are the actual implementation processes which are not outlined and the new or additional interpretations which may be generated while initiating and completing action items.	No action needed	Reviewers will follow the protocol for implementation as reflected in the Plan.
41	7/13/16	Many of the items are vague and subsequent interpretations could result in myriad of results. Agency does not want to be confrontational with BMS, we do wish BMS would be clearer in directives and more informed about what happens within the waiver program as it would help BMS be more relative in a State of small, poor communities with older population.	No action needed	Reviewers will follow the protocol for implementation as reflected in the Plan. The Plan is as specific as possible while allowing for the many variations of community settings.

**Appendix F: Public Comments Received for Third Comment Period**

Below is the table of comments on transition plans received during the period of 7/1/18 to 7/31/18.

<u>Comment Number</u>	<u>Date Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
1	7/5/18	<p>I would recommend the following addition to the STP on page 22 under Initial Provider/Setting Reviews: “As new providers or settings falling under the Integrated Services Rule (settings owned or leased by provider) are created, these settings shall receive an initial State Transition Plan review prior to beginning services at the setting. This review would include technical assistance and general compliance determination. Then when the setting is fully operational, BMS would conduct a full review as they have for all other provider settings, following the procedures in Appendix M.”</p> <p>This description should be included in Appendix M at the beginning of Section 5.</p>	Change	The State Transition Plan has been changed to reflect this comment.
2	7/16/18	<p>The STP should be amended to include a provision that the CEO of each provider agency will be contacted by letter annually with a list of each setting which BMS has listed as being owned or leased by that provider. The CEO will verify annually that this is a complete listing of all settings owned or leased by the provider agency wherein IDD Waiver services are provided. This list will include both residential and non-residential settings.</p> <p>Provider agencies should be notified through this letter that if there is any change to the status of a setting, either added to the list or deleted from the list, BMS shall be notified within 15 days of the change in status.</p>	Change	The State Transition Plan has been changed to reflect this comment.

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3	7/16/18	The Protocol for annual reviews through Kepro should include a verification of all settings, census and services provided under the State Transition Plan.	Change	The State Transition Plan has been changed to reflect this comment.
4	7/19/18	I have a few concerns with this program. My daughter utilizes this program for help with all her needs. She is 24/7 care. I am very grateful that there are programs like this however, there are many concerns I have that impact our life. We have used this program for several years and the one thing that I have issues with are the people who run these businesses such as this. Some of the people that come into business in this field do not know what services there are to be utilized and the turnover rate for the business employees is overwhelming to the families. Learning new policies and new rules for many families mean time away spent from the person that they should be helping. Also having a set schedule can be hard on the families as well b/c not everything can go accordingly maybe b/c of behavioral issues or medical issues or physical issues. With people with disabilities it takes time with them more than the average person. I think the families should be able to make up their own schedules. The paperwork should be minimal for our families. I understand with the government there needs to be a paper trail for these programs and rules that follow but our families need business people who know what services our families need. They should be able to tell us how the services are what to expect and how to use them. I myself have shared a number of services with several of people in this business that were not aware that services even existed or even how to look for services. Also many of our families need specialized equipment that are needed so it's very important to know how to get the families what they need despite what the families income is. I know	No action needed	<p>The development of member schedules is one of the functions of the Person-centered Planning Team and is not addressed in the State Transition Plan.</p> <p>Paperwork requirements are included in the IDD Waiver Manual, not the State Transition Plan.</p> <p>Case Management training requirements and Member equipment allotments are not a part of the State Transition Plan.</p>

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		<p>firsthand that a specialized wheelchair is over \$2,000. And as the years go on our loved ones are going to grow so again a Hoyer lift is over \$2000. So please help teach the people who are actually on a one on one basis with our families search for services that can be utilized. If our waiver programs have the money put it towards the families that need it first come first serve basis and help do a reverse for equipment. Like if a client can't use it anymore find another that can. Help our families. Please stop making it harder to do paperwork and keep set schedules b/c our families already work hard enough to keep a daily routine and our loved ones from being institutionalized. We try hard not for them to get sick and to stay healthy. Our families would not look for these programs if we did not need them. Thank you for all your help. I hope this helps.</p>		
5	7/20/18	Supported employment is identified as being provided in a Behavioral Health facility non-residential, but not in the community. That should be reversed.	Change	The State Transition Plan has been changed to reflect this comment.
6	7/20/18	Pre-Vocational services should be available in the community also (where better to learn work and social related work skills). This would better open a venue for volunteer options for pre-vocational training which are beneficial when preparing for community integrated employment.	No action needed	The definition of Pre-Vocational is included in the IDD Waiver Manual, not the State Transition Plan.
7	7/20/18	In-Home respite is not listed and should be identified for home and community settings.	Change	The State Transition Plan has been changed to reflect this comment.
8	7/20/18	On page 12, In-Home respite is not identified.	Change	The State Transition Plan has been changed to reflect this comment.

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9	7/27/18	... recommends that the Department for Health and Human Resources (DHHR) expand their regulatory review to include not only regulations in direct conflict with CMS-2249-F and CMS-2296-F, but also whether additional regulatory changes are needed to support the rule.	No action needed	State Rules, Regulations and Policy Compliance with the Federal Rule have been assessed (see Appendix B). Remedial actions and changes are included in this appendix.
10	7/27/18	... is concerned that DHHR has delayed the revision of some regulations and policies, as demonstrated in Appendix B of the “Methodology for WV’s Waiver Transition Plan Application”. Several policies are scheduled to be revised by summer of 2019 or later. Due to the already cumbersome nature of regulatory processes, additional delay will result in delay of application, thus delaying the ability of individuals receiving services to engage in meaningful community integration.	No action needed	All policy revisions identified in Appendix B are scheduled to occur no later than 1/1/19.
11	7/27/18	... is concerned with the lack of narrative or specificity listed in the Transition Plan methodology regarding the quick compliance of HCBS settings. It is unclear what metric DHHR is using to determine the accuracy of the rapid compliance. It is also unclear what substantive changes were made to transition from all providers and settings being non-compliant with the community integration rule to reaching compliance. ... recommends providing a narrative description of	No action needed	The specific steps a provider must take to reach compliance are included in Appendix M.

<u>Comment Number</u>	<u>Date Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		remediation steps used to reaching compliance.		
12	7/27/18	... is concerned with the publication of the Methodology for comment, particularly with the unclear dates for comment acceptance. DHHR's website contains a comment submission date of July 26, 2018, while the document itself lists July 30 <sup>th</sup> as the last day for comment submission. ... recommends the state accept comments until the last possible date to ensure receipt of feedback.	No action needed	DHHR will accept comments through July 31, 2018. This is stated in the State Transition Plan and in the statewide newspaper Public Notice.
13	7/27/18	... is concerned with the use of web-based notification as the primary method for soliciting comments. West Virginia has long struggled with obtaining broadband internet in its more remote counties. Many individuals do not have the means to access a computer, particularly individuals who may be in receipt of services through Medicaid HCBS Waivers in rural counties. Dependence on email-based comments or provider distribution of notices may not be sufficient to obtain accurate feedback on the transition plan.	No action needed	In addition to provider distribution and web-based notification, members were notified through public notice in the State's state-wide newspaper.
14	7/27/18	...is concerned that despite the best efforts of the transition plan, the ongoing direct care staffing crisis continues to impact the ability of individuals with disabilities to receive services in their community. ... has	No action needed	Staffing retention and acquisition does not come under the Integrated Services Rule.

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		encountered numerous instances of individuals being required to move from their homes to find providers who have adequate staff to meet their needs. West Virginia is a unique state made up of many different communities that each reflect their own cultural values. By being required to move to another region or county, an individual is often forced to give up their ties to their community, family, and culture. ... requests that the State address the ongoing crisis related to obtaining and retaining direct care workers.		
15	7/27/18	... is concerned with the requirement that pre-vocational skills training may only be provided in a licensed facility-based day habilitation center. These facilities are not community based and do not encourage community integration.	No action needed	<p>The setting where pre-vocational services may be provided is determined by the IDD Waiver Manual. This is stated in Exhibit 1, page 4 et seq, of the State Transition Plan.</p> <p>BMS takes exception to the statement that licensed facility-based day habilitation centers are not community based and do not encourage community integration. Initial and continuing reviews of all these settings by both BMS and Kepro confirm that they are community based.</p>

<u>Comment Number</u>	<u>Date Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
				Reviews of members' Service Plans verify that members are afforded extensive community integration.
16	7/27/18	The announcement on the Bureau for Medical Services' (BMS) webpage indicates comments on this Plan are due by July 26 <sup>th</sup> . However, the STP indicates the comment period goes through July 30 <sup>th</sup> . Will the BMS accept comments through July 30 <sup>th</sup> ?	No action needed	Yes. DHHR will accept comments through July 31, 2018. This is stated in the State Transition Plan and in the statewide newspaper Public Notice.
17	7/27/18	The return rate of approximately 13% for the <i>Individuals and Family Members Survey</i> across all waivers is indicative of the lack of knowledge on the part of Waiver recipients and family members. We noticed the closure date for survey completion was 12/31/15. Were surveys sent during the holiday season? What has been, or will be, done to gather more information from families and Waiver recipients regarding settings and services? If pre-vocational and job development services are sub-sets of facility-based day habilitation services, but were not specifically identified in the survey, how is it possible to know if more people wish to receive those services?	No action needed	The closure dates and surveys were completed in 2015 and were a part of the preliminary information gathered to develop the Transition Plan. It was included as an historical reference.  As the commenter noted in the previous paragraph, "we understand the minimum CMS requirements were met."
18	7/27/18	It is stated the State code for the IDWW providers' licensed behavioral health sites does not conflict with the Integrated Services Rule. Does it support or encourage the rule? We do not believe the HCBS rule addresses bedroom size and furnishings, rather it focuses on the individual's experiences	No action needed	The commenter does not indicate a suggested change to the State Transition plan, but states questions about the plan.

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		there. What part of the licensure rule addresses this aspect of the HCBS rule?		State Code for licensed settings was promulgated prior to the Integrated Services Rule and could not support or encourage the rule. The State Transition Plan, Appendix B, states that in §64CSR11 integration is not specifically required to the same degree of access to the community as individuals not receiving Medicaid HCBS. §64CSR11 is currently in revision.
19	7/27/18	<p>We presume the State code referred to here is Title 64-11, which is currently being re-written. The version the Council just commented on seems to propose removing the Human Rights Committee spoken about here as providing a firm foundation to the overall protection of basic rights and any necessary restrictions.</p> <p>Have the proposed changes to this rule been reviewed for areas that may or may not support the HCBS rule?</p>	No action needed	§64CSR11 is indicated by name. The commenter does not indicate a suggested change to the State Transition plan, but states questions about BMS' actions. BMS has commented on revisions to §64CSR11 as they relate to the Integrated Services Rule.
20	7/27/18	...is unclear on how all settings went from being noncompliant to all settings being compliant, and we do not see any specific information explaining what occurred that caused this to happen. Where are the specific steps listed that caused those settings to become compliant listed in the STP?	No action needed	The settings became compliant through the process delineated in Appendix M. The results of these reviews are contained in Appendix N, including the specific citations of non-compliance and how,

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				upon revisit, these were corrected.
21	7/27/18	We especially do not understand how facility-based day habilitation programs across the state became compliant. Our experiences cause us to believe these settings likely are not in compliance, and as currently operated, will never meet the compliance criteria. We believe these are settings that would need heightened scrutiny. Questions and comments at the most recent QIA meeting reinforce our belief they likely are not in compliance. (Questions such as whether coloring worksheets would be acceptable if they didn't have "preschool" written on them, and statements about individuals now watching movies in these settings.) Since the CMS letter makes clear "reverse integration" strategies are not sufficient to come into compliance; What specific things have occurred in these settings to cause them to meet the mandate? Where are people going, and how are they being supported to go out into the community after arriving at the facility-based day habilitation program? What are folks doing in the community? Are they going into the community in groups? Or, are people being supported individually to practice the skills allowed under day habilitation program services at locations in the community where the general public is located, and to take advantage of occasions to interact with the general public in the community?	No action needed	Heightened scrutiny is clearly defined in the CMS guidance provided to BMS. This is reiterated in the State Transition Plan Heightened Scrutiny Overview, and Appendix M, Section 8.  The Bureau for Medical Services could provide further data analysis to answer the questions noted at the end of this comment. This will be brought to the attention of the Quality Improvement Advisory Council at their next regularly scheduled meeting for a determination of the need for analysis. BMS will then use this analysis to identify settings/providers that are not in compliance, and work with providers to assure that non-residential settings comply with the HCBS rule regarding integration

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				of HCBS beneficiaries to the broader community.
22	7/27/18	CMS raised questions about how the State assures beneficiary access to non-disability specific settings in the provision of residential and non-residential services. The State is specifically asked: What investments is the State making to create or expand non-disability specific settings and/or helping develop the competencies of providers to offer services in non-disability specific settings? What has the State done to help in this regard?	No action needed	This is included in the State Transition Plan under Building Capacity for Increased Non-Disability Specific Setting Access. This section iterates how the IDD Waiver Manual was revised, effective 2/2/2018, to address beneficiary access to non-disability specific settings.
23	7/27/18	The State had indicated to CMS in the past that the WV Office of Health Facility Licensure and Certification conducts provider reviews, including site visits for all licensed sites every two years. Is BMS aware the aforementioned proposed changes to Rule 64 remove this requirement?	No action needed	BMS has commented on revisions to §64CSR11 as they relate to the Integrated Services Rule.
24	7/27/18	Will the only reviews conducted to ensure compliance in the future be those conducted by the ASO?	Change	Answer: No  The State Transition Plan has been changed to address this comment. See Comment #1 above.
25	7/27/18	The document indicates that another method of ensuring continued compliance will be through monthly home visits by Service Coordinators and refers to Appendix O as proof these visits ensure member rights and compliance with the Integrated Services Rule. Upon reviewing Appendix O, we see no indication of how that assurance is met.	No action needed	Appendix O includes Service Coordinator verification that the person who receives services is safe, neat, clean and the condition of the home or facility is safe and clean. The

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		Have Service Coordinators received training on the Rule? Has a section been added to the form that is not shown here that assists them in making those determinations?		Service Coordinator also must verify that the person's privacy is maintained, and the person's needs met, and that the location observed is verified as not isolated. Service Coordinators receive training on individual rights, safety and cleanliness, the Service Coordinator Home/Day Visit Form and compliance to the Rule as specified in the IDD Waiver manual, pages 10-11 and the Service Coordinator duties delineated on pages 100-101 of the IDD Waiver manual.
26	7/27/18	In the STP Action Items, the State has indicated a report on the review of WV regulations and supporting documents of all three waiver programs would be posted on the BMS' website with an end date of 8/21/15. We are unable to locate the report on the website. Where is the report located?	No action needed	The only action item with an end date of 8/21/15 is in regard to the development of a survey, (item 2, page 13) Appendix A: Recommendations from the HCBS Regulatory Review includes the following website <a href="http://www.dhhr.wv.gov/bms/Programs/Documents/WV%20Regulatory%20Revie">http://www.dhhr.wv.gov/bms/Programs/Documents/WV%20Regulatory%20Revie</a>

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				w%20Report%20Final%20%2811-25-14%29.pdf
27	7/27/18	<p>Remedial actions in the STP under the Compliance Area of Outreach and Education indicates training on new settings requirements would be provided to individuals and families by 2/28/17. We are unaware of this training. Can you direct us to information regarding the training events that were provided to them?</p> <p>The same section also indicates a webinar series to highlight the settings requirements and principles of person-centered planning would be conducted and the webinar archives posted to the BMS website by 3/31/17. We are unable to locate the webinar archive on the website. Can you please direct us to the location of this?</p>	No action needed	The Compliance Area of Outreach and Education is mentioned only in a comment noted in the Second Public Notice for Transition Plan. Since then (2016) the timeline for full implementation of state transition plans was pushed out to March 17, 2022. The original date was March 17, 2019. (CMCS Informational Bulletin May 9.2017 <a href="#"><u>Extension of Transition Period for Compliance with Home and Community-Based Settings Criteria</u></a> ). BMS is working to comply based on the current CMS directives and the date noted in the comment cited from the Second Public Notice has been revised.
28	7/27/18	Have the Member Handbooks been updated to strengthen person centered HCBS requirements?	No action needed	These were revised and updated by 3/31/17, as noted on page 14.
29	7/27/18	Staffed residential settings of three or less beds should be included. Will such settings ever be reviewed for compliance? Why will those indicated as a "Cluster" not be more closely monitored? What does "Private	No action needed	BMS includes in the State Transition Plan all settings that fall under the Integrated Services Rule as delineated by

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		Owner” mean? And, does that mean that a setting housing eight people will not be examined because of that label? What does “being grandfathered into the Transition Plan” mean? Was the setting, which included six people reviewed for compliance?		CMS and will continue to assess those for compliance.  Grandfathered homes refer to those with 4 or more beds that are and had been licensed prior to the most recent BMS manual.
30	7/27/18	<p><b>First, the State only reviewed regulations for direct conflict and did not review for whether their regulations need additional changes to truly support the spirit and purpose of the new rule. The State appears to have not yet revised some regulations or policies – referring to dates in the future.</b></p> <ul style="list-style-type: none"> <li>- Although the State did add language (in Appendix B) that it plans to use for modifying existing state standards, the language is very general, and the date of actual completion is not until 1/19.</li> <li>- After finding no settings were 100% compliant on the initial visit, the follow up found 100% compliance. It is not clear what changed substantively? (p. 27-28)</li> <li>- Of all the settings that were initially identified as non-compliant, and then became complaint, we are concerned that none qualified for heightened scrutiny.</li> </ul>	No action needed	<p>The comments do not address any needed changes to the State Transition Plan.</p> <p>Provider settings were first assessed when the provider had not had the time or the information to meet compliance. After told through the individual Statements of Deficiencies (see Appendix M) of the deficient practices, providers chose to enact changes that resulted in compliance. Heightened scrutiny is clearly defined in the CMS guidance provided to BMS. This is reiterated in the State Transition Plan page 23 and Appendix M, Section 8.</p>

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31	7/27/18	<p><b>Second, the State has left outstanding issues from the Initial Approval letter and the validation process.</b></p> <ul style="list-style-type: none"> <li>- The State says there are no residential/facility settings and then appears to indicate that there are residential/facility settings. (This was raised in Appendix II at page 6.)</li> <li>- The State does not indicate a mechanism for ensuring private homes are compliant (Appendix II at page 7).</li> <li>- The Initial Approval letter also raised the issue of how the State is validating the sites that were not given an onsite visit. (Appendix II at page 8). The answer is still not clear. It is also not clear if the staff received training before onsite visits.</li> <li>- The Plan only lists the types of non-disability settings but gives no indication as to how the State will build capacity. This issue was raised by CMS (Appendix at 10) and still has not been addressed.</li> </ul>	No action needed	<p>There is no Appendix II in the plan, on pages 6 or 7 or elsewhere. There are no residential/facility settings owned or leased by the provider in TBI and Age and Disabled Waiver programs. There are such settings within the IDD Waiver program.</p> <p>Private homes are covered through the use of Service Coordinator monthly reviews (see Appendix O)</p> <p>Staff received training as delineated in Appendix M.</p> <p>Capacity building is addressed in the Section labeled Building Capacity for Increased Non-Disability Specific Setting Access.</p>
32	7/27/18	<p><b>the State went from reporting all settings being noncompliant to reporting all settings being compliant with lack of specificity as to the substantive changes that brought the settings into compliance. The state does not clearly state that the policies are in</b></p>	No action needed	<p>The Reports of non-compliance and compliance are contained in Appendix N. Appendix M contains the evaluation mechanisms to ascertain</p>

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		<p><b>compliance with the new rule nor does it state that all documents are now in compliance.</b></p> <ul style="list-style-type: none"> <li>- Were deficiencies sited, were plans of correction provided by the settings, and how were the settings evaluated to make sure they are now in compliance?</li> <li>- The initial self-assessment was positive, but no providers were found to be in compliance. How did that change?</li> <li>- The process for provider assessments had a good design, but the low response rate from the surveys raises concerns (p. 11). Likewise, the extremely low response from people actually receiving services raises serious concerns about the validity of this method of identifying provider non-compliance (9-10).</li> <li>- There appears to be a number of expectations of case management that are not spelled out such as: whether natural supports can be compelled, no mention of processes for rights restrictions, no mention of individual controlling their processes or that an individual is making an informed choice. It seems like there needs to be more specificity so that everyone understands the expectations.</li> <li>- There does not appear to be due process notifications to individuals who do not agree with the services.</li> </ul>		<p>compliance. BMS cannot force members to complete surveys and must report what is found. Case Management is not a direct component of the Integrated Services Rule. This comment will be addressed as the IDD Waiver Manual is revised in the future.</p> <p>Due Process notifications are covered in the Transition of Members Overview. The firewall discussed by the commenter will be addressed as the IDD Waiver Manual is revised in the future.</p>

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		<ul style="list-style-type: none"> <li>- There is a continuing issue that conflict of interest concerns are not absolute. It is our understanding that there needs to be a firewall between people who manage care and the care provider. This has been an issue for a long time and is not clearly resolved.</li> </ul>		
33	7/27/18	<p><b>Fourth, the public outreach on the Plan was not sufficiently robust.</b></p> <ul style="list-style-type: none"> <li>- The Plan indicates a cross-disability workgroup advised the Plan – who was part of it? Did it include all groups affected by all waivers? When and how often did it meet? What was the role? In the second set of comments, BMS responded that they did not see a need to create a cross-disability workgroup.</li> <li>- CMS asked the State to “clarify the four forms of public comment” it used in the first round of comments. However, the State one again said that it “provided three separate forms of public comment,” without clarifying or specify what those were.</li> <li>- There was no public forum for comment in 2018. Apparently, this was because of a low public response to the first two sessions. However, we are concerned that the outreach mechanisms were not accessible and meaningful.</li> <li>- Email listserv notices only reflect a lack of investment in public outreach.</li> <li>- In addition, there was confusion</li> </ul>	No action needed	<p>“At this time no issues that apply to all three waivers (ADW, TBIW and IDDW) have been identified. If and when an issue is identified, then a group comprised of individuals receiving services or their family members from all 3 waiver programs will be developed,” Page 105, item 7 – Appendix F. The point about the confusion regarding the end date of the comment section is well taken. See comment #12’s response - DHHR will accept comments through July 31, 2018. This is stated in the State Transition Plan and in the statewide newspaper Public Notice.</p>

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		<p>about the end date of the public comment period. The Plan itself says that the public comment period is from July 1, 2018 to July 30, 2018 (page 62) and the website notice says the comment period ends on July 26, 2018. We hope that any comment submitted through July 30 will be considered in this round.</p> <ul style="list-style-type: none"> <li>- Finally, we want to note that reportedly many consumers are afraid of retaliation and there needs to be an effort to deal with that – the State could consider an outside party gathering comments in people’s homes and submitting with no identifying information.</li> </ul>		

## Appendix F: Public Comments Received for Fourth Comment Period

Below is the table of comments on the transition plan received during the period of 3/14/19 to 4/14/19

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
1	4/7/2019	Our son is a participant in the IDDW program and lives at home with his parents. The only service that he presently receives is Personal Options through Public Partnerships due to the fact that his Service Provider, Westbrook Health Services, has been unable to staff	No action needed	Providers receive \$5.01 per 15-minute unit for Respite, and \$5.01 per 15-minute unit for Supported Employment. Both

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		<p>the Respite and Supported Employment components of his Transition Plan for over a year.</p> <p>One of their staff members even informed us that if they get a qualified employee, their priority would be to place them in one of their group homes or apartments rather than place them with an in-home client.</p> <p>Something needs to be done at the federal or state level to address this issue. The IDDW program is nonexistent for clients that qualify for and need services and they are unavailable. If the intent is to place clients in the least restrictive environment, the first priority of agencies should be to provide staff for in-home services rather than group homes/apartments.</p> <p>Another issue with staffing relates to the pay rate. As the economy has improved, most fast-food chains, Walmart and other businesses start new employees out at \$11.00/hour with benefits. Whereas, most IDDW workers are expected to work for \$8.00-\$9.00/hour without benefits.</p> <p>Something must be done to remedy this issue.</p> <p>These comments may not relate directly to the Transition Plan but they do relate to the level of services currently being afforded WV IDDW clients.</p> <p>Thank You.</p>		<p>of these rates assure adequate funds to pay staff in excess of the minimum wage with benefits. The commenter may want to explore other providers in the area who pay staff more.</p>
2	4/9/19	<p>This iteration talks about natural families' individual private homes also needing inspected. I didn't think this was necessary.</p>	Change	<p>The State Transition Plan has been changed to reflect this comment.</p>

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
3	4/9/19	<p>If you don't have a handicapped child, it might be difficult to understand the emotional, mental and physical toll it can have on one's life, especially when you're the sole parent who loves her child the way all mothers do and wants nothing but the best for him or her. The part of you that realizes your child will never be independent is desperate to know there is a team in place who truly cares. I'm blessed to have that. So blessed. What I don't see in this transition plan is the choice to keep the status quo if you're 100% satisfied. I am 110% satisfied with the team we've assembled and I see nothing but confusion if we start mixing and matching agencies. None of the concerns this transition plan addresses are a factor with my team. They're honest, straightforward, would never take advantage of any situation and, most importantly, they're all loyal to my son and me. That means EVERYTHING to me. I can't stress this enough!</p> <p>My son is my heart. I promised his dad on his deathbed that I would fight for Colin and make sure he was okay. Right now he IS okay, better than okay, because of his familiarity with and affection for his team members. The only choice I want to be forced to make is the choice of keeping the status quo or going along with the changes. Maybe for some the changes will be welcomed, but for those of us who are completely satisfied and have a longstanding team that works like a well-oiled machine, a team that we trust . . . please, please, please give us the option of keeping our team in place exactly as it is.</p>	No action needed	<p>The commenter's point is understandable, but the Integrated Services Rule is not the basis for a requirement for 'mixing and matching agencies.' The Integrated Services Rule provides for member choice of providers.</p>

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		<p>My appeal is on an emotional level, to be sure, and that's because emotions are at the forefront of every mom's desire to keep her handicapped child safe and happy.</p> <p>I respectfully thank you for allowing me the chance to be heard.</p>		
4	4/14/19	<p>For many years my family and I have been fortunate to have (provider) provide excellent care to my severely developmentally disabled brother, ....who lives in ..., WV. Their care in all regards has been exceptional. I particular appreciate how well they have coordinated the range of services from case management, to day program, to residential care. I believe that as a well-informed guardian I should be able to choose the provider of the various services for my brother. If I choose to have all services provided by the same company, that should be my prerogative rather than having some state regulation mandate who would provide what. I am a PhD psychologist and am very capable of making well informed decisions for my brother. I am very disturbed that a poorly thought out state regulation could interfere with what has been exceptional care for my brother. I do not need the state to be making such decisions for me. In fact it feels quite insulting. Please do not implement a restriction on having one company provide all services to a client. This would significantly negatively impact my brother, as well as myself.</p>	No action needed	<p>The commenter's point is understandable, but the Integrated Services Rule is not the basis for a requirement for case management to be a service provided by an agency other than the one providing other services to the member. The Integrated Services Rule provides for member choice of providers within the parameters of other sections of the Rule.</p>

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		Please feel free to contact me if you would like further input.		
5	4/14/19	<p>The date on page 8 should be 7/31/18 as opposed to 7/30/18.</p> <p>The chart on page 19 has one date of completion that is before the start date. This should be corrected.</p> <p>Heightened Scrutiny/Isolated settings definitions should be clearer on pages 26 and 27.</p> <p>The word licensed should describe Day Habilitation not Supported employment on page 23.</p> <p>The Specialized Family Care home reviews should be completed. These still aren't done. See page 32.</p>	<p>Change</p> <p>Change</p> <p>Change</p> <p>Change</p> <p>Change</p>	<p>The document will reflect actual dates as these become finalized.</p> <p>This has been corrected to 9/1/17</p> <p>This has been corrected.</p> <p>This has been corrected. 'Licensed' describes Day Habilitation.</p> <p>The Specialized Family Care Home reviews using the new validation form are being expedited. The anticipated completion date is the June 31, 2019.</p>
6	4/15/19	...concern that the Bureau for Medical Services (BMS) has not shown effort to educate and inform people with intellectual and developmental disabilities who are affected or potentially affected by the HCBS Rule and the State Transition Plan (STP). Based on our contacts with families, we believe people	change	BMS has held Public Forums and published notice of State Plan development throughout the implementation

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		<p>with IDD and their families are generally unaware of the STP and the process for developing it. The response, “As the commenter noted in the previous paragraph, <i>we understand the minimum CMS requirements were met</i>” was given to the concerns expressed again in the last iteration. This is not the standard that should be followed. The BMS should prioritize outreach with education and information. The Plan itself is not easy to read and understand, even for those who have some understanding of the HCBS requirement. Previous efforts did not reach the targeted group.</p> <p><b>Exhibit 1</b> – chart shows that crisis services under the IDD Waiver may not be provided in the community or home settings, yet Chapter 513 lists sites of service as: person’s family residence, a Specialized Family Care Home, a licensed Group Home, and Unlicensed Residential Home, and public community settings.</p>	Change	<p>progress. We respectfully disagree that the targeted group was not reached. BMS will continue to include State Plan information on our website and continue outreach through program planning committees. We have revamped the Website to hopefully assist persons who had difficulty understanding the document.</p> <p>Exhibit 1 was based on data compiled in 2015. It is presented as a part of the regulatory review history. Chapter 513 has been modified since that time. However, in the interest of clarity, the modifications suggested have been applied.</p>



<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		<p>A) As communicated previously to the BMS, the policy that limits the provision of Pre-vocational Services to licensed day service settings – which are segregated settings – is counterproductive; and B) the recent (March 20, 2019) policy that required IDD Waiver providers to secure a letter of verification from participants’ employers before Supported Employment service will be authorized will have an unintended affect {sic} of getting push-back from some prospective employers and unnecessarily emphasize the individuals as “humans service clients” rather than “employees.”</p> <p>... also writes in support ...relative to the staffing crisis and its applicability to the STP.</p>	No action needed	<p>BMS Staffing retention and acquisition does not come under the Integrated Services Rule. The March 22, 2019 CMS guidance does not address staffing acquisition and retention, but rather addresses ‘appropriate staffing’. Staff retention and acquisition are the purview of the provider/employer. BMS would note that the providers receive more than \$20 per hour for most direct care staffing services at</p>

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		<p>Public/Stakeholder Input – the dates for this comment period should replace “to be determined.” Same comment for Website section, Summary of Public Comments section, and any other place it may appear in the document.</p> <p>Appendix E: First Public Notice Dissemination – the WV <u>Developmental</u> Disabilities Council is named incorrectly.</p> <p>Finally, ... suggests the Department develop informational materials for families and individuals who use HCBS services and distribute it to them via the US Postal Service, since every individual’s mailing address is known to you. We also suggest training be developed for service coordinators and others to assist them in clearly explaining and assisting families and individuals with developmental disabilities to understand the purpose of the STP and how they may be affected.</p>	<p>change</p> <p>change</p> <p>no action needed</p>	<p>present. How and to what extent the provider passes this on to the staff is the decision of the provider.</p> <p>The document will reflect actual dates as these become finalized.</p> <p>This was also noted by BMS for all the public notices in Appendix E and changed.</p> <p>The Integrated Services Rule applies to all waiver members, not only IDD Waiver members. BMS is working with Service coordinator/case manager agencies to clarify any questions that members or other interested</p>

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
				parties may have. A FAQ document is located on the State Transition Plan website and will be shared with these agencies as well.
7	4/15/19	<p>The Fourth Iteration of the plan application fails to address the effect of the ongoing staffing crisis on all setting types. In response to commentary submitted during the July comment period, BMS stated that “staffing retention and acquisition does not come under the Integrated Services Rule.” However, CMS issued guidance on March 22, 2019, specifically stating otherwise. Specifically, CMS requested that states and providers consider “[i]mplementing organizational changes that: [a]ssure the required level of support, including appropriate staffing, and adequate transportation options to offer both group and individualized options that facilitate optimal community engagement based on individual preferences.” (p.4 Frequently Asked Questions: HCBS Settings Regulation Implementation.)</p> <p>CMS has made it clear that a Medicaid HCBS recipient’s ability to access the broader community as compared to the access of individuals not receiving Medicaid HCBS living in the same geographical area is what determines whether a setting is isolating and subject to</p>	No action needed	BMS Staffing retention and acquisition does not come under the Integrated Services Rule. The March 22, 2019 CMS guidance does not address staffing acquisition and retention, but rather addresses ‘appropriate staffing’. Staff retention and acquisition are the purview of the provider/employer. BMS would note that the providers receive more than \$20 per hour for most direct care staffing services at present. How and to what extent the provider passes this

<u>Comment Number</u>	<u>Date Comment Received</u>	<u>Comment</u>	<u>Status</u>	<u>Response</u>
		heightened scrutiny. In West Virginia, with the ongoing staffing crisis, many HCBS recipients are unable to access their local communities especially in the more rural counties. And in some instances, staff are unable to ensure that individuals even have their basic needs met because the setting is understaffed. ...requests that BMS address the ongoing problems with service providers acquiring and retaining competent staff to allow Medicaid HCBS recipients greater access to the community, as well as more appropriate supervision and safety in their home and community settings.		on to the staff is the decision of the provider.

## **Appendix F: Public Comments Received for Fifth Comment Period**

Below is the table of comments on the transition plan received during the period of March 1, 2021 to March 30, 2021. To be added following the end of the comment period.

## **Appendix G: Cover Letter for Provider Surveys (ADW, TBIW, I/DD)**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued the Medicaid Home and Community-Based Services (HCBS) settings final rule (CMS-2249-P2). The final rule establishes requirements for home and community-based services provided under section 1915(c) of Medicaid

HCBS waivers. The intent of the rule is to “ensure that individuals receiving services and supports through Medicaid’s HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting.” The rule encourages service providers to focus on outcomes and community inclusion. Within the next five years, the new regulation seeks to ensure all settings are:

“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.”

West Virginia Department of Health and Human Resources has developed a self-assessment tool to identify the settings in which HCBS is currently offered and to determine next steps for compliance with the new Federal regulation. Although some settings may already offer services that promote community inclusion, other settings may need to make changes to allow full community inclusion. This assessment will help the State identify specific settings that require additional support to promote inclusion. It will not be used to penalize settings that are not yet in compliance.

Service providers play an integral role in the State Medicaid system to ensure individuals receive the necessary services and supports. By completing this assessment, you will assist the State in gathering information on the HCBS settings covered under the [Name] Waiver. This information, along with additional data sources, such as provider applications and licensure reviews, will be used by the State to develop a transition plan for areas not in compliance with the final rule that must be submitted to CMS.

Thank you in advance for your time for completing this assessment.

Please contact [name] at [email address] or [phone number] if you have any questions.

## **Appendix H: Provider Survey Questions for ADW/TBIW**

### **Home and Community Based Settings: A Self-Assessment Tool for TBIW/ADW Providers**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued the Medicaid Home and Community-Based Services (HCBS) settings final rule (CMS-2249-P2). The final rule establishes requirements for home and community based services provided under section 1915(c) of Medicaid HCBS waivers. The intent of the rule is to “ensure that individuals receiving services and supports through Medicaid’s HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting.” The rule encourages service providers to focus on outcomes and community inclusion. Within the next five years, the new regulation seeks to ensure all settings are:

“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.”

West Virginia Department of Health and Human Resources has developed a self-assessment tool to identify the settings in which HCBS is currently offered and to determine next steps for compliance with the new Federal regulation. Although some settings may already offer services that promote community inclusion, other settings may need to make changes to allow full community inclusion. This assessment will help the State identify specific settings that require additional support to promote inclusion. It will not be used to penalize settings that are not yet in compliance.

Service providers play an integral role in the State Medicaid system to ensure individuals receive the necessary services and supports. By completing this assessment, you will assist the State in gathering information on the HCBS settings covered under the Traumatic Brain Injury Waiver/Aged and Disabled Waiver. This information, along with additional data sources, such as provider applications and licensure reviews, will be used by the State to develop a transition plan for areas not in compliance with the final rule that must be submitted to CMS.

### ***Compliance with assessment completion***

Failure to complete the assessment may result in corrective action consistent with the terms of the provider agreement and may jeopardize your standing as an approved (TBIW, ADW, IDWW) Waiver Provider.

### ***Timeline***

The assessment(s) for each type and address must be completed by <insert date>.

### ***Assessment Instructions***

Providers should complete this assessment for each setting type and address by re-entering the assessment link. The assessment will take you approximately 15 to 30 minutes to complete.

Thank you for taking the time to complete the West Virginia Provider Self-Assessment on the new Federal Home and Community Based Settings Regulations.

**Demographic Questions:**

1. What is your organization/agency name?

--

2. Who should we contact for more information?

Name	E-mail
Title	Phone Number

3. What is your address (*street and zip code*?).

Street address	Zip Code
----------------	----------

4. How many individuals receive services under the Traumatic Brain Injury Waiver/Aged and Disabled Waiver within this setting?

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**Residential settings:**

5. Do any of the following characteristics apply to your location? (circle Yes or No)

Location is on the property of an institution	Yes	No
Location is adjacent to an institution	Yes	No
Location is a Personal Care Home	Yes	No
Location is a Skilled Nursing Facility	Yes	No
Location is an Assisted Living Facility	Yes	No
Other congregate setting  Please specify:	Yes	No

**If you circled “Yes” to any of these settings, please complete the rest of this survey for your location.**

6. Is this location designed or reserved specifically for waiver participants?

- Yes
- No
- Not Applicable

7. At this residential setting location, can individuals leave the home for less than 4 hours a day?

- Yes
  - No
  - Not Applicable
8. Do most activities occur between only persons receiving TBIW/ADW Waiver services and paid staff?
- Yes
  - No
  - Not Applicable
9. Are there any of the following rules or restrictions for individuals you serve in this setting? (Check all that apply)
- Rules that inhibit freedom of movement outside of the setting
  - Rules or restrictions on scheduling that prevents transportation to desired community activities
  - Rules or restrictions on access to family, friends and community functions
  - Rules that require group activity instead of individualized choices
  - Not Applicable
10. Do individuals at this setting have full access to ALL areas (other than rooms of other residents) of the setting?
- Yes
  - No
  - Not Applicable
11. Do individuals have full access to food not limited to scheduled meal or snack times?
- Yes
  - No
  - Not Applicable
12. Do individuals have a choice whether must they share a home?
- Yes
  - No
  - Not Applicable
13. Do individuals have a choice of roommates/housemates in shared residences?
- Yes
  - No
  - Not Applicable
14. Do individuals have a legally enforceable agreement or residency agreement that provides protections that address eviction processes and appeals?
- Yes
  - No
  - Not Applicable
15. Do individuals have any of the following: (Check all that apply)
- Their own checking accounts
  - Access to their own funds when they choose
  - Receive assistance to manage finances
  - None
16. Do the setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week (e.g. combine competitive employment with community habilitation)?
- Yes
  - No
  - Not Applicable

17. Is all information about individuals kept private? For instance, do paid staff/providers follow confidentiality policy/practices and does staff within the setting ensure that, for example, there are no posted schedules of individuals for any services, medications, restricted diet, etc., in a general open area?
- Yes
  - No
  - Not Applicable
18. Are there gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting?
- Yes
  - No
  - Not Applicable
19. Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?
- Yes
  - No
  - Not Applicable
20. Does the setting post or provide information to individuals about how to make a request for additional HCBS, or changes to their current HCBS?
- Yes
  - No
  - Not Applicable
21. Do you have additional comments about the services/settings provided at this location?
- 

**Thank you for taking the time to complete this assessment! Please watch for updates to West Virginia's compliance to the rule requirements by visiting our webpage at <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>.**

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## **Appendix I: Provider Survey Questions for I/DD**

### **Home and Community Based Settings: A Self-Assessment Tool for IDDW Providers**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued the Medicaid Home and Community-Based Services (HCBS) settings final rule (CMS-2249-P2). The final rule establishes requirements for home and community based services provided under section 1915(c) of Medicaid HCBS waivers. The intent of the rule is to “ensure that individuals receiving services and supports through Medicaid’s HCBS programs have full access to the benefits of community living and are able to receive services in the most integrated setting.” The rule encourages service providers to focus on outcomes and community inclusion. Within the next five years, the new regulation seeks to ensure all settings are:

“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.”

West Virginia Department of Health and Human Resources (DHHR) has developed a self-assessment tool to identify the settings in which HCBS are currently offered and to determine next steps for compliance with the new Federal regulation. Although some settings may already offer services that promote community inclusion, other settings may need to make changes to allow full community inclusion. This assessment will help the State identify specific settings that require additional support to promote inclusion. It will not be used to penalize settings that are not yet in compliance.

Service providers play an integral role in the State Medicaid system to ensure individuals receive the necessary services and supports. By completing this assessment, you will assist the State in gathering information on the HCBS settings covered under the Intellectual/ Developmental Disability (I/DD) waiver program. This information, along with additional data sources, such as provider applications and licensure reviews, will be used by the State to develop a transition plan for areas not in compliance with the final rule that must be submitted to CMS.

***Compliance with assessment completion***

Failure to complete the assessment may result in corrective action consistent with the terms of the provider agreement and may jeopardize your standing as an approved IDDW Waiver Provider.

***Timeline***

The assessment(s) for each type and address must be completed by **<insert date>**.

***Assessment Instructions***

The assessment is applicable to both residential (Intensively Supported Setting (ISS), group homes, specialized family care homes) and non-residential (facility-based day habilitation, supported employment) settings. Providers should complete this assessment for each setting type and address by re-entering the assessment link. The assessment will take you approximately 15 to 30 minutes to complete. Thank you for taking the time to complete the West Virginia Provider Self-Assessment on the new Federal Home and Community Based Services Regulations.

**Demographic Questions:**

22. What is your organization/agency name?

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23. Who should we contact for more information?

Name	E-mail
Title	Phone Number

24. What is the address (*street and zip code*) for the setting you will be describing in this assessment?

Street address	Zip Code
----------------	----------

25. How many individuals receive services under the IDDW waiver within this home/workplace?

--

26. What best describes this residential/non-residential setting?

- Facility based day habilitation
- Supported employment
- Participant Centered Support – ISS (serving 1-3 people)
- Participant Centered Support – Group homes (serving 4 or more people)
- Participant Centered Support – Specialized family care homes

<based on the answer to #4, the next page will either go to the residential or non-residential questions>

**Residential settings:**

1. Do any of the following characteristics apply to this specific setting? (Check all that apply)
  - Location is on the property of an institution
  - Location is adjacent to an institution
  - Location is in a Commercial property area with large vehicle/truck traffic and/or few other businesses in which to mingle or shop
  - Location is not within one block of residential homes owned by members of the general public
  - Location is more than a ½ mile from other homes and businesses that can be frequented by participants
  - Location is intermixed in a neighborhood with other homes and businesses within a 1/2 mile
  - Setting has frequent visitors from the general public
2. At this residential setting location, can individuals leave the home for less than 4 hours a day?
  - Yes
  - No
  - Not Applicable
3. Is this location designed or reserved specifically for waiver participants?
  - Yes
  - No
  - Not Applicable
4. Do most activities occur between only persons with disabilities and paid staff?
  - Yes
  - No
  - Not Applicable
5. Do individuals have any of the following: (Check all that apply)
  - Their own checking accounts
  - Access to their own funds when they choose
  - Receive assistance to manage finances
  - None
6. Do you have any of the following rules or restrictions for individuals you serve in this setting? (Check all that apply)
  - Rules that inhibit freedom of movement outside of the setting
  - Rules or restrictions on scheduling that prevents transportation to desired community activities
  - Rules or restrictions on access to family, friends and community functions
  - Rules that require group activity instead of individualized choices
7. Do individuals at this setting have full access to ALL areas (other than rooms of other residents) of the setting?
  - Yes
  - No
  - Not Applicable
8. Do individuals have full access to food not limited to scheduled meal or snack times?
  - Yes
  - No
  - Not Applicable
9. Do individuals have a choice whether must they share a home?

- Yes
  - No
  - Not Applicable
10. Do individuals have a choice of roommates/housemates in shared residences?
- Yes
  - No
  - Not Applicable
11. Do individuals have a legally enforceable agreement or residency agreement that provides protections that address eviction processes and appeals?
- Yes
  - No
  - Not Applicable
12. Do the setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week (e.g. combine competitive employment with community habilitation)?
- Yes
  - No
  - Not Applicable
13. Is all information about individuals kept private? For instance, do paid staff/providers follow confidentiality policy/practices and does staff within the setting ensure that, for example, there are no posted schedules of individuals for any services, medications, restricted diet, etc., in a general open area?
- Yes
  - No
  - Not Applicable
14. Are there gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting?
- Yes
  - No
  - Not Applicable
15. Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?
- Yes
  - No
  - Not Applicable
16. Does the setting post or provide information to individuals about how to make a request for additional HCBS, or changes to their current HCBS?
- Yes
  - No
  - Not Applicable
17. Do you have additional comments about the services/settings provided at this location?

**Thank you for taking the time to complete this assessment! Please watch for updates to West Virginia's compliance to the rule requirements by visiting our webpage at <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>.**

**Non-residential settings:**

1. Do any of the following characteristics apply to this specific setting? (Check all that apply)
  - Location is on the property of an institution
  - Location is adjacent to an institution
  - Location is in a Commercial property area with large vehicle/truck traffic and/or few other businesses in which to mingle or shop
  - Location is more than a ½ mile from other homes and businesses that can be frequented by participants
  - Location is intermixed in a neighborhood with other businesses within a 1/2 mile
  - Setting has frequent visitors from the general public
2. Do individuals in this setting work full time or part time?
  - Full time (30 or more hours per week)
  - Part time (Less than 30 hours per week)
  - Other (please specify)
3. Do individuals in this setting work in an integrated, competitive employment environment and engage in activities with the general community?
  - Yes
  - No
  - Not Applicable
4. Do individuals in this setting earn sub-minimum wage or work for free?
  - Yes
  - No
  - Not Applicable
5. Which of the following do you offer individuals you serve at this setting: (Check all that apply)?
  - Individualized support based on need
  - Opportunities for community relationships or natural supports
  - Interaction with community members
  - Access to age appropriate activities and community resources
  - The ability to choose/refuse services based on individual choice
  - None
6. Do you offer opportunities for individuals to engage in activities with non-disabled community members (other than paid staff)?
  - Yes
  - No
  - Not Applicable
7. Do you offer individualized support enabling individuals to choose activities of his/her own interests within a group or individually that does not restrict or limit engagement in community activities that align with interests?

- Yes
  - No
  - Not Applicable
8. Which of the following do you offer to individuals you serve through this setting: (Check all that apply)?
- Opportunities for individuals to volunteer
  - Receive support to find competitive employment
  - Training (i.e. job coaching)
  - Postsecondary education
9. Do the setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week (e.g. combine competitive employment with community habilitation)?
- Yes
  - No
  - Not Applicable
10. Is all information about individuals kept private? For instance, do paid staff/providers follow confidentiality policy/practices and does staff within the setting ensure that, for example, there are no posted schedules of individuals for any services, medications, restricted diet, etc., in a general open area?
- Yes
  - No
  - Not Applicable
11. Are there gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting?
- Yes
  - No
  - Not Applicable
12. Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?
- Yes
  - No
  - Not Applicable
13. Does the setting post or provide information to individuals about how to make a request for additional HCBS, or changes to their current HCBS?
- Yes
  - No
  - Not Applicable
14. Do you have any additional comments about your setting location?

**Thank you for taking the time to complete this assessment! Please watch for updates to West Virginia's compliance to the rule requirements by visiting our webpage at <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>.**

## **Appendix J: Cover Letter for Individuals and Family Members Survey (ADW, TBIW, I/DD)**

The federal agency that oversees Medicaid programs, Centers for Medicare & Medicaid Services (CMS), has recently given guidance to States on how home and community-based services (HCBS) are offered at different settings. There is guidance on how HCBS are provided in a home setting and also how HCBS are provided at a work setting.

West Virginia Department of Health and Human Service (DHHS) Bureau for Medical Services (BMS) is the State agency in West Virginia that oversees Medicaid programs in the State. Some Medicaid programs offer HCBS to people who apply and are found eligible for the services. The new federal guidance on HCBS applies to the Medicaid programs that BMS oversees.

To learn more about people's experiences, BMS has developed a survey for people receiving services, their family members and advocates. The survey includes questions about how you receive HCBS in home settings and also work settings (if you work).

BMS would like to hear from you and asks that you complete the survey. The information collected in this survey will be used to help West Virginia make sure all home and work settings follow the federal guidance.

Each person only needs to fill out the survey once. Once you finish completing the survey, please mail the survey to:

Brendan Flinn

3130 Fairview Park Drive, Suite 500

Falls Church, VA 22042

Please contact Barbara Kinder at [Barbara.A.Kinder@wv.gov](mailto:Barbara.A.Kinder@wv.gov) or 304-558-1700 if you have any questions.

## **Appendix K : Individuals and Family Members Survey Questions for ADW/TBIW**

**Home and Community Based Settings  
A Self-Assessment Tool for Individuals, Families, Guardians, and Advocates**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) released requirements for home and community-based settings for services funded by Medicaid within the home and workplace.

<b>Characteristics of Home and Community</b>
<ul style="list-style-type: none"> <li>• Part of the community (e.g. within a neighborhood next to persons without disabilities)</li> <li>• Active in the community with consistent interaction with persons without disabilities</li> <li>• Choice of roommate or private room</li> <li>• Landlord-tenant protections</li> <li>• Physical accessibility</li> <li>• Unrestricted access to home and lockable doors</li> <li>• Choice of roommates</li> <li>• Freedom to furnish and decorate</li> <li>• Control over schedule</li> <li>• Access to private calls, e-mail and text</li> <li>• Control over personal resources</li> <li>• Access to food anytime</li> <li>• Visitors anytime</li> </ul>

The West Virginia Department of Health and Human Resources (DHHR) Bureau for Medical Services has developed a simple self-assessment tool for individuals, families, guardians and advocates to complete alerting DHHR to potential home and settings that may need attention in order to meet the CMS requirements. **Assessment Questions:**

1. I am a:
  - person who receives Medicaid funded home and community-based services
  - family member of a person who receives Medicaid funded home and community-based services
  - friend of a person who receives Medicaid funded home and community-based services
  - guardian of a person who receives Medicaid funded home and community-based services
  - advocate representing persons receiving Medicaid funded home and community-based services
  
2. I (or the person I know) receive Traumatic Brain Injury (TBIW) Waiver/ADW services in the following setting(s):
  - My own home
  - A family member's home
  - A friend's home
  - Other(describe):\_\_\_\_\_

**Please take a moment to respond to the following questions about the characteristics of your (or the person you know) current home or workplace.**

3. Is your home in the community among other private residences or retail businesses?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
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4. Did you or your guardian have a say in where you were going to live?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
5. If you have roommates or housemates who are not family members, did you or your guardian choose your roommates or housemates?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
6. Do you have full access to the following areas in your home? (Check all that apply)	<input type="checkbox"/> Kitchen <input type="checkbox"/> Dining room <input type="checkbox"/> Laundry room <input type="checkbox"/> Living room <input type="checkbox"/> Basement <input type="checkbox"/> None of the above
7. When you want or need to eat, are you able to access food?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
8. Do you have privacy in your home (e.g. can talk on the phone when you want, visit with who you want)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
9. I interact with my neighbors...	<input type="checkbox"/> Multiple times per week <input type="checkbox"/> Once a week <input type="checkbox"/> A few times a month <input type="checkbox"/> Rarely <input type="checkbox"/> Never <input type="checkbox"/> I don't have neighbors
10. Are you aware of or do you have access to, materials to become aware of activities occurring outside of the home?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
11. Do you receive information (by mail or word of mouth) about activities going on in your community?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
12. Do you have a choice of activities to participate in in the community? This includes the ability to shop, attend religious services, schedule appointments, and/or have lunch with family and friends in the community.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
13. Do you choose where you go during the week. (e.g. grocery shopping, church, visit family/friends)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
14. Do you have friends and relationships with persons other than paid staff or family?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable

15. Do you volunteer, have a paid job or participate in a day habilitation program in the community?"	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
16. Do you work or volunteer at a job that employs people with and without disabilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
17. Do you like where you volunteer or work?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
18. Do staff talk to you in the way you prefer (such as without nicknames or talking about you in front of others)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
19. Are you able to access more than one service in any given day/week?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
20. Do staff members respect your privacy?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
21. Is there a safe place for you to store your personal items?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
22. Are you able to access all areas of the setting, without locked doors, fences or other barriers?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
23. Are you able to change or update your service preferences at will?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
24. Does the setting provide you information on how to request changes or additions to your services?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
25. Do you or your guardian decide how to spend your money?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable

26. If you do not decide how to spend your money, why? (e.g., you have a social security payee or a power of attorney). If you answered “no” to any of the questions above, please write the name and address of your provider in the space(s) below.

<b>Provider Name</b>	<b>Provider Address</b>

27. Do you have any additional comments about your services or settings that you want to share?

28. Your response is anonymous. If you would like us to know who you are, please insert your contact information below.

Name:

E-mail:

**Thank you for taking the time to complete this assessment! Please watch for updates to West Virginia's compliance to the rule requirements by visiting our webpage at <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>.**

## **Appendix L: Individuals and Family Members Survey**

### **Questions for I/DD**

#### **Home and Community Based Settings A Self-Assessment Tool for Individuals, Families, Guardians, and Advocates**

In January 2014, the Centers for Medicare and Medicaid Services (CMS) released requirements for home and community-based settings for services funded by Medicaid within the home and workplace.

Characteristics of the home	Characteristics of the workplace
-----------------------------	----------------------------------

<ul style="list-style-type: none"> <li>• Part of the community (e.g. within a neighborhood next to persons without disabilities)</li> <li>• Active in the community with consistent interaction with persons without disabilities</li> <li>• Choice of roommate or private room</li> <li>• Landlord-tenant protections</li> <li>• Physical accessibility</li> <li>• Unrestricted access to home and lockable doors</li> <li>• Choice of roommates</li> <li>• Freedom to furnish and decorate</li> <li>• Control over schedule</li> <li>• Access to private calls, e-mail and text</li> <li>• Control over personal resources</li> <li>• Access to food anytime</li> <li>• Visitors anytime</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the community (e.g. work next to business or persons without disabilities)</li> <li>• Active in the community with consistent interaction with persons without disabilities</li> <li>• Make money by accessing and seeking employment</li> <li>• Receive support to find competitive employment and training</li> <li>• Access to age appropriate activities and community resources</li> <li>• Opportunities for community relationships and interaction with community member</li> <li>• Ability to choose or refuse activities based on choice</li> <li>• Engagement in community activities that align with interests</li> <li>• Opportunities to volunteer</li> </ul>
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The West Virginia Department of Health and Human Resources (DHHR) Bureau for Medical Services has developed a simple self-assessment tool for individuals, families, guardians and advocates to complete alerting DHHR to potential home and workplace settings that may need attention in order to meet the CMS requirements.

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**Assessment Questions:**

29. I am a:

- person who receives Medicaid funded home and community-based services
- family member of a person who receives Medicaid funded home and community-based services
- friend of a person who receives Medicaid funded home and community-based services
- guardian of a person who receives Medicaid funded home and community-based services
- advocate representing persons receiving Medicaid funded home and community-based services

30. I (or the person I know) receive Medicaid funded home and community-based services in the following home setting(s) (Check all that apply):

- Group home with 3-8 roommates/housemates
- Group home with greater than 9 roommates/housemates
- Intensively Supported Setting (ISS)
- Specialized family care home
- Not applicable – I receive services within my family’s home, live on my own, or have my own apartment.

31. I (or the person I know) receive Medicaid funded home and community-based services in the following workplace setting(s) (Check all that apply):

- Facility based day habilitation program within a “workshop” setting
- Facility based day habilitation program not in a “workshop” setting

- Community-based day habilitation program
- Supported employment within the community
- Not applicable – I do not receive or need employment or day support through Medicaid.
- Not applicable – I do not receive employment or day support through Medicaid, but wish it was available.

**Please take a moment to respond to the following questions about the characteristics of your (or the person you know) current home or workplace.**

32. Is your home in the community among other private residences or retail businesses?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
33. Is your workplace in the community among other private residences or retail businesses?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
34. Do you work or volunteer at a job that employs people with and without disabilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
35. Did you or your guardian have a say in where you were going to live?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
36. If you have roommates or housemates who are not family members, did you or your guardian choose your roommates or housemates?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
37. I interact with my neighbors...	<input type="checkbox"/> Multiple times per week <input type="checkbox"/> Once a week <input type="checkbox"/> A few times a month <input type="checkbox"/> Rarely <input type="checkbox"/> Never <input type="checkbox"/> I don't have neighbors
38. Do you have friends and relationships with persons other than paid staff or family?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
39. Are you aware of or do you have access to, materials to become aware of activities occurring outside of the home or workplace setting?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
40. Do you have a choice of activities to participate in in the community? This includes the ability to shop, attend religious services, schedule appointments, and/or have lunch with family and friends in the community.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
41. Do you have full access to the following areas in your home? (Check all that apply)	<input type="checkbox"/> Kitchen <input type="checkbox"/> Dining room <input type="checkbox"/> Laundry room

	<input type="checkbox"/> Living room <input type="checkbox"/> Basement <input type="checkbox"/> None of the above
42. When you want or need to eat, are you able to access food?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
43. "Do you volunteer, have a paid job or participate in a day habilitation program in the community?"	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
44. Did you choose where you go during the weekday (e.g. workshop, job in the community, volunteer position)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
45. Are you happy with how much money you make at your job?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
46. How do you feel about how many hours you work in a week?	<input type="checkbox"/> I like the number of hours I work <input type="checkbox"/> I don't work enough. <input type="checkbox"/> I work too much. <input type="checkbox"/> I don't really care.
47. Do you have privacy in your home (e.g. can talk on the phone when you want, meet with who you want to meet with)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
48. Do staff address you in the way you prefer (such as without nicknames or talking about you in front of others)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
49. Are you able to access more than one service in any given day/week?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
50. Do staff members respect your privacy?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
51. Is there a safe place for you to store your personal items?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
52. Are you able to access all areas of the setting, without locked doors, fences or other barriers?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
53. Are you able to change or update your service preferences at will?	<input type="checkbox"/> Yes

	<input type="checkbox"/> No <input type="checkbox"/> Not applicable
54. Does the setting provide you information on how to request changes or additions to your services?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable
55. Do you or your guardian decide how to spend your money?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable

56. If you do not decide how to spend your money, why? (e.g., you have a social security payee or a power of attorney).

If you answered “no” to any of the questions on pgs. 2-3, please note the name and address of the provider setting you are referring to in the space(s) below:

<b>Provider Name</b>	<b>Provider Address</b>

57. Do you have any additional comments about your services or settings that you want to share?

--

58. Your response is anonymous. If you would like us to know who you are, please insert your contact information below.

Name:

E-mail:

**Thank you for taking the time to complete this survey! Please watch for updates to West Virginia's compliance to the rule requirements by visiting our webpage at <http://www.dhhr.wv.gov/bms/hcbs/Pages/default.aspx>.**

## **Appendix M: Protocol for Review of West Virginia Home and Community Settings**

Section 1. *Purpose:* The purpose of this protocol is to manage provider identification and compliance with setting requirements in accordance with the Home and Community Based Services settings rule 42 *CFR* 441.301(c)(4)(i-v)/441.710(a)(1)(i-v)/441.530(a)(1)(i-v)

The actions in Sections 4 through 9 are repeated as necessary to assure that all applicable HCBS settings remain in compliance with the Integrated Services Rule.

Note: Specialized Family Care homes were added to the database in December 2018. The procedure for review of these homes is included in Section 8.

### *Section 2. Member and Provider data analysis*

Analysis of the data collected from the 2015 Member and Provider surveys was completed to identify the following key indicators of non-compliance and to prioritize settings reviews:

Key Indicator: Providers that self-identify as being in compliance, but Member responses indicate otherwise.

Key Indicator: Member responses indicate provider compliance, but Provider response indicates otherwise.

Key Indicator: Provider responses that self-identify gross non-compliance among the five requirements of 42 *CFR* 441.301(c)(4)(i-v)/441.710(a)(1)(i-v)/441.530(a)(1)(i-v). These

providers are scored as 0, 3 or 4 on the assessment instrument. (Appendices K and N of State Transition Plan).

Key Indicator: Analysis of provider respondents to identify those with licensed (owned or leased settings) which did not respond as instructed.

Key Indicator: Any provider setting for which BMS has received a complaint alleging non-compliance.

These Key Indicators translate into Scores based as follows:

- Score of 1 No indication of an Institutional Setting AND  
No indication of Isolating Effects AND  
Score of less than 10% for Conditions that Restrict Choice or Rights (Compliance)
- Score of 2 No indication of an Institutional Setting AND  
Score of 1-49% for Isolating Effects AND  
Score of 10-49% for conditions that Restrict Choice or Rights
- Score of 3 No indication of an Institutional Setting AND  
Score of 1-49% for Isolating Effects AND  
Score of 50% or higher for conditions that Restrict Choice or Rights
- Score of 4 Any indication of an institutional setting AND  
Score of 50% or higher for Isolating Effects  
(Gross Non-Compliance)

Providers with identified Key Indicators are considered Priority I.

Providers without identified Key Indicators and scoring 1 or 2 on the self -assessment instrument are considered Priority II.

The relation of score to priority is as follows:

Score	0 (no answers)	Priority I
	1	Priority II
	2	Priority II
	3	Priority I
	4	Priority I

No providers were found, based on the self - survey, to be totally compliant. Priority II (Score 1 or 2) providers had self-surveyed to indicate substantive compliance.

### Section 3. *Validation Process for Provider Responses and Key Indicators*

All providers not initially responding to the surveys were notified by email, phone and letter that the lack of response signifies that they are not in compliance and are under intense BMS scrutiny.

Direct communication with each non-respondent provider ascertained if the provider wished to come into compliance. All providers ultimately expressed the intention to come into compliance and completed the survey.

### Section 4. *Setting/Site visits and Revisits*

Site visits were conducted to validate provider responses using the following criteria (Priority I): (completion date 1/12/2018)

Providers who did not self-identify, but member responses indicate non-compliance.

Providers who did not respond but should have responded.

Providers who self-identify non-compliance.

Site visits were conducted for **all** Facility Based Day Habilitation and Supported Employment settings. (Completion date 1/5/2018)

Site visits were conducted for **all** residential settings housing 4 or more individuals. (Completion date 1/12/2018)

Site visits were conducted for 50% of all 1-3 bed settings. All Priority I 1-3 bed settings were reviewed. A random sample of Priority II settings identified additional 1-3 bed settings with the sample skewed to assure that all providers have at least one setting reviewed. It was recognized that the percentage of site visits conducted for Priority II settings exceeded the 50% target in order to assure that all providers had at least one setting review. (Completion date was 1/12/2018).

Follow up visits were conducted for all settings not found in compliance. The timelines were based on Plan of Compliance Dates.

Annual reviews (and follow-ups if necessary) will be conducted for all settings in subsequent years.

As new providers or settings falling under the Integrated Services Rule (settings owned or leased by provider) are created, these settings shall receive an initial State Transition Plan review prior to beginning services at the setting. This review would include technical assistance and general compliance determination. Then when the setting is fully operational, BMS would conduct a full review as they have for all other provider settings, following the procedures in **Appendix M**.

#### *Section 5. Setting/Site Visits Procedure*

Initial provider contacts are announced. Multiple sites owned or leased by one provider may or may not be reviewed sequentially.

Follow up and annual setting visits will be unannounced. When conducted by KEPRO, 48-hour notice shall be given. KEPRO reviews will include a verification of all settings, and census and services provided for each under the State Transition Plan.

Portions of the review process may be conducted off the setting grounds. (For example: Policy review at the provider main office).

Reviewer should be familiar with Attachment 6, Guidance for Reviewers, prior to entrance. Reviewer conducts entrance meeting, introduces self and purpose of the setting review. Reviewer acquires a list of all persons receiving Waiver services at the setting and the total number of persons being served or living at the setting. Type(s) of transportation used and available to members is also obtained. Types of services, including but not limited to Facility Based Day Habilitation, Supported Employment, Skilled Nursing services and Electronic Monitoring, will be identified.

Reviewer completes the Setting Assessment instrument (Non-Residential Site Review -Attachment 1, Residential Site Review – Attachment 2 and Site Review/Records – Attachment 3 as applicable) for each setting.

Observations include meals when possible.

Reviewer obtains verification documentation for non-compliance issues as found. This documentation may include photographs, copies of documents (including copies of policy or procedures), interview responses and/or observations made by the reviewer.

Reviewer interviews up to 20% of individuals and/or guardians. Interviews may be by phone.

Reviewer reviews charts of individuals, as well as others as necessary.

Reviewer should note NA for ‘not applicable’ if the question or

prompt doesn't apply to the setting.

At the conclusion of the setting review, the reviewer will meet briefly with setting personnel designated by the provider. Reviewer will provide a brief synopsis of the review findings and inform the provider that there will be a written review report (SAVE, Attachment 4/KEPRO Provider Review Tool) given to the provider. The provider will be informed that additional off-site record review (Attachment 3) and/or interviews may also be referenced in the reports. Providers will also be informed that any non-compliance found will require a plan to bring the setting into compliance. The timeline for the receipt of the SAVE report should not exceed 30 days from the date of the exit. This will depend on the receipt of additional off-site record reviews and interviews that need to be completed before the report is finalized.

### *Section 6. Plan of Compliance*

Each setting review will result in a Setting Assessment Visit and Evaluation report (SAVE, Attachment 4/KEPRO Provider Review Tool). This report will specify each assessment criterion not met.

Each setting review will result in a Plan of Compliance report (Attachment 5). This form will be completed by the provider and will include the Action Steps for each criterion cited in the setting review and a date for completion.

BMS or KEPRO will review and approve or disapprove the Plan of Compliance submitted for each setting where deficiencies are found.

Should BMS not approve the Plan of Compliance, the provider will be notified that the provider has signified that it has no approved plan to come into compliance. BMS will work with the provider to assure transition plans to other facilities or settings for members currently served by that provider and the Disenrollment of the Provider's setting from the program.

Should BMS approve the Plan of Compliance and completion dates, BMS or KEPRO will conduct a return setting visit, after the completion date designated by the provider. The purpose of this visit is to determine that non-compliant findings have been corrected.

This process will be repeated annually.

### *Section 7. Review of Assessment Results and Follow Up*

As each report is finalized and a Plan of Compliance approved, the findings of non-compliance will be entered in a database for each provider and each finding. At the conclusion of the first cycle of reviews, this information was analyzed to identify trends,

needs for provider training, and statistical probability for each finding across all providers, by type of provider and by region/county (see **Appendix N**).

This analysis will be repeated annually or more frequently as needed. When issues or needs for training are identified, these will be addressed by BMS.

The report will include the names and number of settings compliant with the HCBS settings criteria; the names and number of settings that are moving towards compliance (have deficiencies but there is a plan of compliance); the names and number of settings that cannot/will not comply with the HCBS settings criteria; the names and number of settings that are presumptively institutional in nature. This information will be disseminated as described in Section 11.

### *Section 8. Specialized Family Care Homes*

Specialized Family Care Homes were added to the database in December 2018. Initial reviews are conducted by the Family Based Care Specialist. The Initial Setting Reviews for these homes were completed 7/17/19. The Family Based Care Specialist will work with homes that were not totally compliant, following the format for other settings. There will be a Statement of Deficiencies developed by BMS and given to the provider. There will be a Plan of Compliance completed and submitted to BMS, with follow up reviews as necessary. Each home will be reviewed at least annually.

NOTE: We neglected to include the lease/agreement issue in the SFC reviews. We plan to remediate this by:

- A. Adding this question to the protocol as follows: Is the unit or dwelling a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state, county, city or other designated entity. Yes, No Not Applicable. This has been changed in the Protocol.
- B. The SFC Family Based Care Specialist/Case Manager visits each home monthly. Case Managers will be asked to get the answer to this specific question during their next home visit. This information will be added to the SFC database and the data analysis (page 265) will be changed to reflect these findings.
- C. If any homes are not in compliance, a plan of compliance with a completion date will be required. It is expected that all homes will comply on this issue within 3 months.

These homes are also reviewed by the advocacy group Disability Rights of West Virginia under that agency's PADD contract.

### *Section 9. Heightened Scrutiny if Necessary*

There may be times that a provider meets the criteria of a "Presumptively non-HCBS setting" and is presumed to have the qualities of an institution. This could occur even when the BMS

review has found otherwise. BMS will submit evidence to CMS regarding this provider if the state determines, through its assessments, that the setting does have qualities that are home and community-based in nature and does not have the qualities of an institution. This evidence will include State and other stakeholder evidence.

BMS will cooperate with CMS as CMS determines whether the setting is a non-HCBS Setting. BMS will act on the CMS determination.

At present, there are no settings meeting these criteria.

#### Section 10. *Transition of Members to Integrated Settings*

There may be times that a provider cannot comply or refuses to come into compliance with the Home and Community Based Services Rule. This provider/setting is then deemed a non-HCBS setting and BMS will begin the Relocation of Beneficiaries process found in this section. In the event that a provider cannot comply or refuses to come into compliance with the Home and Community Based Services Rule, the provider will be informed that the setting found non-compliant will be dis-enrolled from the Medicaid program.

1. This notification will be by certified mail as well as electronically.
2. The Provider will have 10 calendar days from the date of its notification of disenrollment to notify all member participants of the disenrollment and actions the provider will take to ensure person centered planning. Within 30 working days of the date of the notification, the provider will submit to BMS an Agency Transition Plan. This plan will list 1) setting location which is non-compliant; 2) the member(s) by name and Medicaid Number; 3) the service(s) provided to each listed member; 4) the date for the Critical Juncture transition meeting for each listed member; 5) The result of the meeting including setting/location of services that do comply with the rule; 6) The date of the change of provider/setting.
3. BMS will be copied on all provider to member correspondence.
4. KEPRO will notify the affected members as well.
5. The provider will have 90 calendar days from the date of the notification to transition individuals to other services and/or settings that do comply with the Rule.
6. Individual face to face team meetings for transition will be held and the individual and their legal representative (if applicable) will make the final choice from available settings that comply with the rule. This team should include all the participants of the member's team, including the member, family members, legal representatives, advocates, representatives of all agencies

serving the member or which may begin serving the member, the case manager, plus any other persons the member wishes to attend.

7. Provider disenrollment will occur at the end of the 90 days or when all members are successfully transitioned.
8. For each member, all IPP services delivered by the dis-enrolled provider/setting to the member must be replaced services from an enrolled provider/setting to ensure continuity of care.
9. In no instance will there be a disruption of services to the individual member. Person centered planning by the individual's team meeting must ensure that transition is to services that comply with the rule. AGENCY TRANSITION PLAN: Public notification

The provider agency in conjunction with BMS must hold a general informational meeting for all members, legal representatives and other interested parties. BMS will attend this meeting to answer any questions. Members will also be encouraged to call BMS should they have any questions. Requests should be made through phone, email or letter with BMS contact information made available to all affected members at Critical Juncture meetings and on the BMS website.

#### AGENCY TRANSITION PLAN: BMS monitoring reports

The provider will submit updates to the Agency's Transition plan weekly to BMS, completing items 4-6 of item 3 above as these events occur. The plan update will be provided to BMS until all member transitions are complete.

Should an individual member request assistance beyond that given by the provider, BMS will assist the member in the timely transition to another provider and/or setting. In isolated instances, BMS may extend the 90-day transition period for an individual member due to imminent harm concerns.

#### STATE MONITORING AFTER TRANSITION:

Monitoring of members in the new settings will be conducted by the Case Manager of the individual member.

1. Within the first 3 business days after the transition, the case manager will do a physical face to face visit to the new setting, using the review tool for Case Managers (**Appendix O**).
2. A second face to face physical visit will be conducted within 30 days of the first visit by the Case Manager.
3. A third face to face physical visit will be conducted within 60 days of the second visit by the Case Manager.

4. Subsequently Case Managers will resume the normal 30-day residential reviews and/or the 60-day non-residential reviews.
5. If there are any problems found at any time, the Case Manager should notify BMS, State Transition Plan Program Manager I at 304-356-4869 and also notify his/her immediate supervisor. The case manager but does not enforce.

#### PROVIDER DUE PROCESS:

In the event that the provider disputes the BMS finding that the provider setting(s) is not HCBS Rule compliant, the provider is instructed to follow the same procedure as that for disputation of any statement of deficiencies. This information would be included with the statement of deficiencies sent to the provider with the notice of non-compliance.

#### Section 11. *Ongoing Monitoring*

Settings are reviewed as a part of the ASO (KEPRO) review process after the initial setting reviews and return setting visits, following the protocol and assessment instruments outlined above. All settings are reviewed yearly. Follow up visits will be conducted at all settings not found to be in full compliance.

In addition, The West Virginia Office of Health Facility Licensure and Certification conducts provider reviews, including site visits for all licensed sites. These occur at least every two years and may occur more frequently if problems are found which result in a license for a lesser period of time.

Specialized Family Care Homes are reviewed through the Center for Excellence in Disabilities' Family Based Care Specialists. Data is provided to BMS for analysis. CED conducts follow up reviews.

#### Section 11. *Ongoing Reports*

There will be an omnibus report of the analysis of the data provided to BMS on an annual basis. This report is described in Section 7.

Setting review updates, identifying best practices, systemic problems, number of reviews completed and numbers of reviews to be completed will be reported to:

Providers during quarterly provider meetings

QA/QI councils during quarterly meetings

IDDW Waiver Contract Management Meetings held monthly.

Protocol: Attachment 1 (form condensed for inclusion in this report)

**HCBS**  
**Non-Residential Site Review**  
**West Virginia Bureau for Medical Services**

This assessment identifies characteristics that are expected to be present in all home and community-based settings and associated traits that individuals in those settings might experience.

Provider \_\_\_\_\_ Site \_\_\_\_\_

Address \_\_\_\_\_

Date reviewed \_\_\_\_\_ Time \_\_\_\_\_

Reviewer \_\_\_\_\_

Number of individuals receiving services at this site. \_\_\_\_\_

Number of individuals receiving services under the IDDW waiver at this site.  
\_\_\_\_\_ (obtain list of members)

**Type of setting:**

Facility based Day Habilitation \_\_\_\_\_

Job Development \_\_\_\_\_

Pre-Vocational \_\_\_\_\_

**Is licensed posted at the site? Y N**

Observations during site visit: \_\_\_\_\_ duration \_\_\_\_\_

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

A. The setting provides opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by individuals. Guidance: Activities that are busy work such as putting buttons in a box, emptying and refilling the box are not acceptable.

Y N Comments:

B. The setting affords opportunities for individual schedules that focus on the needs and desires of an individual and offer an opportunity for individual growth.

Y N Comments

C. The setting affords opportunities for individuals to have knowledge of or access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. outside of the setting. Y

N Comments:

Chi Who in the setting facilitates and supports access to these activities?

D. The setting allows individuals the freedom to move about inside and outside of the setting (as opposed to one restricted room or area within the setting). Y N Comments:

E. Individuals receive HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS. Y N Comments:

F. The setting is in a community/building located among other residential buildings, private businesses, retail businesses, restaurants, doctor's offices (to facilitate integration with the greater community). Y N Comments:

G. The setting encourages visitors or other people from the greater community (aside from paid staff) to be present. There is evidence that visitors have been present at regular frequencies. (For example, customers in a pre-vocational setting). Guidance: visitors greet/acknowledge individuals receiving services with familiarity when they encounter them; visiting hours are unrestricted; the setting otherwise encourages interaction with the public).

Y N Comments:

H. The employment setting provides individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times and leave and medical benefits with his/her employer to the same extent as individuals not receiving Medicaid funded HCBS. Y

N Comments:

I. In settings where money management is part of the service, the setting facilitates the opportunity for individuals to have a checking or savings account or other means to have access to and control his/her funds. Guidance: individuals are not required to sign over his/her paychecks to the provider.

Y N Comments:

J. The setting provides individuals with contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and these public transportation schedules and telephone numbers are available in a convenient location.

Y N Comments:

K. Alternatively, where public transportation is limited, the setting provides information about resources for individuals to access the broader community, including accessible transportation for individuals who use wheelchairs.

Y N Comments:

L. The setting assures that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services. Y N Comments:

M. The setting is physically accessible, including access to bathrooms and break rooms, and appliances, equipment, and tables/desks and chairs are at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., that may limit individuals' mobility in the setting.

Y N Comments:

N. If obstructions are present, there are environmental adaptations such as a stair lift or elevator to ameliorate the obstructions. Y N Comments:

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A. The setting reflects individual needs and preferences. Y N Comments:

B. The setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA. Y N Comments: (list non-disability-specific setting options offered)

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. All information about individuals is kept private.

Guidance: Do paid staff/providers follow confidentiality policy/practices? Does staff within the setting ensure that, for example, there are no posted schedules of individuals for PT, OT, medications, restricted diet, etc., in a commons or general open area?

Y N Comments:

B. Staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed, while providing assistance during the regular course of daily activities.

Y N Comments:

C. Staff do not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not present. Y N Comments:

D. The setting supports individuals who need assistance with their personal appearance to appear as they desire, and personal assistance is provided in private, as appropriate. Y N Comments:

E. The setting offers a secure place for the individual to store personal belongings. Y N Comments:

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. There are no gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting. Y N Comments: (note any restricted areas).

B. The setting affords a variety of meaningful non-work activities that are responsive to the goals, interests and needs of individuals.

Guidance: Does the physical environment support a variety of individual goals and needs (for example, does the setting provide indoor and outdoor gathering spaces; does the setting provide for larger group activities as well as solitary activities; does the setting provide for stimulating as well as calming activities?)

Y N Comments:

C. The setting affords opportunities for individuals to choose with whom to do activities in the setting or outside the setting,

Guidance: Are individuals assigned only to be with a certain group of people?

Y N Comments:

D. The setting allows for individuals to have a meal/ snacks at the time and place of their choosing. Y N Comments:

D.i The setting affords individuals full access to a dining area with comfortable seating. Y N Comments:

D.ii The setting affords individuals the opportunity to converse with others during break and mealtimes. Y N Comments:

D.iii The setting affords dignity to the diners (for example, individuals are treated age-appropriately and not required to wear bibs). Y N Comments:

D.iv The setting provides for an alternative meal and/or private dining area if requested by an individual. Y N Comments:

D.v The individuals have access to food at any time consistent with individuals in similar and/or in the same setting who are not receiving Medicaid-funded services and supports. Y N Comments:

E. The setting posts or provides information on individual rights. Y N Comments:

F. The setting affords the opportunity for tasks and activities matched to individuals' skills, abilities and desires. Y N Comments:

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. The setting posts or provides information to individuals about how to make a request for additional HCBS, or changes to their current HCBS. Y N Comments:

B. Setting staff are knowledgeable about the capabilities, interests, preference and needs of individuals. Y N Comments:

Record Reviews during site visit or off site:

*Procedure: Review Policies and Procedures of setting for the following:*

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

A. The setting's policy/procedures assure that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services. Y N Comments: (cite policy or procedure number)

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A. The setting policies and procedures ensure the informed choice of the individual. Y N Comments: (cite policy or procedure number)

B. As reflected in policy, the setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the

community, or engaging in general non-disabled community activities such as those available at a YMCA. Y N Comments: (cite policy or procedure number)

C. As reflected in policy, the setting options include the opportunity for individuals to choose to combine more than one service delivery setting or type of HCBS in any given day/week (for example, combine competitive employment with community habilitation). Y N Comments: (cite policy or procedure number)

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. As reflected in policy, all information about individuals is kept private. Y N Comments: (cite policy or procedure number)

B. Policies/Procedures for the setting provide assurance that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed, while providing assistance during the regular course of daily activities. Y N Comments: (cite policy or procedure number)

C. Policies/Procedures for the setting assure that staff do not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not present. Y N Comments: (cite policy or procedure number)

D. The setting policy requires that the individual and/or representative grant informed consent prior to the use of restraints and/or restrictive interventions and that there is documentation of these interventions in the person-centered plan. Y N Comments: (cite policy or procedure number)

E. The setting policy ensures that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting. Y N Comments:

E.i The setting's policy ensures that each individual's supports and plans are not restrictive to the rights of every individual receiving support within the setting. Y N Comments: (cite policy or procedure number)

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. The setting policy/procedure does not prohibit individuals from engaging in legal activities (ex. voting when 18 or older, consuming alcohol when 21 or older) in a manner different from individuals in a similar and/or the same setting who are not receiving Medicaid funded services and supports. Y N Comments: (cite policy or procedure number)

B. The setting policy/procedure affords an individual opportunity for tasks and activities matched to the individual's skills, abilities and desires. Y N Comments: (cite policy or procedure number)

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. The setting policy/procedure assures individual choice regarding the services, provider and settings and the opportunity to visit/understand the options. Y N Comments: (cite policy or procedure number)

B. The setting policy/procedure affords individuals the opportunity to regularly and periodically update or change their preferences. Y N Comments: (cite policy or procedure number)

C. The setting policy/procedure ensures individuals are supported to make decisions and exercise autonomy to the greatest extent possible. Y N Comments: (cite policy or procedure number)

D. The setting policy ensures the individual is supported in developing plans to support her/his needs and preferences.  
Y N Comments: (cite policy or procedure number)

### Interview Questions, on or off site

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. If you needed help, with getting dressed or bathing for instance, what would you do?  
Guidance: Does the setting support individuals who need assistance with their personal appearance to appear as they desire, and is personal assistance, provided in private, as appropriate?  
Comments:

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. Do you have chances to do other things while here?  
Guidance: Does the setting provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual?

Y N Comments:

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. Were you provided a choice regarding the services, provider and settings before you came here? Y N

A.i Did you have the opportunity to visit/understand these choices/options? Y N

A.ii Can you change your mind about these choices? Y N

A.iii How do you do that? Comments:

Guidance: Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?

B. Do you decide what you do here? Y N

B.i Does anyone help? Y N Comment: \_\_\_\_\_ (who)

C. Do you know how to make a request for additional help or services, or change the services you have right now? Y N Comments:

Protocol: Attachment 2 (form condensed for inclusion in this report)

## **HCBS Residential Site Review West Virginia Bureau for Medical Services**

**This assessment identifies characteristics that are expected to be present in all home and community-based settings and associated traits that individuals in those settings might experience.**

**Provider:                      Site:**

**Address:                      Date reviewed                      Time**

**Reviewer:**

**Number of individuals receiving services at this site.**

**Number of individuals receiving services under the IDDW waiver at this site.**

**(Obtain list of individuals)**

**Type of setting:**

Participant Centered Support – ISS (serving 1-3 people) \_\_\_\_\_

Participant Centered Support – Group homes (serving 4 or more people) \_\_\_\_\_

Is the License posted/available? Y N

Do individuals have individual Leases? Y N

Guidance: obtain copies of all

Observations during site visit:

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

A. Individuals are not isolated from individuals not receiving Medicaid HCBS in the broader community. Y N Comments:

B. Individuals receiving HCBS do not live/receive services in a different area of the setting separate from individuals not receiving Medicaid HCBS. Y N Comments:

C. The setting is in the community among other private residences and retail businesses. Y N Comments: Guidance: see CMS: Settings that Have the Effect of Isolating...” page 3

D. The community traffic pattern is consistent around the setting. For example, individuals do not cross the street when passing to avoid the setting. Y N Comments:

E. Individuals on the street greet/acknowledge individuals receiving services when they encounter them. Y N Comments:

F. Visitors are present. Y N Comments:

G. Visiting hours are posted. Y N Comments:

H. Bus and other public transportation schedules and telephone numbers are posted in a convenient location. Y N Comments:

I. The individuals have access to materials to become aware of activities occurring outside of the setting. Y N Comments:

J. The setting affords the individual with the opportunity to participate in meaningful non-work activities in integrated community settings in a manner consistent with the individual’s needs and preferences. Y N Comments:

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual’s needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A. The setting is an environment that supports individual comfort, independence and preferences. Y N Comments:

B. Individuals have full access to facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas. Y N Comments:

C. Informal (written and oral) communication is conducted in a language that the individual understands. Y N Comments:

D. Assistance is provided in private, as appropriate, when needed. Y N Comments:

E. The individual has unrestricted access in the setting. Y N Comments:

E.i Gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting are not in evidence. Y N Comments:

E.ii Individuals receiving Medicaid Home and Community-Based services are facilitated in accessing amenities such as a pool or gym used by others on-site. Y N Comments:

E.iii The setting is physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting. Guidance: if these are present, there are environmental adaptations such as a stair lift or elevator to ameliorate the obstruction. Y N Comments:

F. The physical environment meets the needs of those individuals who require supports. Y N Comments:

F.i For those individuals who need supports to move about the setting as they choose, supports are provided such as grab bars, seats in the bathroom, ramps for wheelchairs, viable exits for emergencies, etc. Y N Comments:

F.ii Appliances are accessible to individuals. For Example, the washer/dryers are front loading for individuals in wheelchairs. Y N Comments:

F.iii Tables and chairs are at a convenient height and location so that individuals can access and use the furniture comfortably. Y N Comments:

G. Individuals have full access to the community. Y N Comments:

G.i Individuals come and go at will. Y N Comments:

G.ii Individuals move about inside and outside the setting as opposed to all sitting by the front door or other area. Y N Comments:

G.iii Individuals in the setting have access to public transportation. Y N Comments:

G.iv There are bus stops nearby or are taxis available in the area. Y N Comments:

G.v An accessible van is available to transport individuals to appointments, shopping, etc. Y N Comments:

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. The individual has access to make private telephone calls/text/email at the individual's preference and convenience. Y N Comments:

A.i Individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time. Y N Comments:

A.ii The telephone or other technology device is in a location that has space around it to ensure privacy. Y N Comments:

A.iii Individuals' rooms have a telephone jack, WI-FI or ETHERNET jack. Y N Comments:

B. Individuals are free from coercion. Y N Comments:

B.i Information about filing a complaint is posted in an obvious location and in an understandable format. Y N Comments:

B.ii The individuals in the setting have different haircut/hairstyles and hair color. Y N Comments:

C. The individual's right to dignity and privacy is respected. Y N Comments:

C.i Health information about individuals is kept private. Y N Comments:

C.ii Schedules of individuals for PT, OT, medications, restricted diet, etc., are not posted in a general open area for all to view. Y N Comments:

C.iii Individuals who need assistance with grooming are groomed as they desire. Y N Comments:

C.iv Individuals' nails are trimmed and clean. Y N Comments:

D. Individuals who need assistance to dress are dressed in their own clothes appropriate to the time of day and individual preferences. Y N Comments:

D.i Individuals do not wear bathrobes all day long. Y N Comments:

D.ii Individuals are wearing clothes that fit, are clean, and are appropriate for the time of day, weather, and preferences. Y N Comments:

E. Staff communicates with individuals in a dignified manner. Y N Comments:

E.i Individuals greet and chat with staff. Y N Comments:

E.ii Staff converse with individuals in the setting while providing assistance and during the regular course of daily activities. Y N Comments:

E.iii Staff do not talk to other staff about an individual(s) as if the individual was not present or within earshot of other persons living in the setting. Y N Comments:

E.iv Staff address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'. Y N Comments:

F. Individuals have privacy in their sleeping space and toileting facility. Y N Comments:

F.i The furniture is arranged as individuals prefer and does the arrangement assure privacy and comfort. Y N Comments:

F.ii The individual can close and lock his/her bedroom door. Y N Comments:

F.iii The individual can close and lock the bathroom door. Y N Comments:

F.iv Staff or other residents always knock and receive permission prior to entering a bedroom or bathroom. Y N Comments:

G. The individual has privacy in his/her living space. Y N Comments:

G.i Cameras are present in the setting, in individual personal living spaces. Y N Comments:

G.ii In individual personal living space, the furniture is arranged as individuals prefer to assure privacy and comfort. Y N Comments:

G.iii Staff or other residents always knock and receive permission prior to entering an individual's personal living space. Y N Comments:

G.iv Staff only use a key to enter a personal living area or privacy space under limited circumstances agreed upon with the individual. Y N Comments:

H. The individuals have comfortable places for private visits with family and friends. Y N Comments:

H.i The furniture is arranged to support small group conversations. Y N Comments:

I. Individuals furnish and decorate their sleeping and/or living units in the way that suits them. Y N Comments:

I.i The individuals' personal items, such as pictures, books, and memorabilia are present and arranged as the individual desires. Y N Comments:

I.ii The furniture, linens, and other household items reflect the individuals' personal choices. Y N Comments:

I.iii Individuals' living areas reflect their interests and hobbies. Y N Comments:

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. Individuals have his/her own bedroom or share a room with a roommate of choice. Y N Comments:

B. Married couples share or not share a room by choice. Y N Comments:

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. Individuals are not required to adhere to a set schedule for waking, bathing, eating and exercising activities. Y N Comments:

B. Individuals have access to such things as a television, radio, and leisure activities that interest him/her, and s/he can schedule such activities at his/her convenience. Y N Comments:

C. Individuals choose when and what to eat. Y N Comments:

D. Snacks are accessible and available anytime. Y N Comments:

E. The dining area affords dignity to the diners and individuals are not required to wear bibs or use disposable cutlery, plates and cups. Y N Comments:

F. The individual chooses with whom to eat or to eat alone. Y N Comments:

F.i Individuals are not required to sit at an assigned seat in a dining area. Y N Comments:

F.ii Individuals converse with others during mealtimes. Y N Comments:

F.iii If an individual desires to eat privately, s/he can do so. Y N Comments:

F.iv Staff ask the individual about her/his needs and preferences. Y N Comments:

F.v Requests for services and supports are accommodated as opposed to ignored or denied. Y N Comments:

F.vi Individual choice is facilitated in a manner that leaves the individual feeling empowered to make decisions. Y N Comments:

G. The individual chooses from whom they receive services and supports. Y N Comments:

Record Reviews during site visit or off site:

*Procedure: Review Policies and Procedures of setting for the following:*

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

A. The record/log confirms that the individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCBS services. Y N Comments:

A.i Individuals regularly access the community. Y N Comments:

A.ii The individuals shop, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, as each individual chooses and as determined by the treatment team. Y N Comments:

A.iii Individuals may come and go at any time as determined by the treatment team. Y N  
Comments:

B. The setting's policy/procedure ensures that each individual is employed or active in the community outside of the setting as determined by the treatment team. Y N Comments:

Guidance: This includes volunteer services. Obtain copies of all current Individual Service Plans.

B.i Individuals work in integrated community settings. Y N Comments:

B.ii If individuals would like to work, there is activity that ensures the option is pursued. Y N  
Comments:

B.iii Individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by each individual. Y N Comments:

C. The setting's policy/procedure ensures that each individual controls his/her personal resources. Y N  
Comments:

C.i Each individual has a checking or savings account or other means to control his/her funds. Y N Comments:

C.ii Each individual has access to his/her funds. Y N Comments:

C.iii The individual is not required to sign over his/her paychecks to the provider. Y N  
Comments:

D. The setting policies and procedures assure that visitors are not restricted to specified visiting hours. Y N Comments:

E. There is evidence of the training of individuals in the use of Public Transportation. Y N  
Comments:

F. If Public Transportation is limited, the policies and procedures of the setting assure that other resources are provided for the individual to access the broader community. Y N Comments:

G. State laws, regulations, licensing requirements, or facility protocols or practices do not limit individuals' choices. Y N Comments:

G.i Do State regulations prohibit individuals' access to food at any time? Y N Comments:

G.ii Do State laws require restrictions such as posted visiting hours or schedules? Y N  
Comments:

G.iii Are individuals prohibited from engaging in legal activities? Y N Comments:

Interview Questions, on or off site

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

Guidance: Interview at least 2 members residing in the setting, or his/her guardian.

A. Do you have a job? Y N Where? \_\_\_\_\_

A.i If, no, what do you do during the day? Comment:

A.ii Who works at your job with you? Comment:

Guidance: Is the job setting integrated?

B. Would you like to work? Y N Comments:

B. i If yes, is anyone helping you to find a job? Y N Comments:

Guidance: is there activity that ensures the option is pursued

C. Do you go out of your home? Y N Comments:

C.i How often?

C.ii Where do you go?

C.iii Do you get to choose where and when you go? Y N

Guidance: does the individual participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual.

D. Tell me about how you handle your money. Comment:

Guidance: the individual controls his/her personal resources

E. Do you know about activities occurring outside your home? Y N Comments:

E.i How do you find out about these activities? Comment:

E. ii Do you go shopping, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, when you want to do so? Y N Comments:

F. Can you leave and come back any time you want? Y N Comments:

G. Tell me about your usual day. What happens?

Comments:

Guidance: Does the individual talk about activities occurring outside of the setting?

H. Do you have a checking or savings account? Y N Comments:

H.i How do you get access to your money? Comment:

H.ii Do you have to sign over your paycheck to \_\_\_\_\_? (the provider) Y N Comments:

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A, Did you get to choose this setting/house to live in? Y N Comments:

A.i Tell me about that. (Ask this for both yes and no responses)

Comments:

A.ii Did you choose your roommate? Y N Comments:

A.iii Where would you like to live? Comments:

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. If you needed help, with getting dressed or bathing for instance, what would you do? Comment:

Guidelines: Does the setting support individuals who need assistance with their personal appearance to appear as they desire, and is personal assistance, provided in private, as appropriate?

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. Can you have visitors any time you want to? Y N Comments:

B. Is there a special place you have to meet when someone visits you? Y N Comments:  
Where:

C. Does anyone train you or show you how to ride a bus or taxi? Y N Comments:

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. Were you provided a choice regarding the services, provider and settings before you came here? Y N  
Comments:

B. Did you have the opportunity to visit/understand these choices/options? Y N Comments:

C. Can you change your mind about these choices? Y N Comments:

D. How do you do that?

Guidance: (Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?)

E. Do you decide what you do here? Y N Comments:

F. Does anyone help? Y N Comments: \_\_\_\_\_ (who)

G. Do you know how to make a request for additional help or services, or change the services you have right now? Y N Comments:

Protocol: Attachment 3 (form condensed for inclusion in this report)

## **HCBS Site Review/Records West Virginia Bureau for Medical Services**

**This assessment identifies characteristics that are expected to be present in all home and community-based settings and associated traits that individuals in those settings might experience.**

**Provider                      Site(s)**

**Address**

**Date reviewed                      Time**

**Reviewer**

**Number of individuals receiving services at this site.**

**Number of individuals receiving services under the IDDW waiver at this site. (Obtain list of members)**

**Type of setting(s):**

Facility Based Day Habilitation\_\_\_\_

Supported Employment\_\_\_\_

Job Development\_\_\_\_

Pre-Vocational\_\_\_\_

Record Reviews during site visit or off site:

*Procedure: Review Policies and Procedures of setting for the following:*

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

NRA. The setting's policy/procedures assure that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services. Y N Comments: (cite policy or procedure number)

RA. The record/log confirms that the individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCBS services. Y N Comments:

RA.i Individuals regularly access the community. Y N Comments:

RA.ii The individuals shop, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, as each individual chooses and as determined by the treatment team. Y N Comments:

RA.iii Individuals may come and go at any time as determined by the treatment team. Y N Comments:

B. The setting's policy/procedure ensures that each individual is employed or active in the community outside of the setting as determined by the treatment team. Y N Comments:  
Guidance: This includes volunteer services. Obtain copies of all current Individual Service Plans.

B.i Individuals work in integrated community settings. Y N Comments:

B.ii If individuals would like to work, there is activity that ensures the option is pursued. Y N Comments:

B.iii Individuals participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by each individual. Y N Comments:

C. The setting's policy/procedure ensures that each individual controls his/her personal resources. Y N Comments:

C.i Each individual has a checking or savings account or other means to control his/her funds. Y N Comments:

C.ii Each individual has access to his/her funds. Y N Comments:

C.iii The individual is not required to sign over his/her paychecks to the provider. Y N Comments:

D. The setting policies and procedures assure that visitors are not restricted to specified visiting hours. Y N Comments:

E. There is evidence of the training of individuals in the use of Public Transportation. Y N Comments:

F. If Public Transportation is limited, the policies and procedures of the setting assure that other resources are provided for the individual to access the broader community. Y N Comments:

G. State laws, regulations, licensing requirements, or facility protocols or practices do not limit individuals' choices. Y N Comments:

G.i Do State regulations prohibit individuals' access to food at any time? Y N

Comments:

G.ii Do State laws require restrictions such as posted visiting hours or schedules? Y N

Comments:

G.iii Are individuals prohibited from engaging in legal activities? Y N Comments:

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A. The setting policies and procedures ensure the informed choice of the individual. Y N  
Comments: (cite policy or procedure number)

B. As reflected in policy, the setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA. Y N Comments: (cite policy or procedure number)

C. As reflected in policy, the setting options include the opportunity for individuals to choose to combine more than one service delivery setting or type of HCBS in any given day/week (for example, combine competitive employment with community habilitation). Y N Comments: (cite policy or procedure number)

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. As reflected in policy, all information about individuals is kept private. Y N Comments: (cite policy or procedure number)

B. Policies/Procedures for the setting provide assurance that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed, while providing assistance during the regular course of daily activities. Y N Comments: (cite policy or procedure number)

C. Policies/Procedures for the setting assure that staff do not talk to other staff about an individual(s) in the presence of other persons or in the presence of the individual as if s/he were not present. Y N Comments:(cite policy or procedure number)

D. The setting policy requires that the individual and/or representative grant informed consent prior to the use of restraints and/or restrictive interventions and that there is

documentation of these interventions in the person-centered plan. Y N Comments: (cite policy or procedure number)

E. The setting policy ensures that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting. Y N Comments:

E.i The setting's policy ensures that each individual's supports and plans are not restrictive to the rights of every individual receiving support within the setting. Y N Comments: (cite policy or procedure number)

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. The setting policy/procedure does not prohibit individuals from engaging in legal activities (ex. voting when 18 or older, consuming alcohol when 21 or older) in a manner different from individuals in a similar and/or the same setting who are not receiving Medicaid funded services and supports. Y N Comments: (cite policy or procedure number)

B. The setting policy/procedure affords an individual opportunity for tasks and activities matched to the individual's skills, abilities and desires. Y N Comments: (cite policy or procedure number)

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. The setting policy/procedure assures individual choice regarding the services, provider and settings and the opportunity to visit/understand the options. Y N Comments:(cite policy or procedure number)

B. The setting policy/procedure affords individuals the opportunity to regularly and periodically update or change their preferences. Y N Comments: (cite policy or procedure number)

C. The setting policy/procedure ensures individuals are supported to make decisions and exercise autonomy to the greatest extent possible. Y N Comments: (cite policy or procedure number)

D. The setting policy ensures the individual is supported in developing plans to support her/his needs and preferences. Y N Comments: (cite policy or procedure number)

Protocol: Attachment 4 (form condensed for inclusion in this report) SAMPLE

## **HCBS Setting Assessment Visit and Evaluation (SAVE) West Virginia Bureau for Medical Services**

(Each citation for items out of compliance is listed separately on this form with the specific findings for that citation listed as well. These reports differ for each provider setting and are designed to be a more easily read report, although the information contained is the same as the Plan of Correction form.)

An example follows:

**Setting Reviewed: XYG group home, 123 Main Street, Centerburg, WV**

**This setting provides \_\_\_Person Centered Support\_\_\_\_\_ services at this address.**

**Date: 9/1/15**

**Reviewer: RLB**

**Number of individuals receiving services at this site. 3**

**Number of individuals receiving services under the IDDW waiver at this site. 3**

The facility was not in compliance with *42CFR441.301(c)(4)(i)/ 441.710(a)(1)(i)/ and 441.530(a)(1)(i)*

*1. The setting 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.*

Bus and other public transportation schedules and telephone numbers are not posted in a convenient location. (O1H)

As observed, there were no bus or public transportation information available to members. Interview with the group home manager confirmed that a bus runs directly in front of the house, but the members do not ride it since the home has a van. A van was observed in the parking area.

There is no evidence of the training of individuals in the use of Public Transportation. (R1E)

Review of the records confirmed that no member was receiving training on how to utilize public transportation.

If Public Transportation is limited, the policies and procedures of the setting assure that other resources are provided for the individual to access the broader community. (R1F)

While the provider has vans available for transportation, the practice is that members use the vans *instead of* public transportation when public transportation is available and not limited.

The facility was not in compliance with 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)

*The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.*

Members do not hold leases to their homes, when such homes are owned, leased or operated by the provider. (R3A)

Interview with the executive director confirmed that members living at the Bay Road residence did not hold a lease or leases for their home.

Protocol: Attachment 5 (form condensed for inclusion in this report)

## **HCBS Setting Assessment Plan of Compliance West Virginia Bureau for Medical Services**

I/DD Waiver Setting Assessment Visit and Evaluation

Plan of Compliance

I/DD Waiver Provider:

Total Number of Persons Served:

# of IDD Waiver Members Served:

Address:

Date(s) of Review:

Submit POC to: Rose Lowther-Berman, at [rose.l.berman@wv.gov](mailto:rose.l.berman@wv.gov)

Person(s) Completing this POC:

Date POC is Submitted:

This Plan of Compliance is designed to contain your response to items found to be out of compliance during your setting's I/DD Waiver State Transition Plan Review. A completed Plan of Correction will be due within 30 calendar days of receipt of this Report and letter from BMS. The Plan of Compliance must be submitted on this form electronically. Any corrections/additions requested should be communicated via this POC form as well. BMS will review your comments and notify you of your status as approved or disapproved.

Plan of Compliance must include:

1. How will the deficient practice **for the participants cited in the review** be corrected?
2. What **system** will be put into place to prevent recurrence of the deficient practice?
3. How will the provider **monitor to assure future compliance**, and **who** will be responsible for the monitoring?
4. What is the **date** by which the Plan of Compliance will be implemented?

Protocol: Attachment 6

## State Transition Plan Guidance for Reviewers

**September 1, 2016**  
**West Virginia DHHR**  
**Bureau for Medical Services**  
**Home and Community Based Waiver**

### Introduction:

In January 2014, the Centers for Medicare & Medicaid Services promulgated a final federal rule (CMS-2249-F and CMS 2296-F) to ensure that members receiving long term services and supports (LTSS) through home and community based services (HCBS) programs under 1915(c) and 1915(i) have full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal finances and receive services in the community to the same degree as members not receiving Medicaid HCBS.

The State of West Virginia has developed Plan to transition settings providing HCBS to meet the mandates of this rule (State Transition Plan). The plan includes setting visits conducted by BMS to assess the level of setting compliance with the new rule and identify deficient practices or areas. These findings are shared with the provider. The provider will develop a plan to remedy the deficient practices. BMS will revisit the providers to assure continued compliance.

### **Task 1 – Preparation for Review**

Notify provider via email prior to the review.  
Arrange travel, reservations, car, etc.  
Gather forms and any other info on setting.  
Review (with team if applicable)

### **Task 2 – Setting Entrance Meeting**

Identify self  
Explain purpose of review and procedures.  
Identify contact person for setting/provider.  
Ask for policies  
Get copies of current IPPs (may be emailed to office)

#### **Sample?**

List of all IDD Waiver members served at the setting.

Type(s) of transportation

Leases

OHFLAC License

Tasks 3, 4 and 5 may be done in any order. Tasks 3 and 5 may be done away from the setting as needed.

### **Task 3 – Records**

When there is more than one setting for a given provider, only one policies and procedures review need be completed. A separate form is provided to the reviewer for this purpose.

In the case of a single provider setting, the Policy and Procedure review is incorporated into the review instrument.

### **Task 4 - Member Setting Observations**

Using the review instrument applicable to the setting, the reviewer is tasked with determining if the necessary relationship between the member's needs and preferences, and what staff know and do with members in both formal and informal situations, is maintained.

Conduct an inspection tour of the facility's environment and observed staff interaction with members.

As a result of any observation, the reviewer should be able to determine whether:

- a) Competent interaction occurs between staff and the member(s);
- b) Members are given the opportunity to exercise choice and function with as much self-determination and independence as possible; and
- c) Staff provides the needed supports and interventions to increase skills or prevent loss of functioning.

Some items to note may include:

How many staff and members are present?

How are members dressed?

Are members involved or just sitting around without any activity?

Are activities and décor age appropriate?  
Are there any odors or excessive noise?  
Are assistive devices used appropriately?

**DO NOT:**

- Conduct a detailed review of member's records at the setting; or
- Request facility staff to keep people in the setting and/or away from scheduled activities.

**B - Reviewer Conduct**

Always respect the members. The setting is his/her/their home or work setting. Respect members' home(s) and their privacy. As a courtesy, always request permission before entering a bedroom. Do not observe activities in which members are undressed unless that observation is essential to your assessment of facility compliance and the information cannot be obtained from other reliable sources. Most information about routine hygiene activities during which members are undressed can be obtained through interview of members or staff. As a general policy, it is preferable to ask permission to make these types of observations from the member, or from the staff person who is present if the member cannot communicate. A member's request not to be observed while undressed should be honored, when possible. These observations, when necessary, should be conducted in private, with as little of the body exposed as possible, and with a staff person present. Consent from staff or guardians are not required in order to access information or make observations.

For members who are working in competitive employment sites, ask the member's permission to visit that site. If the member is unable to communicate, discuss with the staff the advisability of visiting the competitive site. The intent is that the member is not identified as different from other workers at the site. If the member works in a restaurant, for example, you may be able to visit as a "customer" to observe the work environment. If an interview with a job supervisor or support person is indicated, attempt to conduct this interview in a private or inconspicuous area. Upon arrival, introduce yourself to the member and to the staff and explain the purpose of your visit.

**C - Observation Procedure**

**1 - General Impressions**

Initially the reviewer should note the general impressions of the area. Note things such as:

How many staff and members are present?

How are members present?

Are members involved or just sitting around without any activity?

Are activities and décor age appropriate?

Are there any odors or excessive noise?

Are assistive devices used appropriately?

**2 - Specific Activities and Interactions**

After noting the general setting, the reviewer should begin to focus on the specific activities and interactions. For example:

Is there evidence that members regularly interact with non-disabled persons in the larger community? How is this documented?

Are members involved and participating in the activity? Are the activities active or passive? Does the activity appear to have a purpose? Is staff able to explain how the activity is promoting greater independence for each of the members present?

Are there supplies and materials used to assist the members? Do members use them? Do they get them

independently? Do they seem appropriate for the task or activity? Do they seem appropriate for the members?

What interaction is occurring between staff and members? Do the interactions give evidence of respect, dignity?

Does staff recognize efforts made by the members and provide positive reinforcement?

Is the number of staff present sufficient for the number of members based on the member needs and the type of activity?

Are members encouraged to make their own choices and decisions? Are they encouraged to complete tasks with as much independence as possible? Is staff doing the activity for the person, or is the person encouraged to do things for him or herself?

Are any maladaptive behaviors exhibited? How does staff respond?

Are any members ignored or isolated from the activity? If so, what is the reason or justification for this?

What is the appearance of the members? Is each member dressed neatly? Does the person appear clean and is his/her hair combed?

- Does the member exhibit any apparent physical or medical needs? Is the member over or under weight, edentulous, continent? Does the member have contractures, vision, or hearing impairments?

- What adaptive devices/assistive devices are used? Does the member use a hearing aid, glasses, plate guard, etc.? Does the device(s) appear to be used correctly?

- How does the member move about in the environment? Does the member use a walker, ambulate, move his own wheelchair, etc.?

- How does the person communicate? Does the person talk, use sign or a communication board, make facial expressions or behavioral responses? Do others appear to understand the person's communications?

What is the person's level of social skill or behavior toward others? What types of interactions occur and with whom? Does the member exhibit any maladaptive behaviors?

- What is the member's observed skills relative to the activity or task observed? For example, if observed during dining, does the member eat without assistance? What utensils are used?

- Are applicable skills developed or encouraged during the activity, such as passing food, pace of eating, social conversations? Is the member receiving any special diet?

- What level of assistance does staff provide? What types of assistance are used - verbal prompts, gestures, hand over hand?

- Are there any member needs that are not being addressed? Is staff aware of the observed needs? Is there a reason it is not being addressed?

#### **4 - Areas for Further Observation**

If the reviewer noted that the member uses sign language for communication, does all staff working with the member understand and use sign with him/her? Or if a member is observed to have good gross motor skills, do staff feed the person or perform other tasks for him/her that your observation indicates the person could possibly do independently? Focus interviews and record review based on concerns, issues, inconsistencies and needs noted from these observation(s). Don't be afraid to ask 'WHY?'

#### **D - Documentation**

Document your information on the Site Review Form

#### **VIII - Task 4 - Interviews With Members and/or Family/Advocate /Direct Care Staff**

### **A - Purpose**

Interviews are conducted for two purposes: to determine how the member perceives the services delivered by the facility, and to clarify or confirm information gathered during observation and record review.

### **B - Interview Procedure**

When determining which persons to interview, use the following hierarchy of sources, to the maximum extent possible:

- Member;
- Families, legal guardian, or advocate;
- Direct care staff;
- Managers, administrators, or department heads.

Determine from your observations and from the staff how the member communicates with others. Select those members who will be able to communicate at least some basic information. If members with meeting this criterion are not available, follow the hierarchy. Do not exclude from interviews members who use alternate means of communication, such as communication boards, sign language, and gestures. Members are able to communicate in some manner. Only after interviews have been attempted with members, and if the reviewer requires additional corroboration for gathered information, should interviews with family members, guardians, or staff be used to corroborate reviewer findings.

The questions and communication method will vary from person to person. For members who use a specialized communication method, attempt to begin the interview on a one to one basis. If you find you are unable to communicate with the member, ask someone familiar with the person to assist you (e.g., a family member or a staff person.) For this member, pay close attention to how the staff communicates with him or her. If the person uses sign language or a communication board, does staff understand and interact with the member using the same method? If the person uses gestures, does staff take time to determine his or her needs?

Family members, guardians or advocates may be interviewed at the facility, at a location convenient to both the reviewer and the interviewee, or by telephone. All interviews should be conducted in private locations and scheduled at mutually agreed upon times in order to minimize disruptions to member, family, or staff activities.

### **C - Content of In-depth Interviews**

See the Review form for interview questions. Questions are relevant to whoever is being interviewed (member, family member, advocate or staff person.) Modify the wording of the questions based on the person being interviewed (member, family member, or staff) and on the communication skills of that member. For example, you may discover that the person responds better to questions that can be answered “yes” or “no” than to open-ended questions. Be sensitive to signs that the member is tiring or becoming uncomfortable and either end the interview or continue it at a later time if this occurs. It is not necessary to ask every question in the guide but do try to ask at least one question from each topic.

## **Appendix N: State Transition Plan Data Analysis 2017**

### **State Transition Plan Data Analysis**

Dr. Rose Lowther-Berman

August 22, 2017

Introduction: On May 12, 2017, the Quality Improvement Advisory Council subcommittee met to discuss the State Transition Plan data collection and how it might be analyzed. The committee decided to concentrate on three areas and requested BMS to submit data analysis for these three. They included:

- the ratings of non-residential provider settings in relation to the number of years the provider was in operation.
- the ratings of non-residential provider settings in relation to the number of members served by a provider.
- the ratings of residential provider settings in relation to whether they were ‘clustered’.
- Citations studied were those identified as having the least compliance in the Provider Compliance Report presented to the Quality Improvement and Advisory Council dated April 19, 2017.

NOTE:

SOME PROVIDERS HAD MULTIPLE SETTINGS. EACH WAS ENTERED IN THE DATABASE INDEPENDENTLY, SINCE CITATIONS VARIED AMONG THESE SETTINGS.

ALL DATA WAS ACQUIRED THROUGH INITIAL ON-SITE SURVEYS/REVIEWS OF SETTINGS. WHILE SETTINGS NOT FOUND IN COMPLIANCE WILL RECEIVED FOLLOW-UP REVIEWS, THE RESULTS OF THESE REVIEWS ARE NOT INCLUDED IN THIS ANALYSIS.

**APPENDIX A** INCLUDES A LIST OF TAG NUMBERS (i.e. O.1.A et al) AND THEIR DESCRIPTIONS.

## **SUMMARY/ABSTRACT**

The first area of examination identified by the committee was the relationship of citations O.1.A, O.1.E, O.1.G and O.1.L (if any) to the maturity of the provider. *Section I* lists the Hypotheses for this data set and the Findings. The most noteworthy finding was under O.1.A. There was a substantial difference in the incidence of O.1.A citations between providers in existence less than ten years and providers in existence more than ten (10) years. While 50% of providers in existence for ten (10) years or less were in compliance, 37% of the providers in existence for more than ten (10) years were in compliance.

Examination of the raw data revealed a natural grouping of providers at the seventeen (17) year stage of development. This led to additional examination of the relationship of citations O.1.A, O.1.E, O.1.G and O.1.L (if any) to the maturity of providers seventeen (17) years or older and those in existence sixteen (16) years or less. *Section I* lists the Hypotheses for this data set and the Findings as well. The seventeen (17) year benchmark was far more of a determining factor.

### **Section Ia**

H01= There is no difference in incidence of O.1.A citations between providers in existence less than ten years and providers in existence more than 10 years.

H02= There is no difference in incidence of O.1.E citations between providers in existence less than ten years and providers in existence more than 10 years.

H03= There is no difference in incidence of O.1.G citations between providers in existence less than ten years and providers in existence more than 10 years.

H04= There is no difference in incidence of O.1.L citations between providers in existence less than ten years and providers in existence more than 10 years.

### **FINDINGS:**

There was a substantial difference in the incidence of O.1.A citations between providers in existence less than ten years and providers in existence more than 10 years. While 50% of providers in existence for 10 years or less were in compliance, 37% of the providers in existence for more than ten years were in compliance.

### **Section Ib**

H05= There is no difference in incidence of O.1.A citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen (17) years.

H06=There is no difference in incidence of O.1.E citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen years.

H07=There is no difference in incidence of O.1.G citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen (17) years.

H08=There is no difference in incidence of O.1.L citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen (17) years.

**FINDINGS:**

There was no substantial difference between providers in existence for less than seventeen (17) years and providers in existence for more than seventeen (17) years for citations O.1.A.

There was a substantial difference in the incidence of O.1.E citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen (17) years. While 29% of providers in existence for seventeen (17) years or less were in compliance, 55% of the providers in existence for more than seventeen (17) years were in compliance.

There was a substantial difference in the incidence of O.1.G citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen (17) years. While 29% of providers in existence for seventeen (17) years or less were in compliance, 45% of the providers in existence for more than seventeen (17) years were in compliance.

There was a substantial difference in the incidence of O.1.L citations between providers in existence less than seventeen (17) years and providers in existence more than seventeen (17) years. While 29% of providers in existence for seventeen (17) years or less were in compliance, 45% of the providers in existence for more than seventeen (17) ten years were in compliance.

**Raw data** x indicates setting in compliance for that tag.

<b>Provider response Log for Assessment</b>						
<b>Center</b>	<b>2007 or later</b>	<b>2000 or later</b>	<b>O.1.A</b>	<b>O.1.E</b>	<b>O.1.G</b>	<b>O.1.L</b>
<b>Appalachian3/11/1965</b>						
<b>ARC 3 R 8/8/1952 Charleston</b>				<b>x</b>		<b>x</b>

ARC 3 R 8/8/1952 Madison			X	X	X	X
Arc of Harrison 4/9/1959				X		
ASC3/29/1979						
Autism Management Group 6/27/2011	*	*	X	X		X
Bright Horizons 7/1/1977						X
Community Services 12/8/2003		*		X		
Daily Companions 2/25/2004		*				
Developmental Center and Workshop 1/30/1969				X		
Diversified Assessment and Therapy 4/12/2012	*	*	X			X
EastRidge2/27/1970 Water Street			X		X	X
EastRidge2/27/1970 Coumo Road						
EastRidge2/27/1970 Morgan Co						X
EastRidge2/27/1970 Jefferson Co			X		X	X
Empowerment through Employment 6/10/1969			X	X	X	X
Hampshire Co Sp Services 6/21/1973				X	X	X
Hancock Co SW 10/11/1958						X
Healthways 6/12/1970 HCOC				X		
Healthways 6/12/1970 BCOC S				X		
Healthways 6/12/1970 BCOC N			X			
Integrated Resources 6/16/1966			X		X	
JCDC 9/17/1979 Point Pleasant						
JCDC 9/17/1979 Parkersburg						X
JCDC 9/17/1979 Millwood						
JCCOA 3/13/1985					X	

Job Squad 8/2/1984			x	x		x
Logan Mingo 12/15/1970 Logan						
Logan Mingo 12/15/1970 Chattaroy						
Mainstream 8/9/2001		*				
MidValley 4/24/2007	*	*			x	
Northwood 10/31/1967 19 <sup>th</sup> St				x	x	x
Northwood 10/31/1967 Adena Hills				x	x	
Open Doors 8/1/1990 Nicholas Co			x			x
Open Doors 8/1/1990 Greenbrier Co			x	x		x
PACE 2/3/1972 Morgantown				x		x
PACE 2/3/1972 Fairmont				x		
Potomac H Guild 2/6/1978			x	x	x	x
Prestera 2/24/1967 Michael St						
Prestera 2/24/1967 8 <sup>th</sup> St				x		
REM 5/12/1993 Benwood			x	x	x	x
REM 5/12/1993 Boaz			x	x	x	x
REM 5/12/1993 Follansbee			x	x	x	x
REM 5/12/1993 Charleston						
REM 5/12/1993 Martinsburg			x	x	x	x
REM 5/12/1993 New Martinsville			x	x	x	x
REM 5/12/1993 Paden City			x	x	x	x
REM 5/12/1993 Bridgeport			x		x	x
REM 5/12/1993 Morgantown			x		x	x
Rescare Huntington 4/10/1987 (org. VOCA)						

<b>Russell Nesbitt 6/14/1958 Fulton</b>					<b>x</b>	
<b>Russell Nesbitt 6/14/1958 Main</b>			<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>So Highlands 3/15/1968 Princeton</b>				<b>x</b>	<b>x</b>	
<b>So Highlands 3/15/1968 Mullens</b>				<b>x</b>	<b>x</b>	
<b>Stonebrook 6/2/1987</b>			<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>SW Resources 9/24/1964</b>				<b>x</b>	<b>x</b>	
<b>United Summit 2/17/1970 Clarksburg</b>						
<b>United Summit 2/17/1970 Grafton</b>						
<b>United Summit 2/17/1970 Sutton</b>						
<b>United Summit 2/17/1970 Weston</b>						
<b>Unlimited PosAbilities 1/31/2011</b>	*	*		<b>x</b>	<b>x</b>	
<b>Valley 4/14/1972 Morgantown</b>			<b>x</b>			<b>x</b>
<b>Valley 4/14/1972 White Hall</b>						
<b>Westbrook 4/15/1966 Parkersburg</b>						
<b>Westbrook 4/15/1966 Spencer</b>						

N=65 2007 or Later N=4 2000 or Later N=7

Prior to 2007 N=61	correct	% of N
01A	21	37%
01E	28	50%
01G	25	45%
01L	27	48%

2007 or later - N=4	correct	% of N
01A	2	50%

	01E	2	50%
	01G	2	50%
	01L	2	50%
Prior to 2000	N=58	correct	% of N
	01A	21	40%
	01E	29	55%
	01G	24	45%
	01L	24	45%
2000 or later -	N=7	correct	% of N
	01A	3	42%
	01E	2	29%
	01G	2	29%
	01L	2	29%

## SECTION II

The second area of examination identified by the committee was the relationship of citations O.1.A, O.1.E, O.1.G and O.1.L (if any) to the number of members served by the provider. *Section II* lists the Hypotheses for this data set and the Findings.

H09= There is no difference in the incidence of O.1.A citations among providers based on the number of members served. <10, 20, 30, 40, 50 and 50+

Ho10= There is no difference in the incidence of O.1.E citations among providers based on the number of members served. <10, 20, 30, 40, 50 and 50+

Ho11= There is no difference in the incidence of O.1.G citations among providers based on the number of members served. <10, 20, 30, 40, 50 and 50+

Ho12= There is no difference in the incidence of O.1.L citations among providers based on the number of members served. <10, 20, 30, 40, 50 and 50+

## FINDINGS:

When the data is analyzed with the tag number as the independent variable, see **Analysis by individual 'tag' number**, there were noteworthy findings.

For O.1.A, the percentage of agencies who were in compliance varied between 0% (agencies serving over 51 members) and 60% (agencies serving under 10 members).

For O.1.E, the percentage of agencies who were in compliance varied between 13% (agencies serving 21-30 members) and 66% (agencies serving 41-50 members).

For O.1.G, the percentage of agencies who were in compliance varied between 25% (agencies serving 21-30 members) and 66% (agencies serving 41-50 members).

For O.1.L, the percentage of agencies who were in compliance varied between 25% (agencies serving 21-30 members) and 70% (agencies serving under 10 members).

*There was no correlation among the tags regarding overall compliance based on the number of members served.* This indicates that the null hypotheses are correct.

When the data is analyzed with the number of members served as the independent variable, see **Analysis by number of members**, there were noteworthy findings.

For agencies serving less than 10 members, the percentage of agencies who were in compliance varied between 50% (O.1.A) and 70% (O.1.L).

For agencies serving 10-20 members, the percentage of agencies who were in compliance varied between 26% (O.1.A and O.1.L) and 47% (O.1.E).

For agencies serving 21-30 members, the percentage of agencies who were in compliance varied between 13% (O.1.A and O.1.E) and 25% (O.1.G and O.1.L).

*This is the most problematic sub-set.*

For agencies serving 31-40 members, the percentage of agencies who were in compliance varied between 20% (O.1.G) and 50% (O.1.E).

For agencies serving 41-50 members, the percentage of agencies who were in compliance varied between 33% (O.1.A and O.1.L) and 66% (O.1.E and O.1.G).

For agencies serving more than 51 members, the percentage of agencies who were in compliance varied between 0% (O.1.A) and 60% (O.1.E and O.1.L).

*There was correlation for the number of members served and discrete tags. Agencies serving 21-30 members scored lowest overall for all tags.*

## FINDINGS:

**Raw data** x indicates setting in compliance for that tag.

Census recorded is that found during the initial review for each setting. N may be duplicated.

<b>Provider response Log for Assessment</b>						
<b>Center</b>	<b>Census N</b>	<b>DH/SE</b>	<b>O.1.A</b>	<b>O.1.E</b>	<b>O.1.G</b>	<b>O.1.L</b>
<b>Appalachian</b>	<b>29</b>	<b>29/0</b>				
<b>ARC 3 R Charleston</b>	<b>29</b>	<b>29/0</b>		<b>x</b>		<b>x</b>
<b>ARC 3 R Madison</b>	<b>10</b>	<b>10/0</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>Arc of Harrison</b>	<b>31</b>	<b>31/0</b>		<b>x</b>		
<b>ASC</b>	<b>6</b>	<b>6/0</b>				
<b>Autism Management Group</b>	<b>10</b>	<b>10/0</b>	<b>x</b>	<b>x</b>		<b>x</b>
<b>Bright Horizons</b>	<b>40</b>	<b>20/20</b>				<b>x</b>
<b>Community Services</b>	<b>10</b>	<b>10/0</b>		<b>x</b>		
<b>Daily Companions</b>	<b>19</b>	<b>19/0</b>				
<b>Developmental Center and Workshop</b>	<b>40</b>	<b>25/15</b>		<b>x</b>		
<b>Diversified Assessment and Therapy</b>	<b>36</b>	<b>36/0</b>	<b>x</b>			<b>x</b>
<b>EastRidge Water Street</b>	<b>3</b>	<b>0/3</b>	<b>x</b>		<b>x</b>	<b>x</b>
<b>EastRidge Coumo Road</b>	<b>72</b>	<b>72/3</b>				
<b>EastRidge Morgan Co</b>	<b>6</b>	<b>6/0</b>				<b>x</b>
<b>EastRidge Jefferson Co</b>	<b>1</b>	<b>0/1</b>	<b>x</b>		<b>x</b>	<b>x</b>
<b>Empowerment through Employment</b>	<b>10</b>	<b>0/10</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>

Hampshire Co Sp Services	64	64/0		x	x	x
Hancock Co SW	58	29/29				x
Healthways HCOG	38	38/0		x		
Healthways BCOC S	6	6/0		x		
Healthways BCOC N	36	22/14	x			
Integrated Resources	10	3/7	x		x	
JCDC Point Pleasant	14	12/2				
JCDC Parkersburg	3	2/1				x
JCDC Millwood	32	16/16				
JCCOA	22	22/0			x	
Job Squad	1	0/1	x	x		x
Logan Mingo Logan	15	15/0				
Logan Mingo Chattaroy	10	10/0				
Mainstream	19	19/0				
MidValley	20	20/0			x	
Northwood 19 <sup>th</sup> St	19	19/0		x	x	x
Northwood Adena Hills	52	52/0		x	x	
Open Doors Nicholas Co	1	0/1	x			x
Open Doors Greenbrier Co	5	0/5	x	x		x
PACE Morgantown	103	43/60		x		x
PACE Fairmont	12	12/0		x		
Potomac H Guild	15	15/0	x	x	x	x
Pretera Michael St	40	40/0				
Pretera 967 8 <sup>th</sup> St	14	14/0		x		
REM Benwood	8	0/8	x	x	x	x
REM Boaz	45	0/45	x	x	x	x
REM Follansbee	1	0/1	x	x	x	x

<b>REM Charleston</b>	<b>29</b>	<b>29/0</b>				
<b>REM Martinsburg</b>	<b>4</b>	<b>0/4</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>REM New Martinsville</b>	<b>38</b>	<b>0/38</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>REM Paden City</b>	<b>4</b>	<b>0/4</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>REM Bridgeport</b>	<b>2</b>	<b>0/2</b>	<b>x</b>		<b>x</b>	<b>x</b>
<b>REM Morgantown</b>	<b>2</b>	<b>0/2</b>	<b>x</b>		<b>x</b>	<b>x</b>
<b>Rescare Huntington</b>	<b>26</b>	<b>26/0</b>				
<b>Russell Nesbitt Fulton</b>	<b>30</b>	<b>28/2</b>			<b>x</b>	
<b>Russell Nesbitt Main</b>	<b>32</b>	<b>16/16</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>So Highlands Princeton</b>	<b>48</b>	<b>48/0</b>		<b>x</b>	<b>x</b>	
<b>So Highlands Mullens</b>	<b>9</b>	<b>9/0</b>		<b>x</b>	<b>x</b>	
<b>Stonebrook</b>	<b>9</b>	<b>9/0</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>SW Resources</b>	<b>19</b>	<b>12/7</b>		<b>x</b>	<b>x</b>	
<b>United Summit Clarksburg</b>	<b>50</b>	<b>25/25</b>				
<b>United Summit Grafton</b>	<b>8</b>	<b>8/0</b>				
<b>United Summit Sutton</b>	<b>10</b>	<b>10/0</b>				
<b>United Summit Weston</b>	<b>7</b>	<b>7/0</b>				
<b>Unlimited PosAbilities</b>	<b>8</b>	<b>8/0</b>		<b>x</b>	<b>x</b>	
<b>Valley Morgantown</b>	<b>30</b>	<b>30/0</b>	<b>x</b>			<b>x</b>
<b>Valley White Hall</b>	<b>17</b>	<b>17/0</b>				
<b>Westbrook Parkersburg</b>	<b>27</b>	<b>27/0</b>				
<b>Westbrook Spencer</b>	<b>18</b>	<b>17/1</b>				

N=65

**Analysis by individual ‘tag’ numbers**

# of Members	# of Providers	# O.1.A compliant	
<10	20	12	60%
10-20	19	5	26%
21-30	8	1	13%
31-40	10	4	40%
41-50	3	1	33%
51+	5	0	0 %

# of Members	# of Providers	# O.1.E compliant	
<10	20	10	50%
10-20	19	9	47%
21-30	8	1	13%
31-40	10	5	50%
41-50	3	2	66%
51+	5	3	60%

# of Members	# of Providers	# O.1.G compliant	
< 10	20	11	55%
10-20	19	7	37%
21-30	8	2	25%
31-40	10	2	20%
41-50	3	2	66%
51+	5	2	40%

# of Members	# of Providers	# O.1.L	compliant
< 10	20	14	70%
10-20	19	5	26%
21-30	8	2	25%
31-40	10	4	40%
41-50	3	1	33%
51+	5	3	60%

**\* Analysis by number of members**

N=20

<10	correct	% of N
O.1.A	12	60%
O.1.E	10	50%
O.1.G	11	55%
O.1.L	14	70%

N=19

10-20	correct	% of N
O.1.A	5	26%
O.1.E	9	47%
O.1.G	7	37%
O.1.L	5	26%

N=8

<b>21-30</b>	correct	% of N
O.1.A	1	13%
O.1.E	1	13%
O.1.G	2	25%
O.1.L	2	25%

N=10

<b>31-40</b>	correct	% of N
O.1.A	4	40%
O.1.E	5	50%
O.1.G	2	20%
O.1.L	4	40%

N=3

<b>41-50</b>	correct	% of N
O.1.A	1	33%
O.1.E	2	66%
O.1.G	2	66%
O.1.L	1	33%

N=5

<b>51+</b>	correct	% of N
O.1.A	0	0%
O.1.E	3	60%
O.1.G	2	40%

## SECTION III

### SUMMARY/ABSTRACT

The last area of examination identified by the committee was the relationship of citations of O.1.A, O.1.F and O.1.H of the residential tags to the location of the residence, specifically if the residence was a part of a cluster. Cluster was defined as a group of 2 or more homes located in close proximity to each other. The most noteworthy finding was under O.1.H.

*Section III* lists the Hypotheses for this data set and the Findings as well.

Ho13 =There is no difference in incidence of O.1.A citations between residential settings that are clustered versus those not clustered.

H014 =There is no difference in incidence of O.1.F citations between residential settings that are clustered versus those not clustered.

H015 =There is no difference in incidence of O.1.H citations between residential settings that are clustered versus those not clustered.

### FINDINGS:

There was a substantial difference in the incidence of O.1.H citations between Clustered homes and those homes not clustered. While 73% of providers in Clustered homes were in compliance, 46% of the providers in non-clustered homes were in compliance. O.1.H has to do with the provision of transportation information to members.

There was no substantial difference in the incidence of O.1.A and O.1 F citations between Clustered homes and those homes not clustered. 36% of O.1.A clustered homes and 41% of O.1.A non-clustered homes were in compliance. 23% of O.1.F clustered homes and 29% of O.1.F non-clustered homes were in compliance.

There was little difference in total number of homes for each subset (22 for clustered homes and 24 for non-clustered homes.)

### Raw data

This chart identifies all the residential settings entered into the State Transition Plan Provider Assessment Survey completed by providers between 4/1/15 and 8/19/15. Data was subsequently screened for accuracy and there were some homes that were entered in the which did not meet the criteria for inclusion under the State Transition Plan (i.e. They were

not owned or leased by the provider, or they did not serve IDD Waiver members). These are individually identified in the Notes section. There were also some homes which were not a part of the sample as identified in the State Transition Plan page 14. These are also identified in the Notes section.

CENTER	SETTING	B E D S	MEMBERS	Notes
Arc of Harrison	624 Locust	3	3	
Arc of Harrison	1751 15th Street	2	2	
<u>Arc of Harrison</u>	<u>121 Matthew St</u>	<u>3</u>	<u>3</u>	Cluster 1
<u>Arc of Harrison</u>	<u>122 Matthew St</u>	<u>3</u>	<u>3</u>	Cluster 1
Arc of Harrison	1420 Alpha Ave	3	3	
Arc of Harrison	348 Grand Ave	3	3	
Arc of Harrison	127 Matthew St	2	2	closed private residence
ASC	11th Ave Huntington	3	0	Not sample
ASC	3rd Ave Huntington	3	0	Not sample
ASC	5th St Rd Huntington	3	0	Not sample
ASC	Bates House	3	3	Not sample
ASC	Casto House	3	3	Not sample
ASC	Hyman House	3	3	Not sample
ASC	Sullivan House	3	3	Not sample

ASC	10th Ave House	3	3	
ASC	Fifteenth St	3	3	
ASC	Merrill Ave Huntington	3	3	
ASC	Pelican House	3	3	
<u>EastRidge</u>	<u>Hoffmaster I Martinsburg</u>	7	7	Cluster 2
<u>EastRidge</u>	<u>Hoffmaster II Martinsburg</u>	7	7	Cluster 2
Healthways	Cove House Weirton	3	3	
<i>Healthways</i>	<i>Shiloh Apartments Wellsburg</i>	2 5	18	
<i>Healthways</i>	<i>Greenbrier Manor Weirton</i>	8	6	
<i>Horizons</i>	<i>934 Williams St Parkersburg</i>	6	4	
<u>Northwood</u>	<u>Twin Acres W Wheeling</u>	5	5	Cluster 3
<u>Northwood</u>	<u>Twin Acres E Wheeling</u>	5	4	Cluster 3
Open Doors	Nettie	3	2	
Potomac Ctr	Shadyside Romney	3	3	
Potomac Ctr	Hardy House Moorefield	3	3	

Potomac Ctr	Hampshire Place Romney	3	3	Private owner
Potomac H Guild	Center Ave Romney	3	3	Private owner
Prestera	Linden Place	3	3	Not sample
Prestera	Maplewood	3	3	Not sample
<u>Prestera</u>	<u>Clendenin Waiver 2</u>	<u>3</u>	<u>3</u>	Cluster 4
<u>Prestera</u>	<u>Clendenin Waiver 3</u>	<u>3</u>	<u>3</u>	Cluster 4
<u>Prestera</u>	<u>Clendenin Waiver 1</u>	<u>3</u>	<u>3</u>	Cluster 4
REM Wheeling	3611 Morgan Dr	3	3	Not sample
REM Wheeling	Glen Haven	3	3	Not sample
REM Wheeling	Marland Hts	3	3	Not sample
REM Wheeling	Morgan Dr	3	3	Not sample
REM Wheeling	Church Ave	3	3	
Russell Nesbitt	413 Fulton St	3	3	Cluster 5
Russell Nesbitt	120 Euclid Wheeling	3	3	Cluster 6
Russell Nesbitt	134 Euclid Wheeling	3	3	Cluster 6

Russell Nesbitt	25 Storch Wheeling	3	3	
Russell Nesbitt	513 Fulton Wheeling	3	3	Cluster 5
Russell Nesbitt	107 Frazier Run Wheeling	2	2	
Russell Nesbitt	529 Fulton Wheeling	2	2	Cluster 5
Russell Nesbitt	513 1/2 Fulton Wheeling	1	1	Cluster 5
Russell Nesbitt	517 Fulton Wheeling	1	1	Cluster 5
Russell Nesbitt	231 Fulton Wheeling	1	1	Cluster 5
Russell Nesbitt	233 Fulton Wheeling	3		being renovated
Starlight	823 23rd St Huntington	3	3	
Starlight	328 Davis St Huntington	2	0	forensic no IDD Waiver
Stepping Stones Cottages	Cashew Lane A Martinsburg	1	1	Private owner
Stepping Stones Cottages	Cashew Lane B Martinsburg	1	1	Private owner
Stonebrook	W R Booth Locust Grove	8	8	Private owner
Stonebrook	Falling Waters	6	6	Private owner
Stonebrook	Dominion Martinsburg	5	5	Private owner

Stonebrook	Paynes Ford Rd Martinsburg	3	3	Private owner
Stonebrook	Green House Pitzer Martinsburg	8	8	Private owner
Stonebrook	Williamspor t Pike Martinsburg	3	3	Private owner
<u>Sycamore Run</u>	<u>House III</u> <u>Keyser</u>	<u>4</u>	<u>4</u>	Cluster 7
<u>Sycamore Run</u>	<u>House IV</u> <u>Keyser</u>	<u>4</u>	<u>2</u>	Cluster 7
<u>Sycamore Run</u>	<u>House I</u> <u>Jeffy Keyser</u>	<u>3</u>	<u>3</u>	Cluster 7
Sycamore Run	House II Keyser	2	2	Closed
United Summit	Alpha Street	3	3	
Valley	Harlem Morgantow n	3	3	Not Sample
Valley	McCartney Ave Morgantow n	3	3	Not Sample
Valley	Cathy Morgantow n	3	3	Not Sample
<i>Valley</i>	<i>Pixler Hill</i> <i>Morgantow</i> <i>n</i>	6	6	
Valley	Herman Morgantow n	4	4	

Valley	Sabraton Ave Morganton	4	4	
Valley	Elysian Morganton	3	4	
Westbrook	Stella I Parkersburg	4	4	Cluster 8
Westbrook	Stella II Parkersburg	4	4	Cluster 8

N = 77 Italics – homes grandfathered into Transition Plan

<b>Cluster Homes only</b>							
<b>CENTER</b>	<b>SETTING</b>	<b>BEDS</b>	<b>MEMBERS</b>	<b>Notes</b>	<b>O.1.A</b>	<b>O.1.F</b>	<b>O.1.H</b>
<u>Arc of Harrison</u>	<u>121 Matthew St</u>	<u>3</u>	<u>3</u>	Cluster 1	x	x	
<u>Arc of Harrison</u>	<u>122 Matthew St</u>	<u>3</u>	<u>3</u>	Cluster 1		x	
<u>EastRidge</u>	<u>Hoffmaster I Martinsburg</u>	<u>7</u>	<u>7</u>	Cluster 2			
<u>EastRidge</u>	<u>Hoffmaster II Martinsburg</u>	<u>7</u>	<u>7</u>	Cluster 2			
<u>Northwood</u>	<u>Twin Acres W Wheeling</u>	<u>5</u>	<u>5</u>	Cluster 3	x	x	x
<u>Northwood</u>	<u>Twin Acres E Wheeling</u>	<u>5</u>	<u>4</u>	Cluster 3	x	x	x
<u>Prestera</u>	<u>Clendenin Waiver 2</u>	<u>3</u>	<u>3</u>	Cluster 4	x		x
<u>Prestera</u>	<u>Clendenin Waiver 3</u>	<u>3</u>	<u>3</u>	Cluster 4	x	x	x
<u>Prestera</u>	<u>Clendenin Waiver I</u>	<u>3</u>	<u>3</u>	Cluster 4	x		x
<u>Russell Nesbitt</u>	<u>413 Fulton St</u>	<u>3</u>	<u>3</u>	Cluster 5			x
<u>Russell Nesbitt</u>	<u>120 Euclid Wheeling</u>	<u>3</u>	<u>3</u>	Cluster 6			x

Russell Nesbitt	134 Euclid Wheeling	3	3	Cluster 6			x
Russell Nesbitt	513 Fulton Wheeling	3	3	Cluster 5			x
Russell Nesbitt	529 Fulton Wheeling	2	2	Cluster 5			x
Russell Nesbitt	513 Rear Fulton Wheeling	1	1	Cluster 5			x
Russell Nesbitt	517 Fulton Wheeling	1	1	Cluster 5			x
Russell Nesbitt	231 Fulton Wheeling	1	1	Cluster 5			x
<u>Sycamore Run</u>	<u>House III Keyser</u>	<u>4</u>	<u>4</u>	Cluster 7			x
<u>Sycamore Run</u>	<u>House IV keyser</u>	<u>4</u>	<u>2</u>	Cluster 7			x
<u>Sycamore Run</u>	<u>House I Jeffy Keyser</u>	<u>3</u>	<u>3</u>	Cluster 7			x
Westbrook	Stella I Parkersburg	4	4	Cluster 8	x		
Westbrook	Stella II Parkersburg	4	4	Cluster 8	x		

**N=22**

Italics – homes grandfathered into Transition Plan

<b>Non-Cluster Homes</b>	N=24 Italics - homes grandfathered into Transition Plan						
<b>CENTER</b>	<b>SETTING</b>	<b>B E D S</b>	<b>MEMBERS</b>	<b>Notes</b>	<b>O.1.A</b>	<b>O.1.F</b>	<b>O.1.H</b>
Arc of Harrison	624 Locust	3	3				
Arc of Harrison	1751 15th Street	2	2				
Arc of Harrison	1420 Alpha Ave	3	3				
Arc of Harrison	348 Grand Ave	3	3				
ASC	10th Ave House	3	3				
ASC	Fifteenth St	3	3				X
ASC	Merrill Ave Huntington	3	3				X
ASC	Pelican House	3	3				X
Healthways	Cove House Weirton	3	3		X	X	
<i>Healthways</i>	<i>Shiloh Apartments Wellsburg</i>	2 5	18			X	X

<b>Healthways</b>	<b>Greenbrier Manor Weirton</b>	<b>8</b>	<b>6</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>Horizons</b>	<b>934 Williams St Parkersburg</b>	<b>6</b>	<b>4</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>Open Doors</b>	<b>Nettie</b>	<b>3</b>	<b>2</b>			<b>X</b>	<b>X</b>
<b>Potomac Ctr</b>	<b>Shadyside Romney</b>	<b>3</b>	<b>3</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>Potomac Ctr</b>	<b>Hardy House Moorefield</b>	<b>3</b>	<b>3</b>		<b>X</b>		<b>X</b>
<b>REM Wheeling</b>	<b>Church Ave</b>	<b>3</b>	<b>3</b>		<b>X</b>		<b>X</b>
<b>Russell Nesbitt</b>	<b>25 Storch Wheeling</b>	<b>3</b>	<b>3</b>				
<b>Russell Nesbitt</b>	<b>107 Frazier Run Wheeling</b>	<b>2</b>	<b>2</b>				
<b>Starlight</b>	<b>823 23rd St Huntington</b>	<b>3</b>	<b>3</b>		<b>X</b>	<b>X</b>	<b>X</b>
<b>United Summit</b>	<b>Alpha Street</b>	<b>3</b>	<b>3</b>				
<b>Valley</b>	<b>Pixler Hill Morgantown</b>	<b>6</b>	<b>6</b>				
<b>Valley</b>	<b>Herman Morgantown</b>	<b>4</b>	<b>4</b>		<b>X</b>		
<b>Valley</b>	<b>Sabraton Ave Morgantown</b>	<b>4</b>	<b>4</b>		<b>X</b>		

Valley	Elysian Morgantown	3	4		x		
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## Appendix A

### RESIDENTIAL

The setting provides opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by individuals. O.1.A

Individuals receive HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS. O.1.E

The setting encourages visitors or other people from the greater community (aside from paid staff) to be present. There is evidence that visitors have been present at regular frequencies. (For example, customers in a pre-vocational setting). Guidance: visitors greet/acknowledge individuals receiving services with familiarity when they encounter them; visiting hours are unrestricted; the setting otherwise encourages interaction with the public). O.1.G

The setting assures that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCB services. O.1.L

### RESIDENTIAL

Individuals are not isolated from individuals not receiving Medicaid HCBS in the broader community. O.1.A

Visitors are present. O.1.F

Bus and other public transportation schedules and telephone numbers are posted in a convenient location. O.1.H

## State Transition Plan Data Analysis 2018

Dr. Rose Lowther-Berman

Program Manager I, West Virginia State Transition Plan

January 31, 2019

Introduction: We are continuing to gather data regarding provider compliance with the Home and Community Based Services Rule criteria. Analysis of the reviews conducted by Kepro and received at BMS by December 31, 2018 revealed the following limitations and delimitations:

**Delimitations:** Reviews are by different reviewers.

**Tags Cited:** The total number of tags cited was less than first time and the tags cited were not as scattered throughout the 5 criteria. There were no tags cited under Section 04 and Section 05 in residential provider settings at all. The aggregate number of tags cited also diminished. There were 26% of Residential and 24% of Non-Residential settings that had one or more tags cited. All others (74% of Residential and 76% of Non-Residential) were fully compliant.

**Notes:**

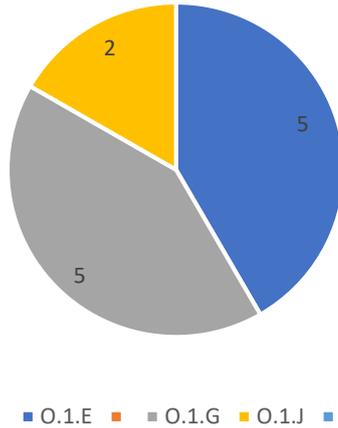
-When Kepro reviewed a provider more than once since the BMS review, the more recent Kepro review is recorded.

-**Appendix A** includes a list of tag numbers cited (O.1.E et al) and their descriptors.

*Non-Residential N=59*

<u>Review Citation</u>	<u>Number of Providers</u>	<u>% of Noncompliance</u>
O.1.E	5	8%=.084
O.1.G	5	8%=.084
O.1.J	2	3%=.033
O.2.B	2	3%=.033
O.3.E	5	8%=.084
O.4.A	1	2%=.016
O.4.B	1	2%=.016
O.4.E	1	2%=.016
O.5.A	1	2%=.016

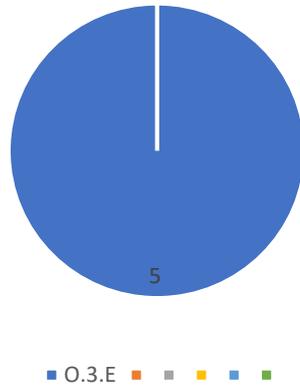
Provider Non-Residential Citations from Kepro Reviews  
2018  
for 42CFR 441.301(c)(4)(i)/441.710 (a)(1)(i)/441.530(a)(1)(i)



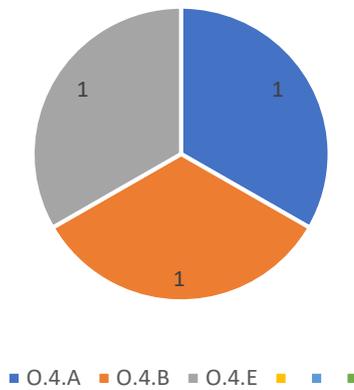
Provider Non-Residential Citations from Kepro Reviews  
2018  
for 42CFR 441.301(c)(4)(ii)/441.710  
(a)(1)(ii)/441.530(a)(1)(ii)



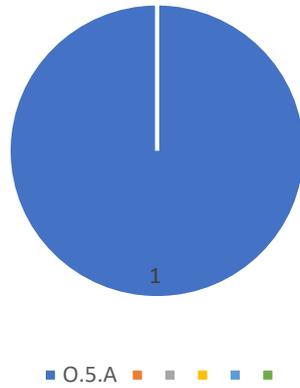
Provider Non-Residential Citations from Kepro Reviews  
2018  
for 42CFR 441.301(c)(4)(iii)/441.710  
(a)(1)(iii)/441.530(a)(1)(iii)



Provider Non-Residential Citations from First Kepro Reviews  
2018  
for 42CFR 441.301(c)(4)(iv)/441.710  
(a)(1)(iv)/441.530(a)(1)(iv)



Provider Non-Residential Citations from Kepro Reviews  
 2018  
 for 42CFR 441.301(c)(4)(v)/441.710  
 (a)(1)(v)/441.530(a)(1)(v)

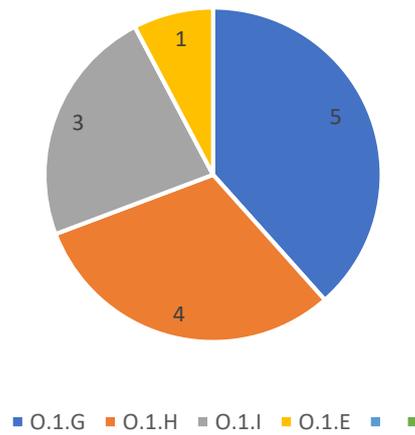


*Residential N=53*

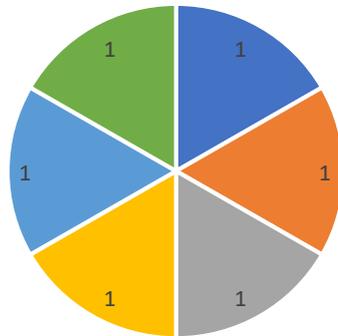
<u>Review Citation</u>	<u>Number of Providers</u>	<u>% of Providers</u>
O.1.E	1	2%=.018
O.1.G	5	10%=.095
O.1.H	4	8%=.075
O.1.I	3	6%=.056
O.2.E.i	1	2%=.018
O.2.F.ii	1	2%=.018
O.2.G	1	2%=.018
O.2.G.i	1	2%=.018
O.2.G.iii	1	2%=.018

O.2.G.v	1	2%=.018
O.3.A.i	2	4%=.037
O.3.A.ii	1	2%=.018
O.3.A.iii	1	2%=.018
O.3.F.ii	1	2%=.018
O.3.F.iii	2	4%=.037
O.3.G.i	1	2%=.018
O.3.G.iv	1	2%=.018

Provider Residential Citations from Kepro Reviews 2018  
for  
42CFR441.301(c)(4)(i)/441/710(a)91(i)/441/530(a)91(i)



Provider Citations from Kepro Reviews 2018  
for 42CFR 441.301(c)(4) (ii)/441.710  
(a)(1)(ii)/441.530(a)(1)(ii)



■ O.2.E.i ■ O.2.F.ii ■ O.2.G ■ O.2.G.i ■ O.2.G.iii ■ O.3.G.v

Provider Citations from Kepro Reviews 2018  
for 42CFR 441.301(c)(4) (iii)/441.710  
(a)(1)(iii)/441.530(a)(1)(iii)



■ O.3.A.ii ■ O.3.A.i ■ O.3.A.ii ■ O.3.A.iii ■ O.3.F.ii ■ O.3.F.iii ■ O.3.G.i ■ O.3.G.iv

**NOTE:**

**SOME PROVIDERS HAD MULTIPLE SETTINGS. EACH SETTING WAS ENTERED IN THE DATABASE INDEPENDENTLY, SINCE CITATIONS VARIED AMONG THESE SETTINGS.**

**ALL DATA WAS ACQUIRED THROUGH ON-SITE SURVEYS/REVIEWS OF SETTINGS. WHILE SETTINGS NOT FOUND IN COMPLIANCE WILL**

RECEIVE/RECEIVED FOLLOW-UP REVIEWS, THE RESULTS OF THESE REVIEWS ARE NOT INCLUDED IN THIS ANALYSIS.

## **SUMMARY/ABSTRACT**

*Non-Residential* There were no tags which were cited in more than 8% of the non-residential settings in 2018. Three tags in Non-Residential, O.1.E, O.1.G and O.3.E were cited in 10% of the settings. These tags are: O.1.E -Individuals receive HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS; O.1.G - The setting encourages visitors or other people from the greater community (aside from paid staff) to be present; and O.3.E -The setting offers a secure place for the individual to store personal belongings. Three of the five settings cited for O.1.E and O.1.G are owned or leased by the same provider. Two of the settings cited under O.3.E are owned or leased by that same provider as well.

*Residential* There were no tags which were cited in more than 10% of the residential settings in 2018. O.1.G - The setting encourages visitors or other people from the greater community (aside from paid staff) to be present was the sole tag cited for 10% of the residential providers. 80% of these homes were owned or leased by the same provider.

The Bureau for Medical Services and Kepro are working with these two providers to address the systemic issues which may be present.

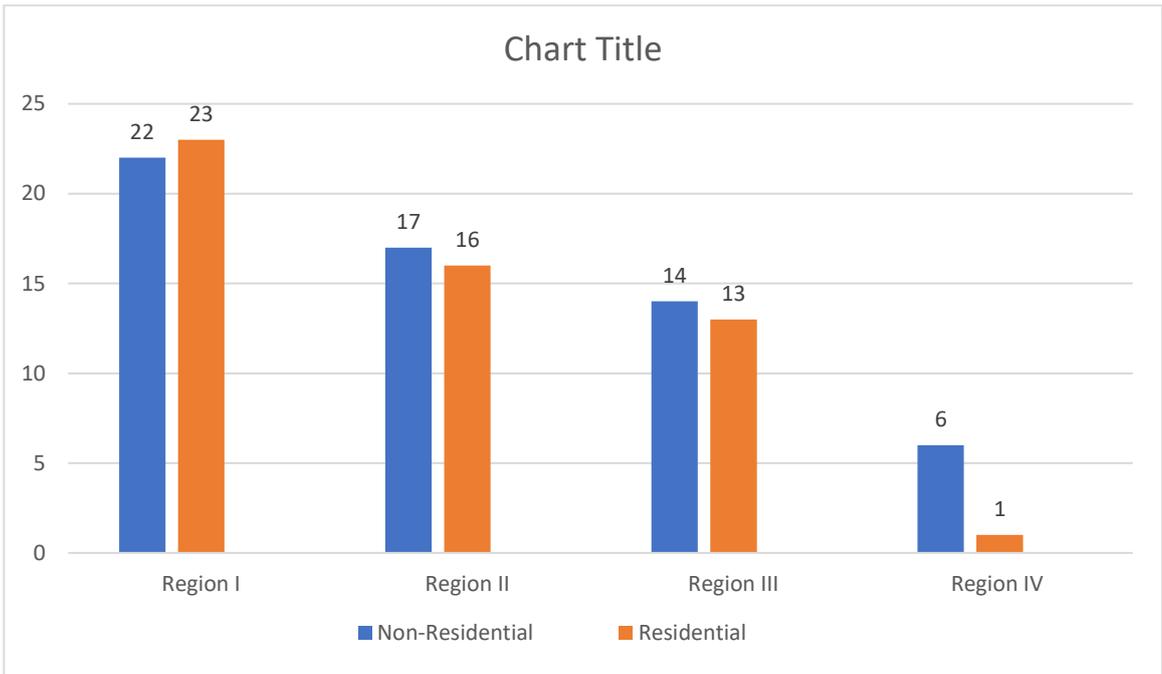
Conclusion: Settings still have some issues with community integration. There are two providers in particular whose settings may still be problematic.

Conclusion: There was much progress. With one outlier, all residential settings are in full or almost full compliance.

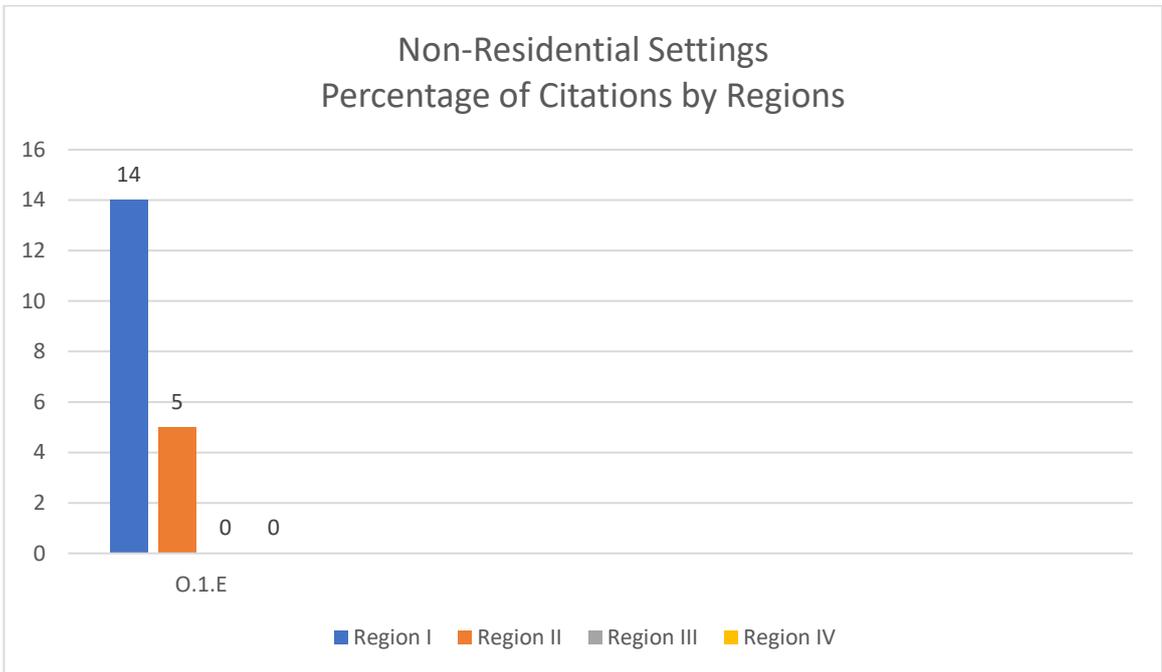
Next Steps Recommended:

Any needs for increased monitoring have been identified and addressed.

**REGIONAL ANALYSIS:** The QA Sub Committee recommended that a comparison/contrast of DHHR regions be completed, looking at provider settings in each region for trends and training issues by region. The Non-Residential and Residential Analyses are given below.

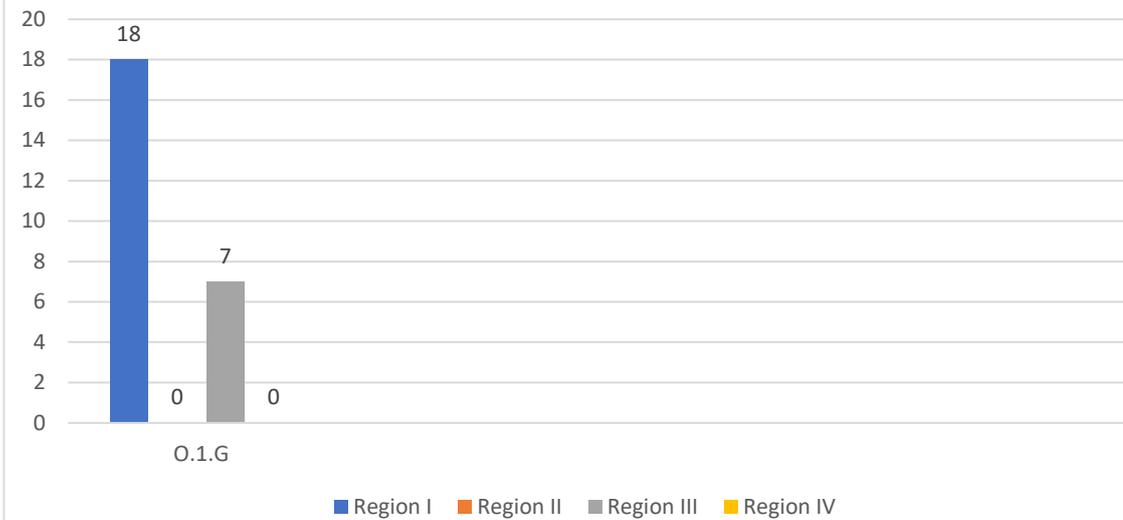


Non-Residential Analysis - There are no significant trends apparent for non-residential programs. While Region I has the greatest number of citations, it should be noted that this region is also the largest, with 22 settings in the region.



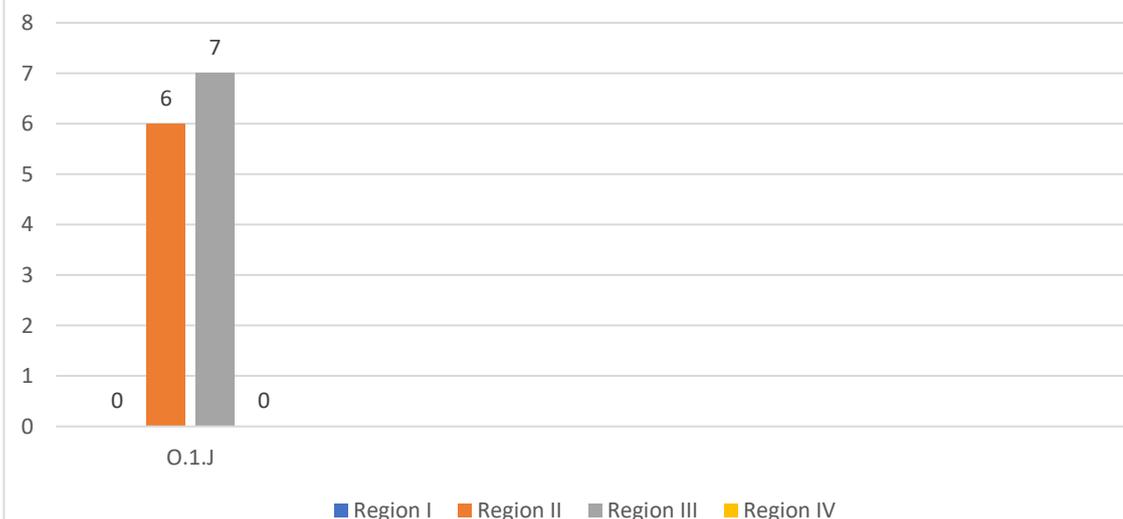
Individuals receive HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS.

Non-Residential Settings  
Percentage of Citations by Regions



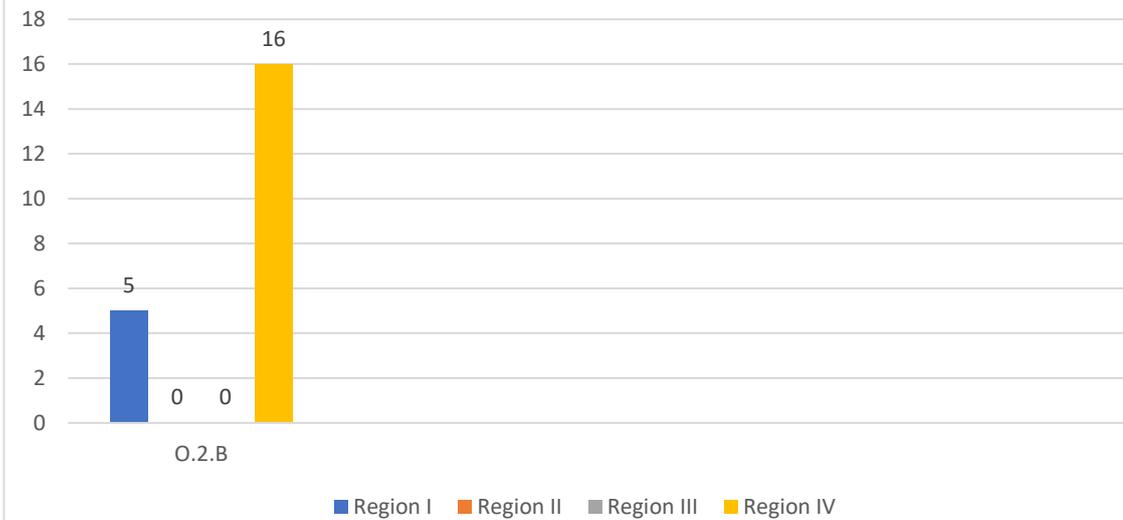
The setting encourages visitors or other people from the greater community (aside from paid staff) to be present. There is evidence that visitors have been present at regular frequencies.

Non-Residential Settings  
Percentage of Citations by Regions



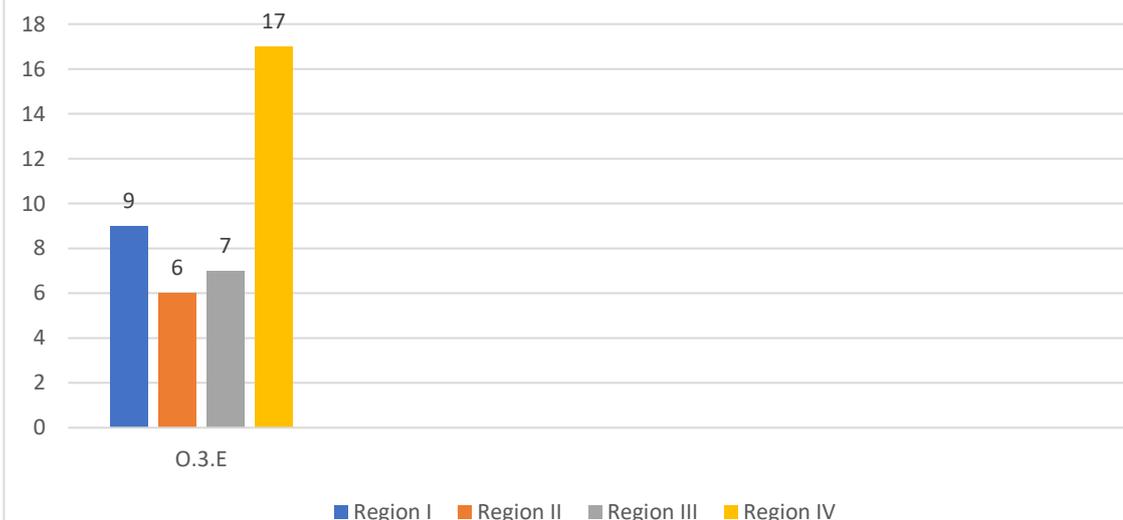
The setting provides individuals with contact information. Access to and training on the use of public transportation, such as busses, taxis, etc., and these public transportation schedules and telephone numbers are available in a convenient location.

Non-Residential Settings  
Percentage of Citations by Regions

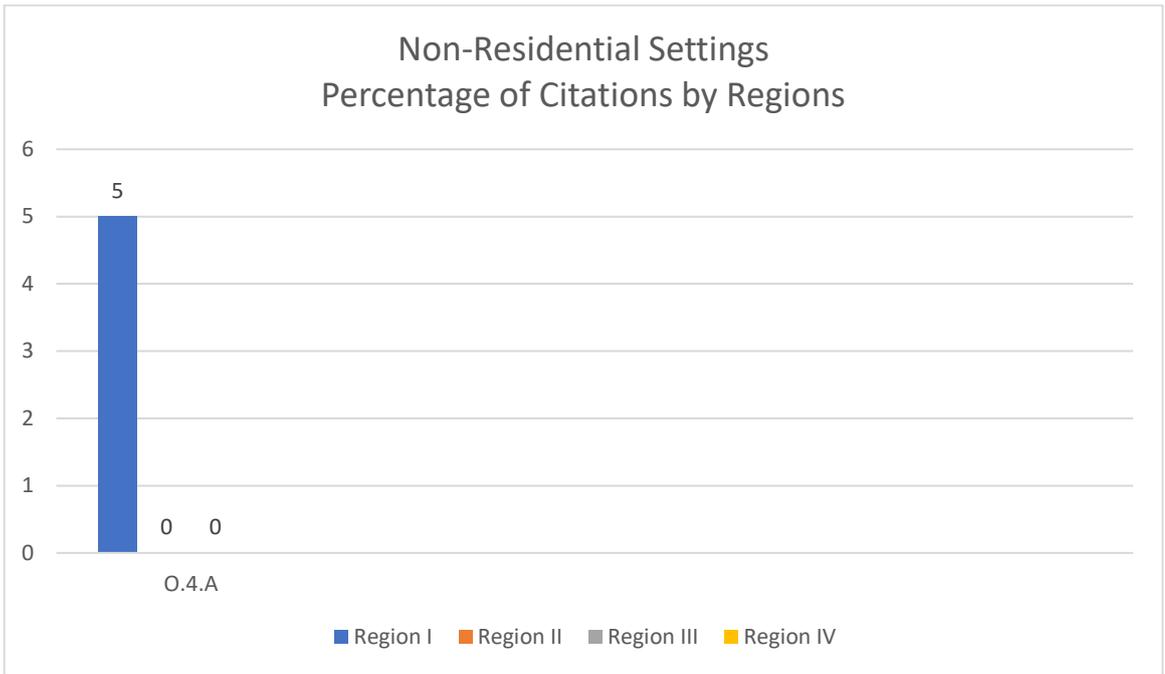


The setting assures that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive HCBS services. *Note: Age Appropriate*

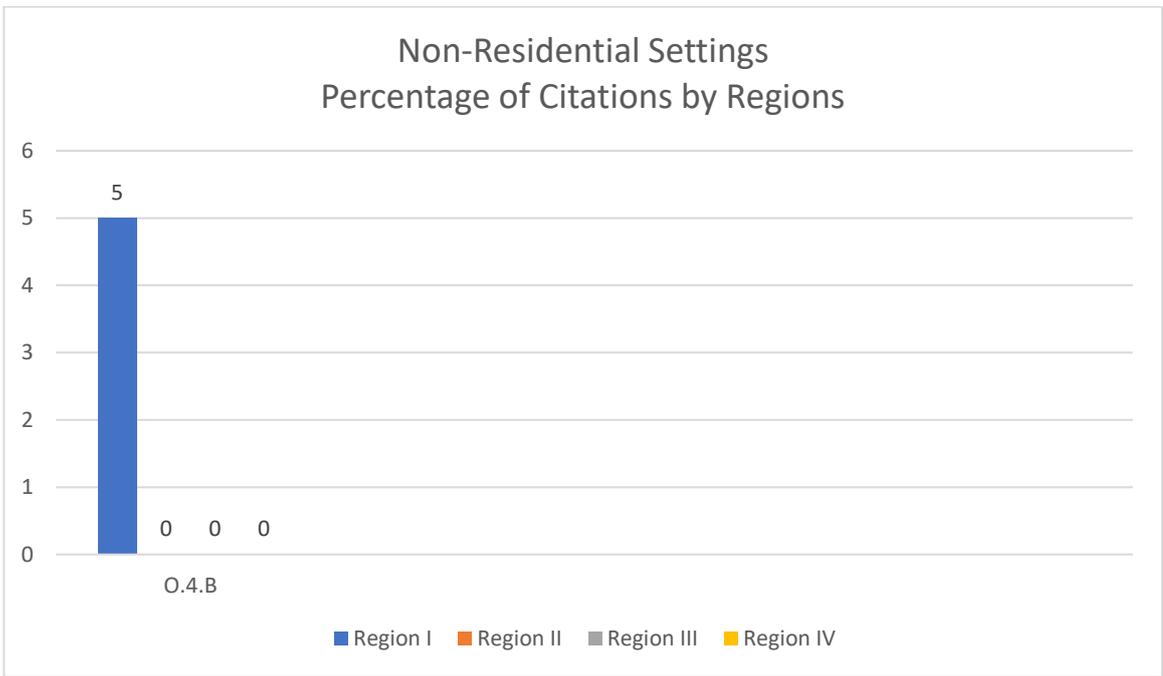
Non-Residential Settings  
Percentage of Citations by Regions



The setting offers a secure place for the individual to store personal belongings.



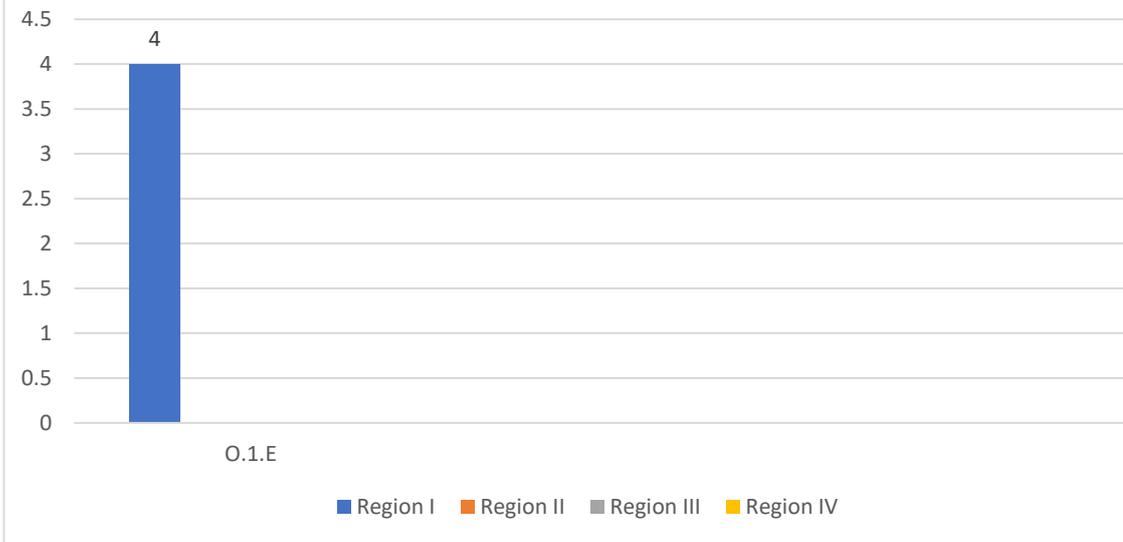
There are no gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting.



The setting affords a variety of meaningful non-work activities that are responsive to the goals, interests and needs of individuals.

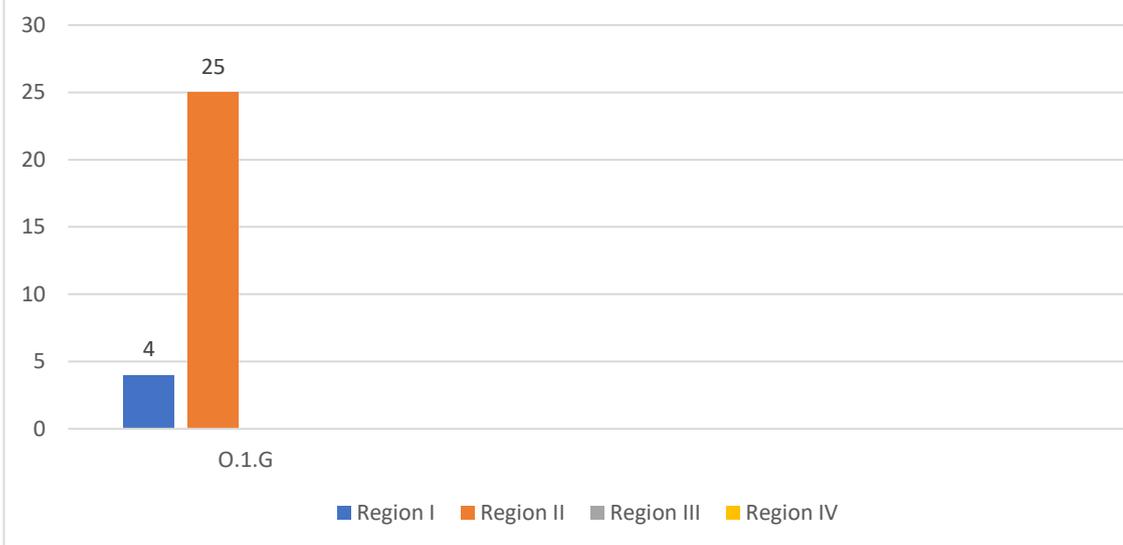
**Residential Analysis -** There are no significant trends apparent for residential programs. Region IV, the outlier, has only one setting in the entire region.

Residential Settings  
Percentage of Citations by Region

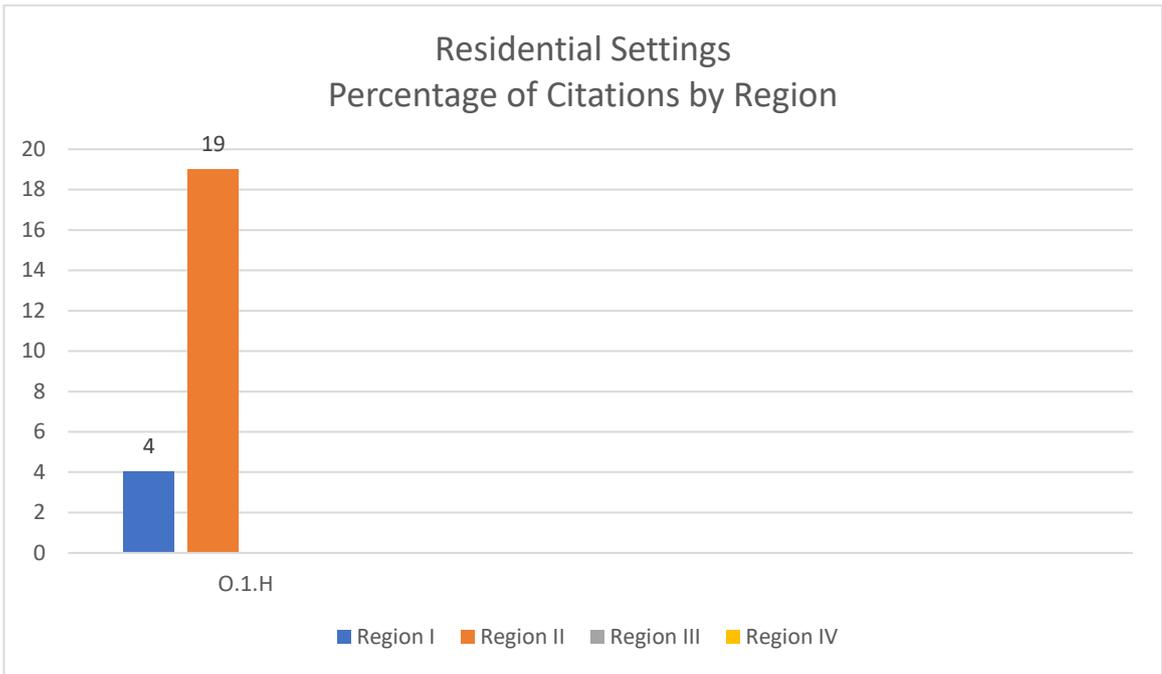


Individuals on the street greet/acknowledge individuals receiving services when they encounter them.

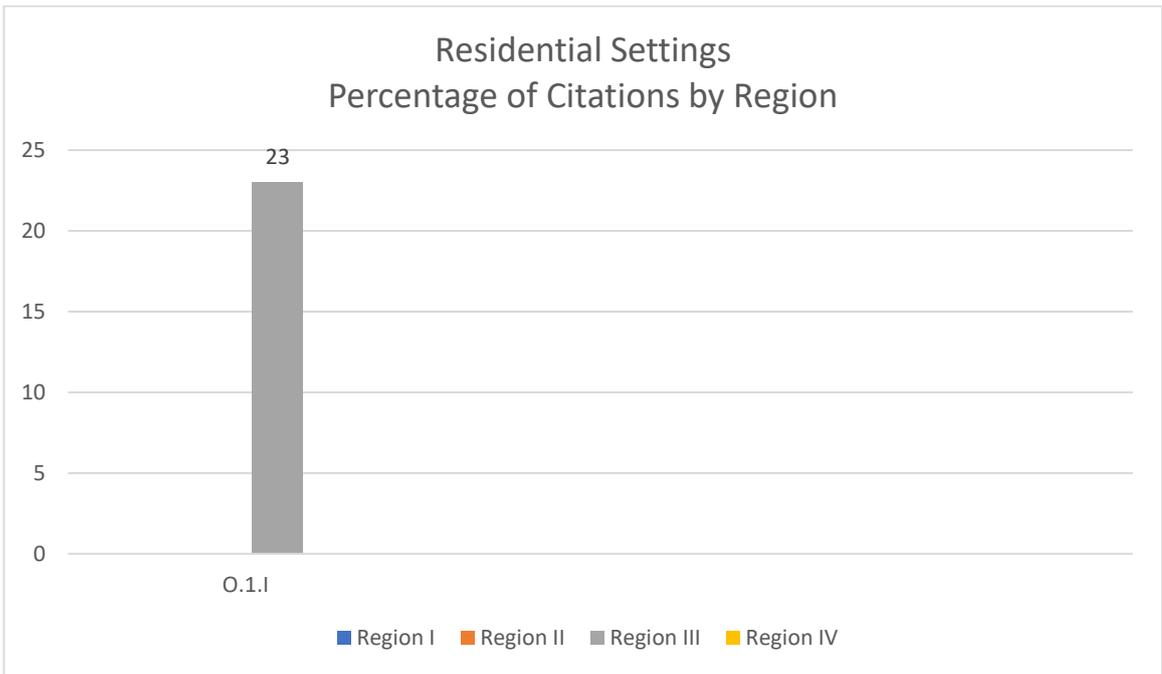
Residential Settings  
Percentage of Citations by Region



Visiting hours are posted.

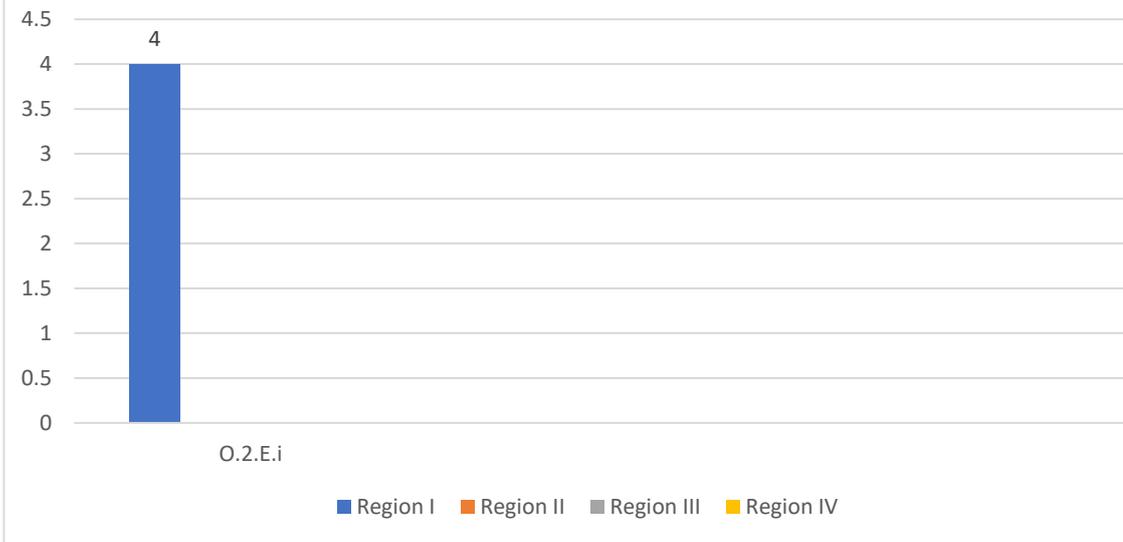


Bus and other public transportation schedules and telephone numbers are posted in a convenient location.



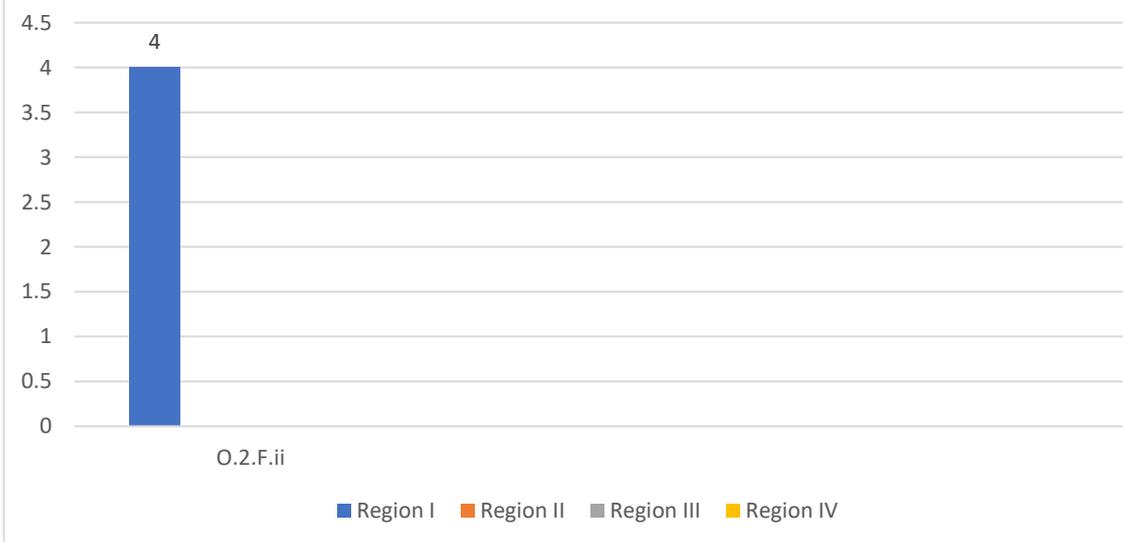
The individuals have access to materials to become aware of activities occurring outside of the setting.

Residential Settings  
Percentage of Citations by Region



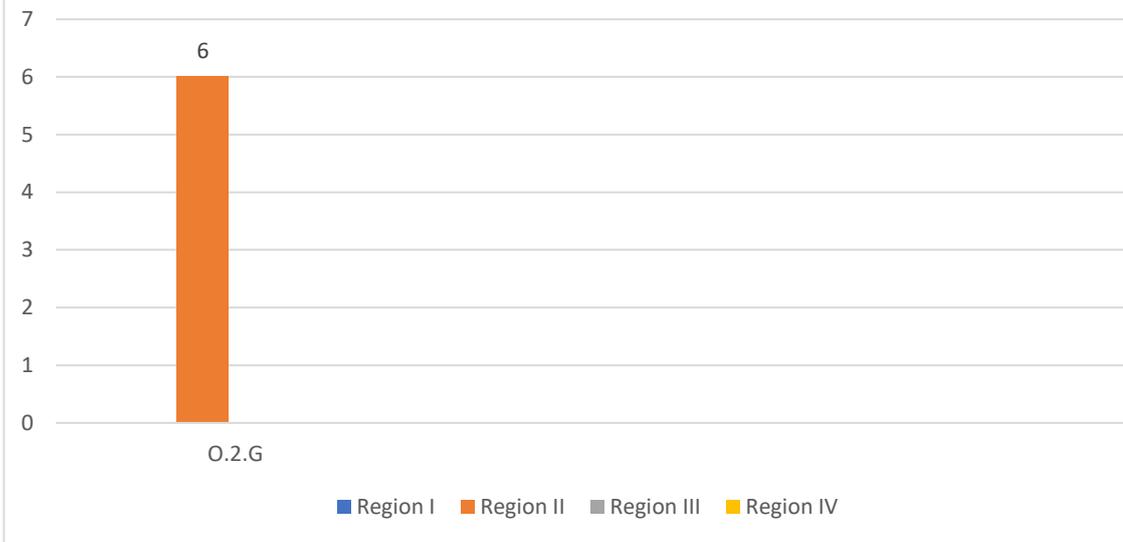
Gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting are not in evidence.

Residential Settings  
Percentage of Citations by Region



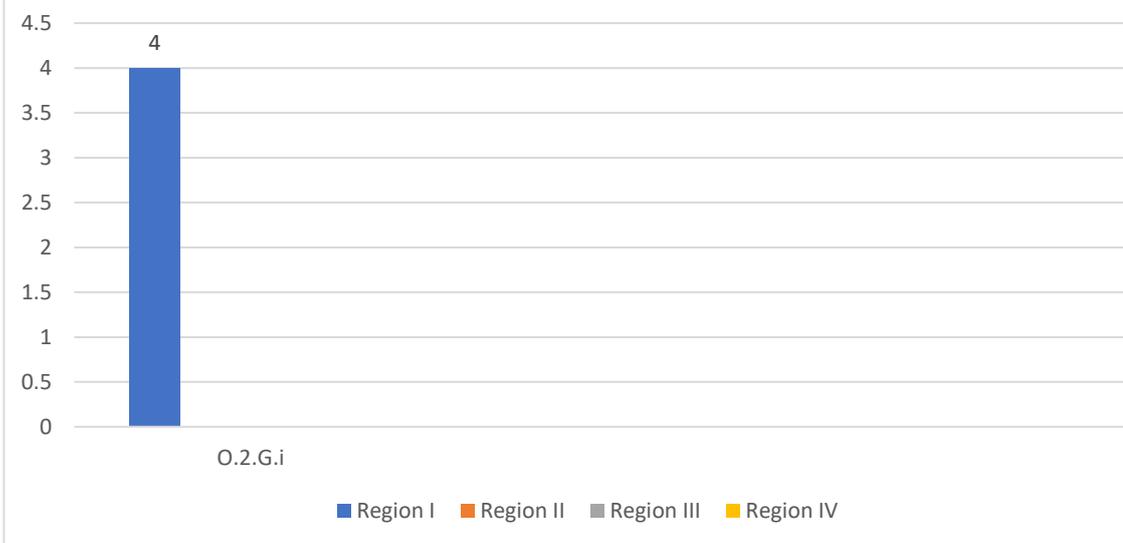
Appliances are accessible to individuals.

Residential Settings  
Percentage of Citations by Region

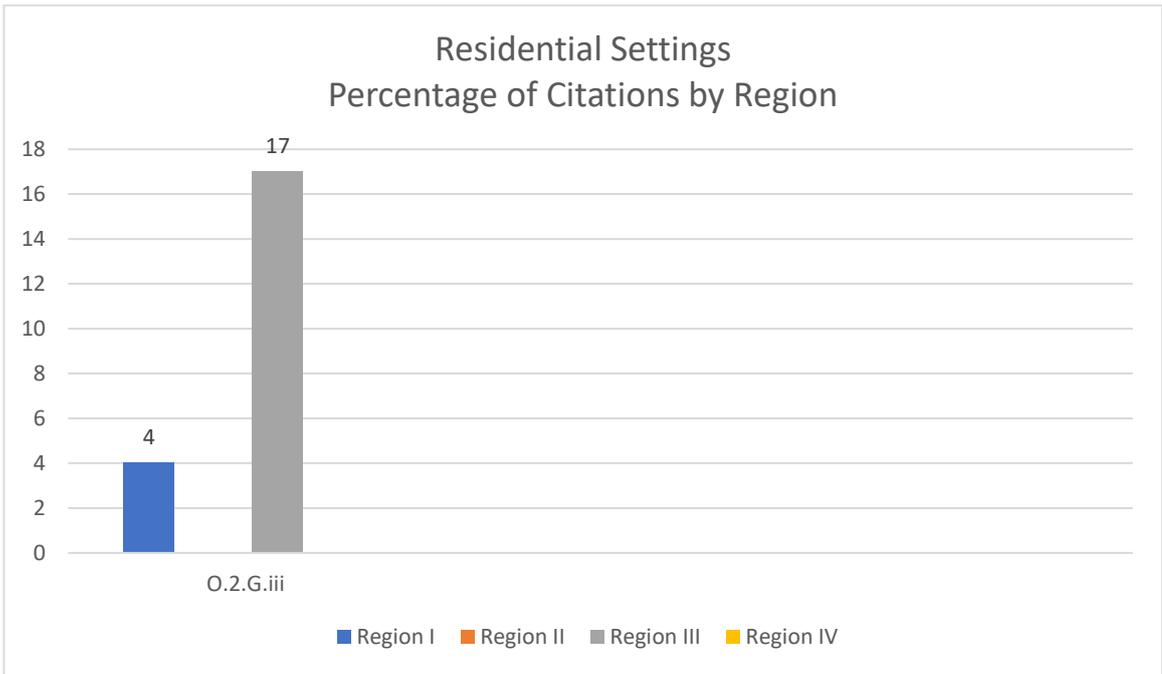


Individuals have full access to the community.

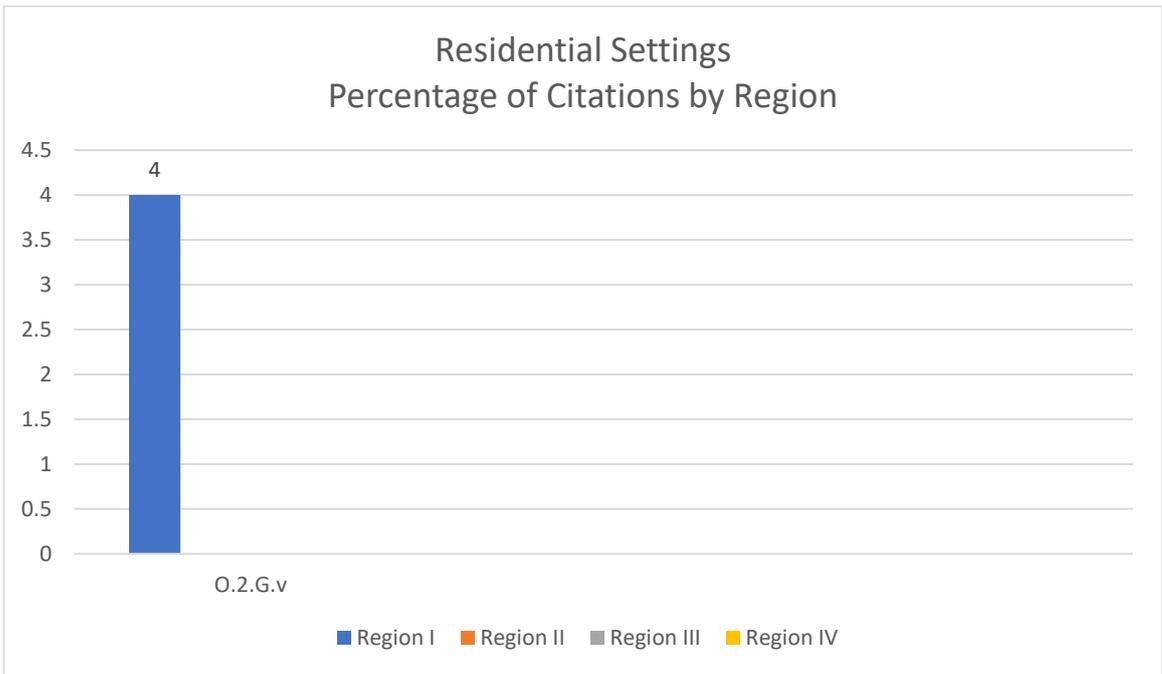
Residential Settings  
Percentage of Citations by Region



Individuals come and go at will.

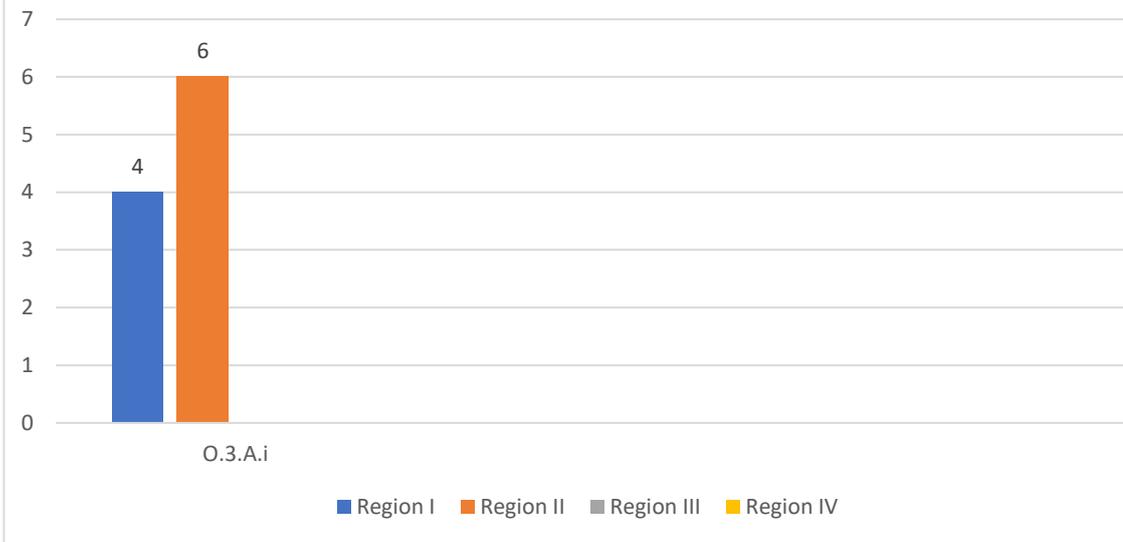


Individuals in the setting have access to public transportation.



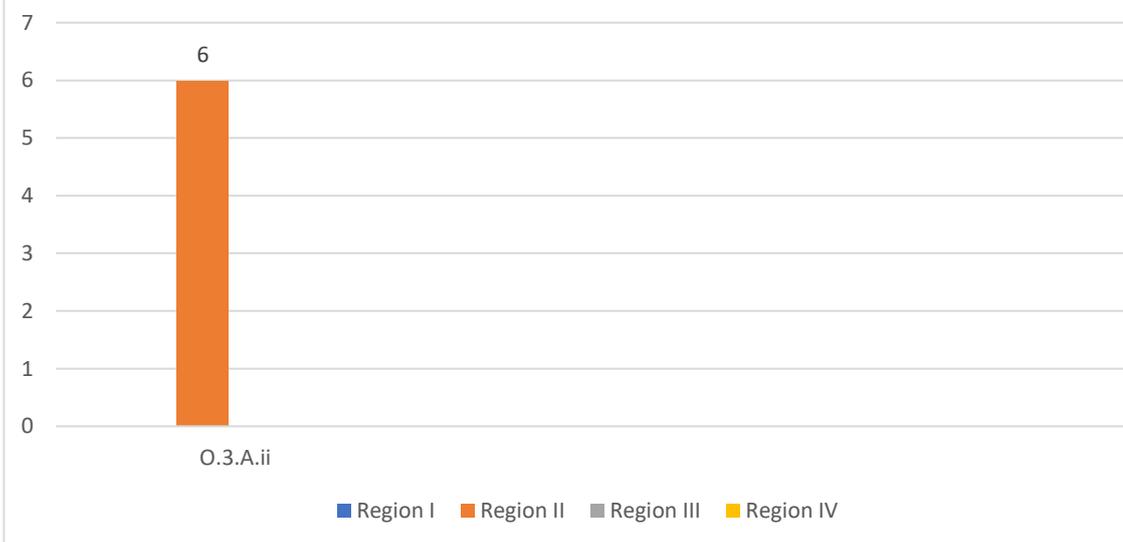
An accessible van is available to transport individuals to appointments, shopping, etc.

Residential Settings  
Percentage of Citations by Region

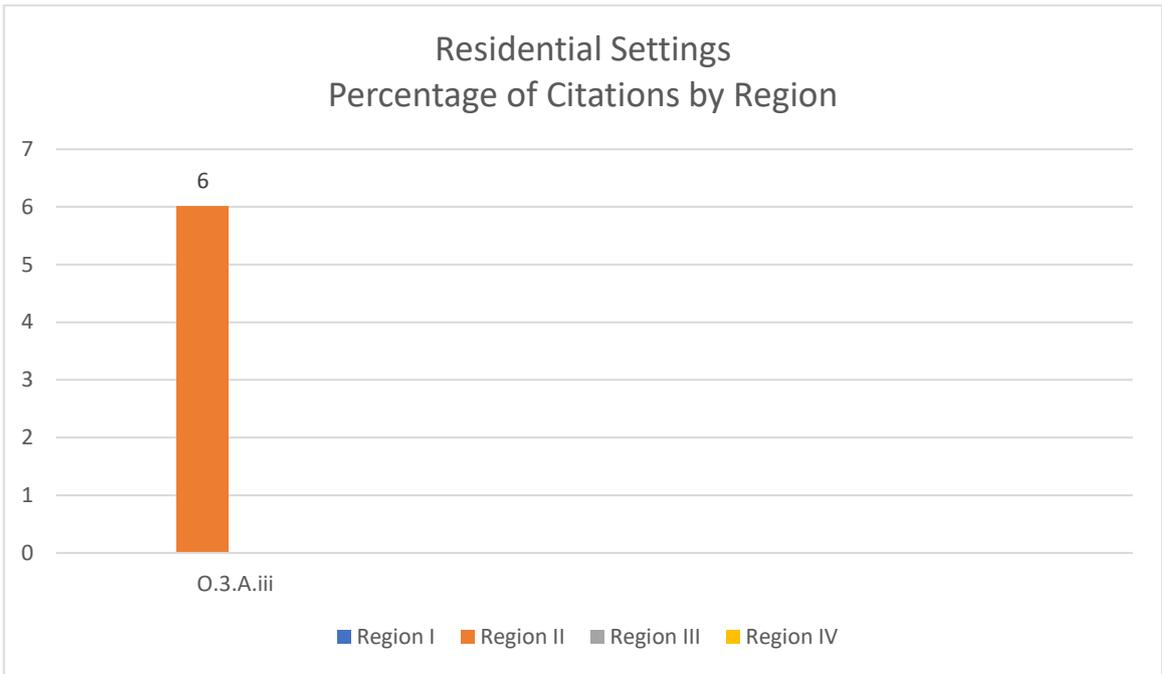


Individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time.

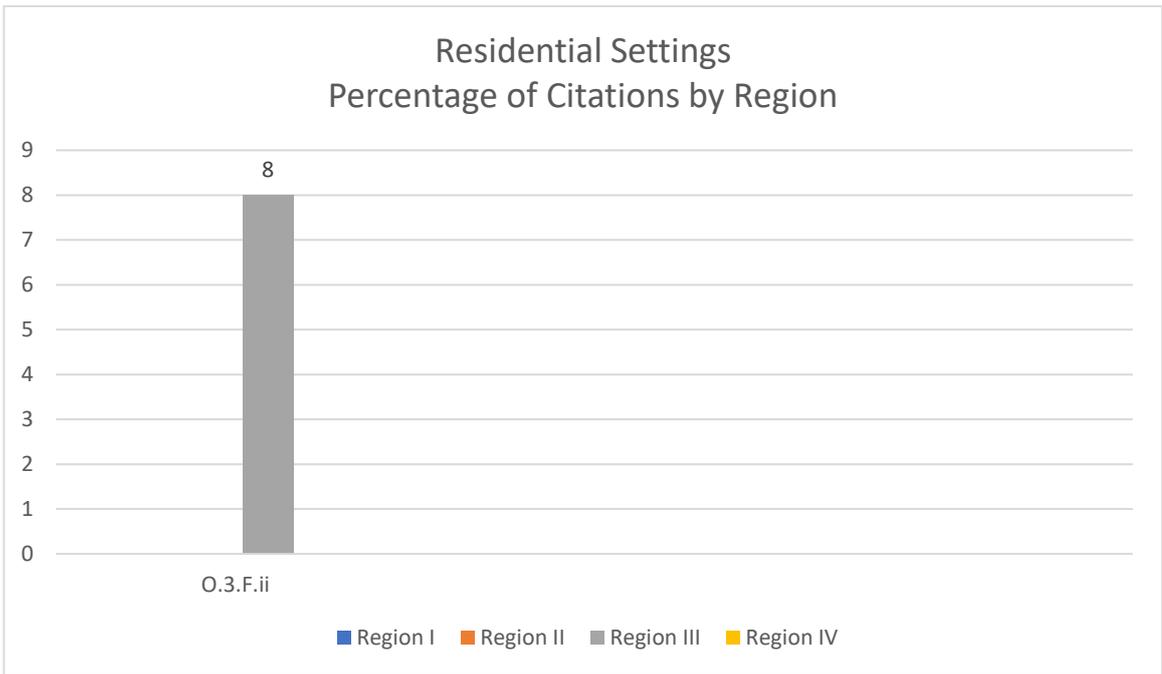
Residential Settings  
Percentage of Citations by Region



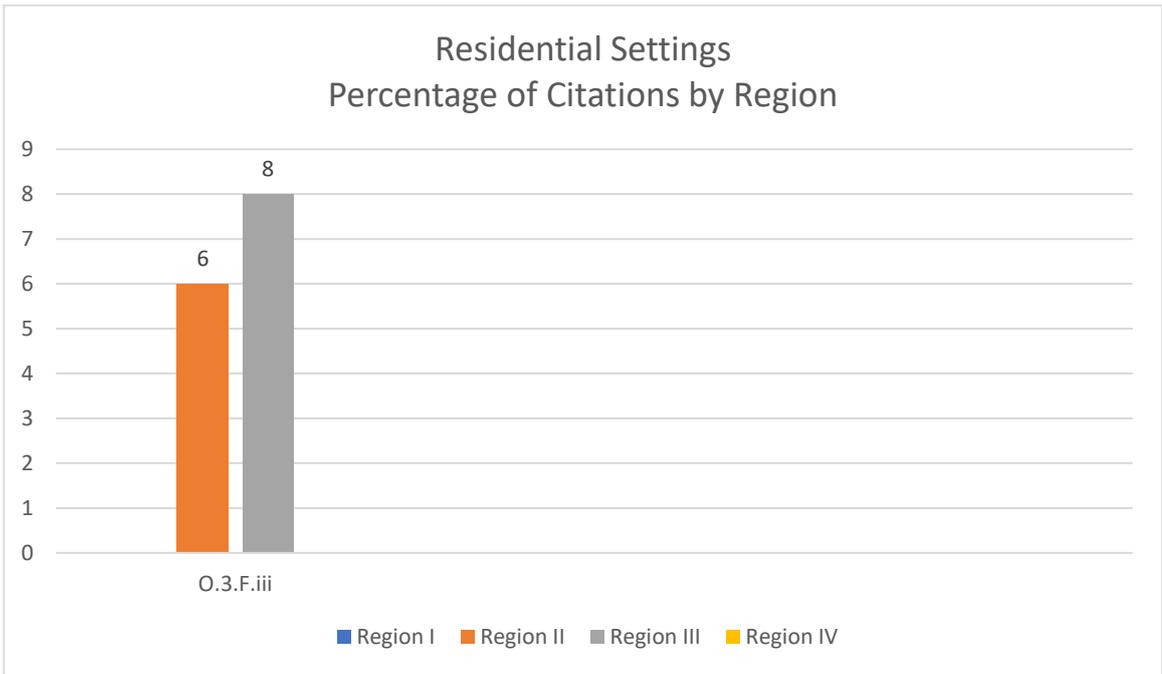
The telephone or other technology device is in a location that has space around it to ensure privacy.



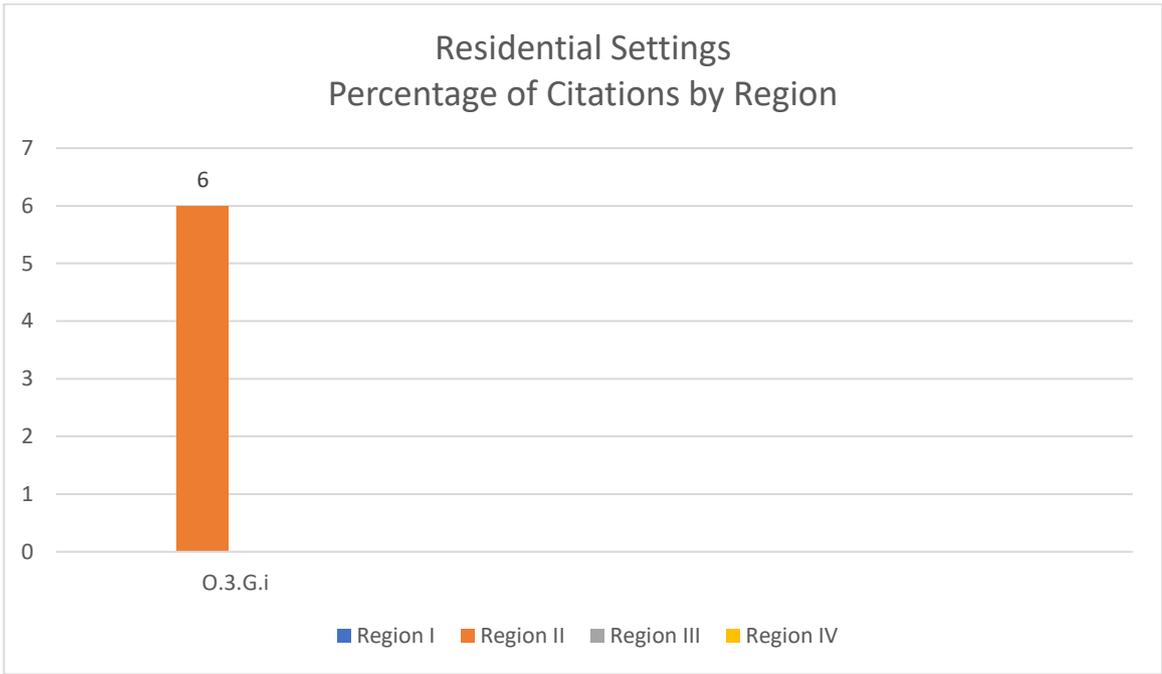
Individuals' rooms have a telephone jack, WI-FI or ETHERNET jack.



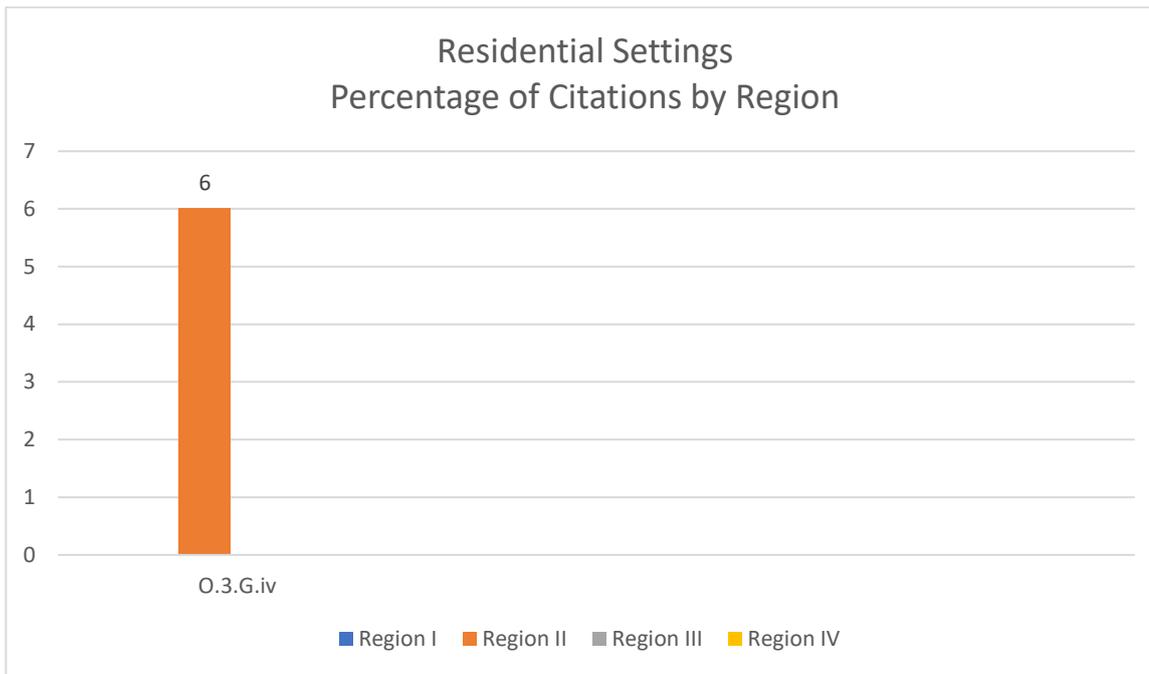
The individual can close and lock his/her bedroom door.



The individual can close and lock the bathroom door.



Cameras are present in the setting, in individual personal living spaces.



Staff only use a key to enter a personal living area or privacy space under limited circumstances agreed upon with the individual.

## Appendix A

### Non-RESIDENTIAL

Individuals receive HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS. O.1.E

The setting encourages visitors or other people from the greater community (aside from paid staff) to be present. There is evidence that visitors have been present at regular frequencies. (For example, customers in a pre-vocational setting). Guidance: visitors greet/acknowledge individuals receiving services with familiarity when they encounter them; visiting hours are unrestricted; the setting otherwise encourages interaction with the public). O.1.G

The setting provides individuals with contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and these public transportation schedules and telephone numbers are available in a convenient location. O.1.J

The setting options offered include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at a YMCA. O.2.B

The setting offers a secure place for the individual to store personal belongings. O.3.E

There are no gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting. O.4.A

The setting affords a variety of meaningful non-work activities that are responsive to the goals, interests and needs of individuals.

Guidance: Does the physical environment support a variety of individual goals and needs (for example, does the setting provide indoor and outdoor gathering spaces; does the setting provide for larger group activities as well as solitary activities; does the setting provide for stimulating as well as calming activities?) O.4.B

The setting posts or provides information on individual rights. O.4.E

The setting posts or provides information to individuals about how to make a request for additional HCBS, or changes to their current HCBS. O.5.A

## RESIDENTIAL

Individuals on the street greet/acknowledge individuals receiving services when they encounter them. O.1.E

Visiting hours are posted. O.1.G

Bus and other public transportation schedules and telephone numbers are posted in a convenient location. O.1.H

The individuals have access to materials to become aware of activities occurring outside of the setting. O.1.I

Gates, Velcro strips, locked doors, or other barriers preventing individual's entrance to or exit from certain areas for the setting are not in evidence. O.2.E.i

Appliances are accessible to individuals. O.2.F.ii

Individuals have full access to the community. O.2.G

Individuals come and go at will. O.2.G.i

Individuals in the setting have access to public transportation. O.2.G.iii

An accessible van is available to transport individuals to appointments, shopping, etc.  
O.2.G.v

Individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time. O.3.A.i

The telephone or other technology device is in a location that has space around it to ensure privacy. O.3.A.ii

Individuals' rooms have a telephone jack, WI-FI or ETHERNET jack. O.3.A.iii

The individual can close and lock his/her bedroom door. O.3.F ii

The individual can close and lock the bathroom door. O.3.F.iii

Cameras are present in the setting, in individual personal living spaces. O.3.G.i

Staff only use a key to enter a personal living area or privacy space under limited circumstances agreed upon with the individual. O.3.G.i

## **State Transition Plan Data Analysis 2019**

### **Specialized Family Care Homes**

Dr. Rose Lowther-Berman

Program Manager I, West Virginia State Transition Plan

August 13, 2019

INTRODUCTION: In late 2018, Specialized Family Care homes were added to the pool of residential settings falling under the Home and Community Based Services Rule. We are continuing to gather data regarding provider compliance with the Home and Community Based Services Rule criteria. The Specialized Family care reviews, conducted by the Family Based Care Specialist during his/her monthly home visits, were analyzed using the same format as the analysis of the residential setting reviews for the Waiver homes. The review revealed the following limitations and delimitations:

**Delimitations:** Reviews are by different Family Based Care Specialists.

Some Family Based Care Specialists are new and enlisted the help of the provider or guardian to complete the form.

**Tags Cited:** The total number Specialized Family Care homes housing IDD Waiver members on July 17, 2019 was 63. Nine (9) of these homes housed 2 Waiver members. Twenty-seven (43%) of the homes were found to be in total compliance during this initial review.

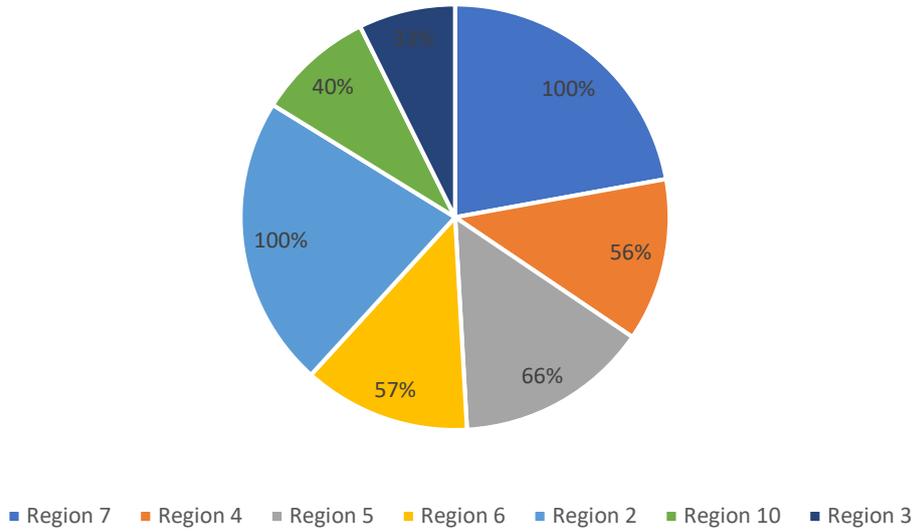
It should be noted that total compliance was recorded using the following caveat: Due to the nature of the homes as actual natural private residences housing a family without disabilities as well as HCBS members, O.3.G.i (Cameras are present), O.1.F, O.2.G.iii and O.2.G.iv (rural mass transit lacking) and R.1.G.iii (individuals prohibited from legal activities) were sometimes scored “no”. If only one or more of these 5 tags were checked no, and no other tags were checked “no”, the provider was found in total compliance.

“Individuals prohibited from legal activities” are those members whose previous actions have been adjudicated to prohibit them from certain otherwise legal activities. For example: members with a history of child molestation/abuse may be prohibited as a term of their probation from being near schools, playgrounds, etc. The restrictions or modifications to the settings requirements of otherwise legal activities were agreed to by the individual and documented in their person-centered service plans.

Settings that are found totally compliant had remediated all outstanding issues.

The following regions were found to have some homes in total compliance:

Settings with Total Compliance by Region



Seven of 10 reviewers/regions had at least one setting which had total compliance.

Please note that **Appendix A** includes a list of tag numbers cited (O.1.A et al) and their descriptors.

**The chart below shows the percentage of Providers needing remediation by tag/citation number.**

*Residential N=63*

<u>Review Citation</u>	<u>Number of Providers</u>	<u>% of Providers</u>
O.1.A	15	23%
O.1.F	25	40% (.396)
O.1.G	1	2% (.016)
O.2.B	1	2% (.016)
O.2.E	2	3% (.033)
O.2.E.i	8	13% (.133)
O.2.G.i	16	25% (.25)

O.2.G.iii	25	40% (.396)
O.2.G.iv	26	41% (.412)
O.3.A	4	6% (.063)
O.3.A.i	7	11% (.111)
O.3.A.ii	4	6% (.063)
O.3.C.ii	14	22% (.222)
O.3.Eiii	14	22% (.222)
O.3.G.i	63	100%
O.3.I	2	3% (.031)
O.3.I.i	1	2% (.0158)
O.3.I.ii	1	2% (.0158)
O.3.I.iii	1	2% (.0158)
O.5.A	5	8% (.079)
O.5.F.i	14	22% (.222)
O.5.G	3	5% (.047)
R.2.G.iii	57	90% (.904)

**The chart below shows the frequency of tag numbers cited under each Section of the Integrated Services Rule.**

*Section 1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

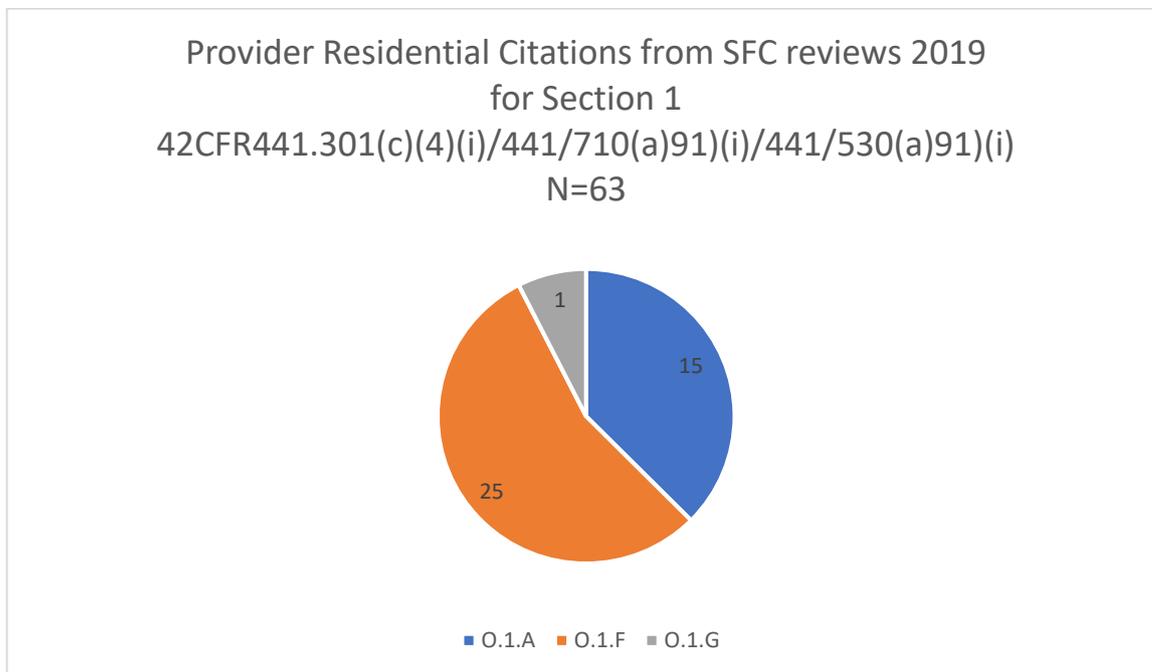
*Section 2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

*Section 3. The setting ensures an individual’s rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)*

*Section 4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)*

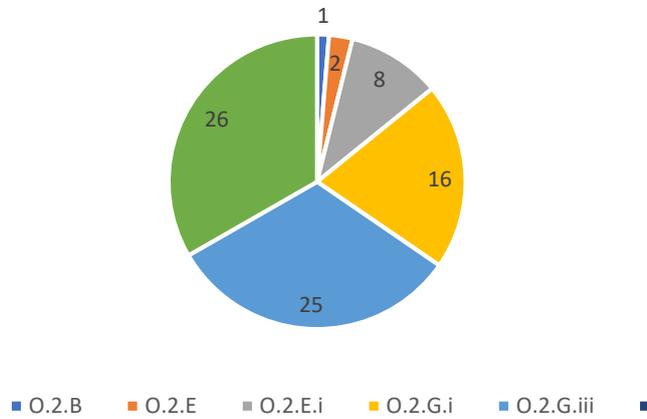
*Section 5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

Please note that there were no citations under Section 4 for any provider.



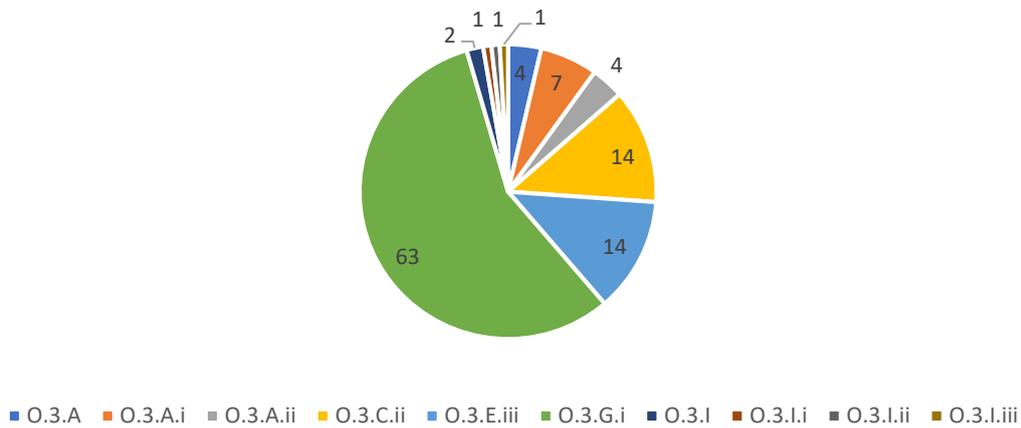
Provider Residential Citations from SFC Reviews 2019  
for Section 2 42CFR 441.301(c)(4) (ii)/441.710  
(a)(1)(ii)/441.530(a)(1)(ii)

N=63

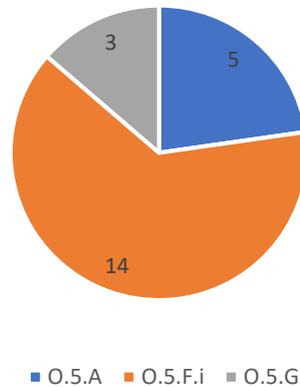


Provider Citations from SFC Reviews 2019  
for Section 3 42CFR 441.301(c)(4) (iii)/441.710  
(a)(1)(iii)/441.530(a)(1)(iii)

N=63



Provider Residential Citations from SFC Reviews 2019  
for Section 5 42CFR 441.301(c)(4)(v)/441.710  
(a)(1)(v)/441.530(a)(1)(v)  
N=63



NOTE:

ALL DATA WAS ACQUIRED THROUGH ON-SITE SURVEYS/REVIEWS OF SETTINGS. WHILE SETTINGS NOT FOUND IN COMPLIANCE WILL RECEIVE/RECEIVED FOLLOW-UP REVIEWS, THE RESULTS OF THESE REVIEWS ARE NOT INCLUDED IN THIS ANALYSIS.

SUMMARY/ABSTRACT

One hundred percent of the homes did not have cameras present in the home and so scored ‘no’ on O.3.G.i “Cameras are present in the home, in individual personal living spaces.” This is **good** and demonstrates the attention to the personal privacy of the members. (Section 3 of the Rule)

For 90% of the homes reviewed, the query R.1.G.iii “Are individuals prohibited from engaging in legal activities?” elicited a response of ‘no’. This is **good**, since all individuals should be participating in legal activities if they choose. However, there were 10% (6 homes) where this did not occur. Those homes will be required to submit a plan of compliance to remedy this deficiency.

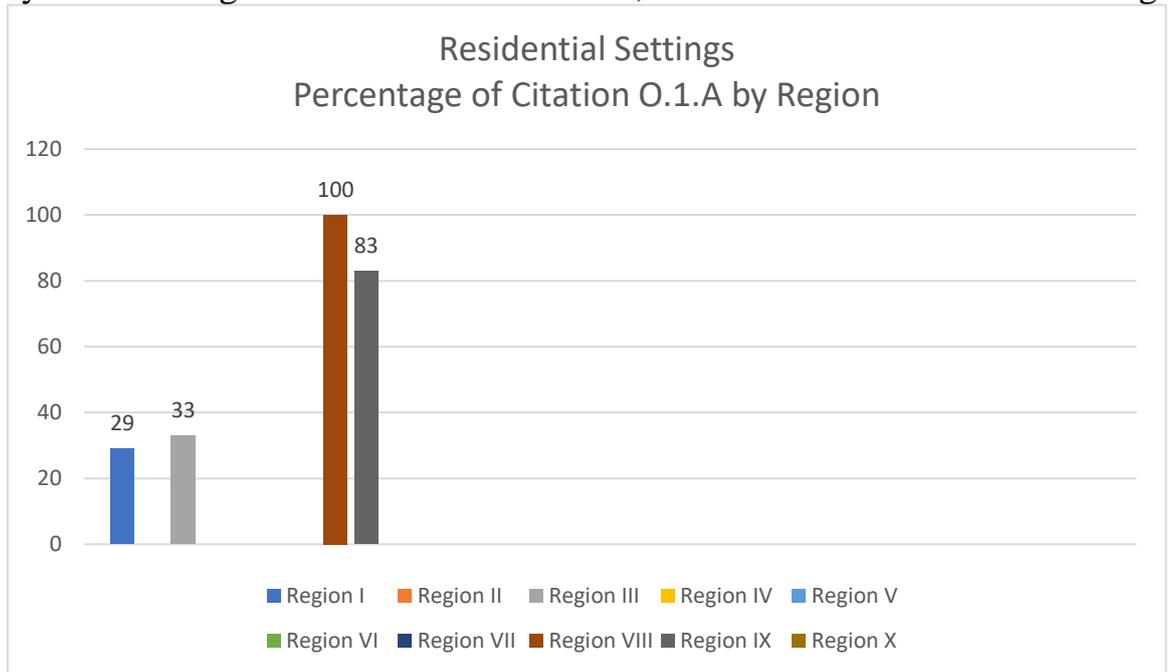
There were 12 tags which were cited in more than 10% of the SFC residential settings in 2019. O.1.F, O.2.G.iii and O.2.G.iv reflect the rural nature of the homes and lack of taxi or bus service. O.3.G.i (cameras in the home) and R.1.G.iii (members denied legal rights) should be scored ‘no’ if member rights are maintained. These are in italics below as we expect a high ‘no’ score for these tags.

**The remaining tags (not in italics) reflect problem areas in need of remediation.**

O.1.A	23%
<i>O.1.F</i>	<i>40% (.396)</i>
O.2.E.i	13% (.133)
O.2.G.i	25% (.25)
<i>O.2.G.iii</i>	<i>40% (.396)</i>
<i>O.2.G.iv</i>	<i>41% (.412)</i>
O.3.A.i	11% (.111)
O.3.C.ii	22% (.222)
O.3.Eiii	22% (.222)
<i>O.3.G.i</i>	<i>100%</i>
O.5.F.i	22% (.222)
<i>R.2.G.iii</i>	<i>90% (.904)</i>

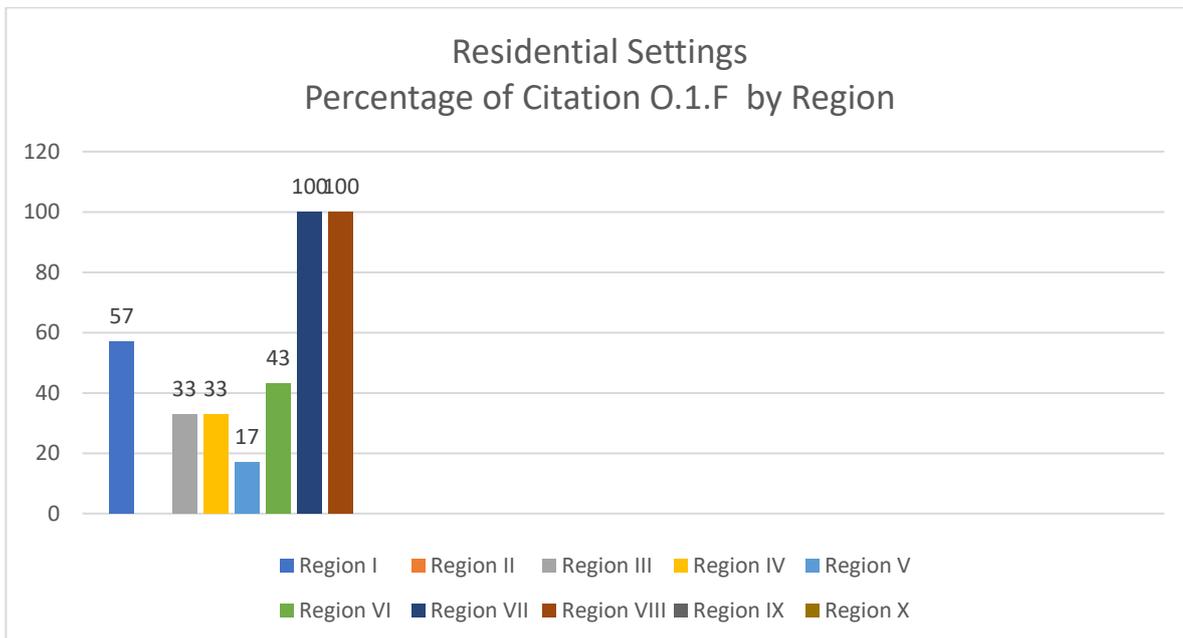
REGIONAL ANALYSIS: The QA Sub Committee recommended that a comparison/contrast of DHHR regions be completed, looking at provider settings in each region for trends and training issues by region. Analyses are given below.

Residential Analysis – If a Region is not shown in a chart, there were no citations for the tag

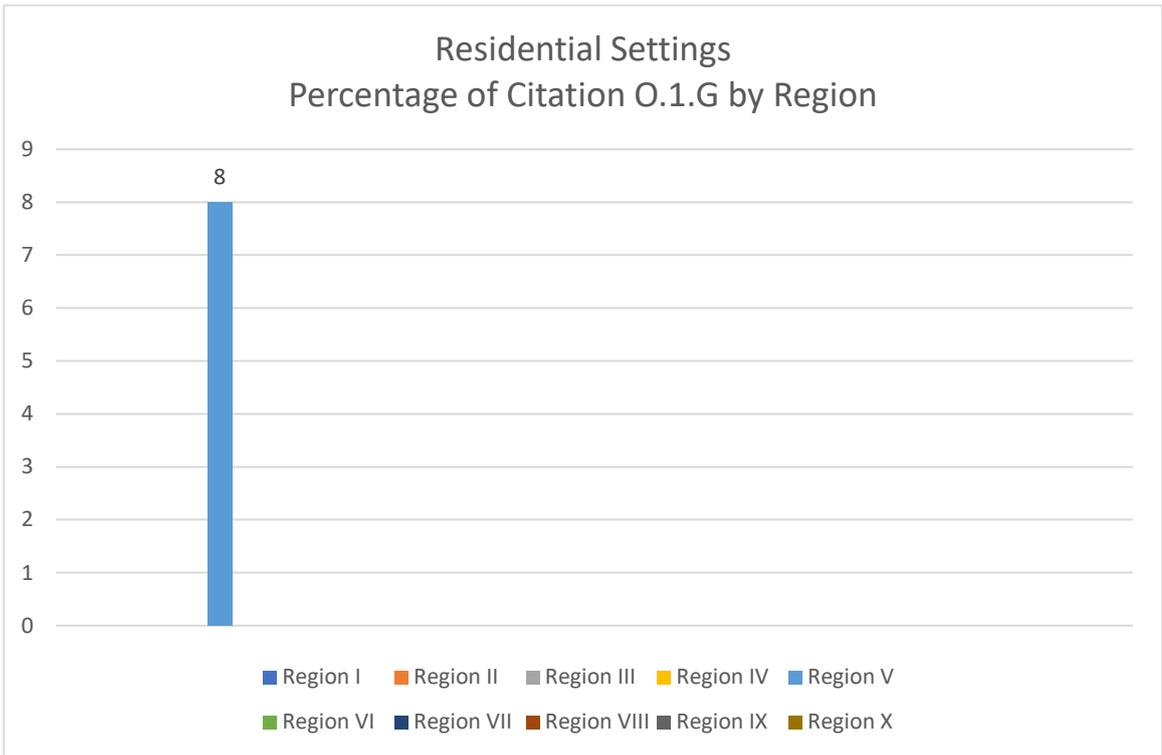


in that region.

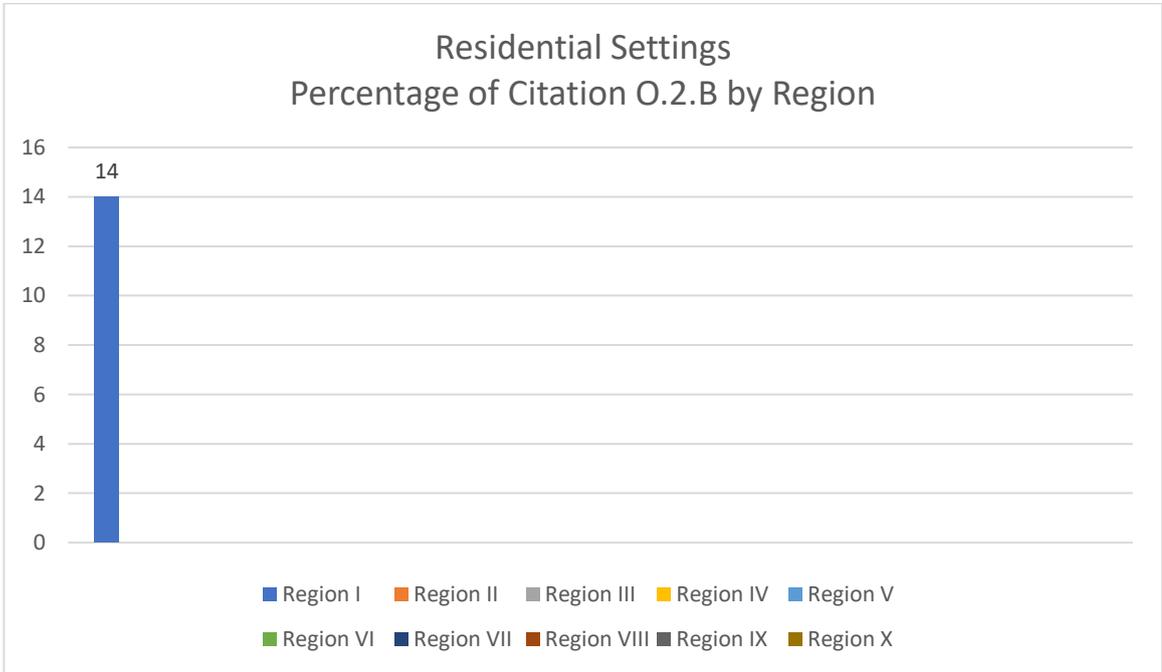
O.1.A Individuals are not isolated from individuals not receiving Medicaid HCBS in the broader community.



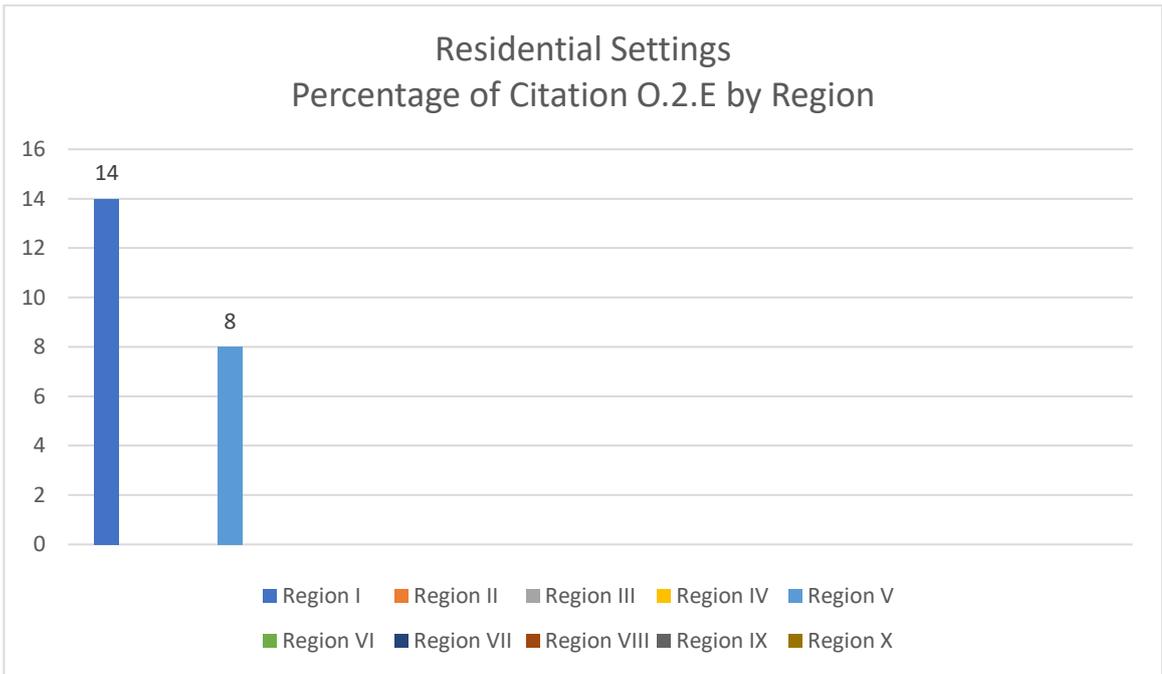
O.1.F Bus and other public transportation schedules and telephone numbers are available or posted in a convenient location.



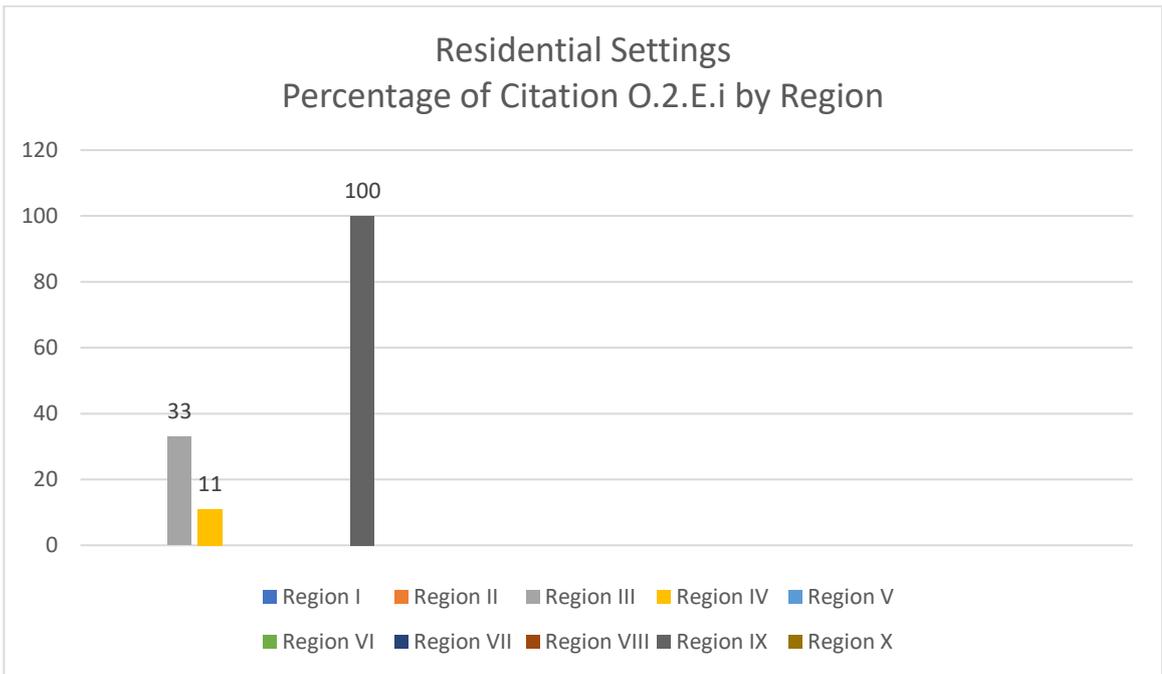
O.1.G The individuals have access to materials to become aware of activities occurring in the community. (There was only one ‘no’ response for this tag. The reviewer stated that “The individual is non-verbal & not ambulatory and cannot read, Not applicable...”)



O.2.B Individuals have full access to facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas. (There was only one ‘no’ response for this tag. The reviewer stated that “Individual does not have full access due to health issues and capabilities. )

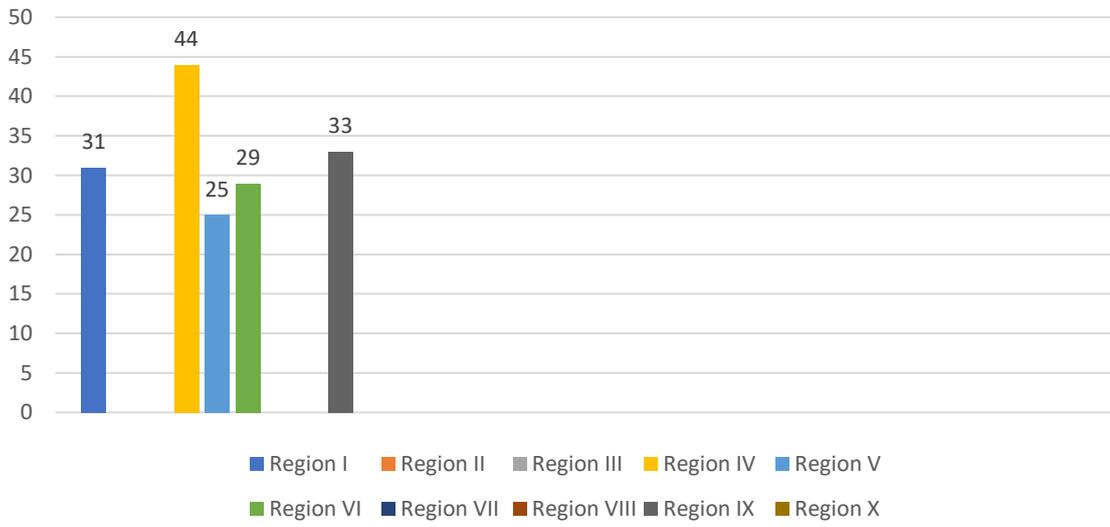


O.2.E The individual has unrestricted access in the home.



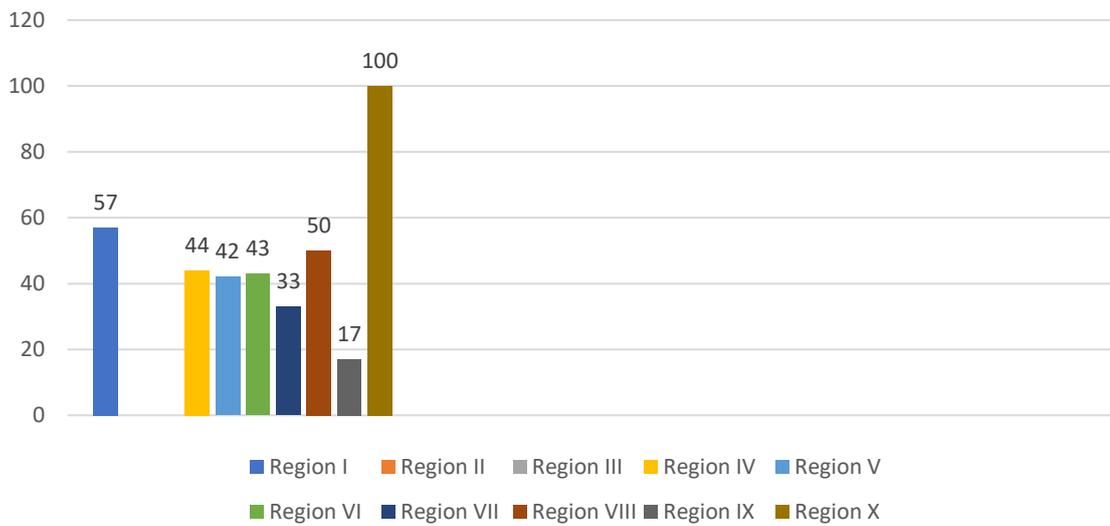
O.2.E.i Gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting are not in evidence.

Residential Settings  
Percentage of Citation O.2.G.i by Region

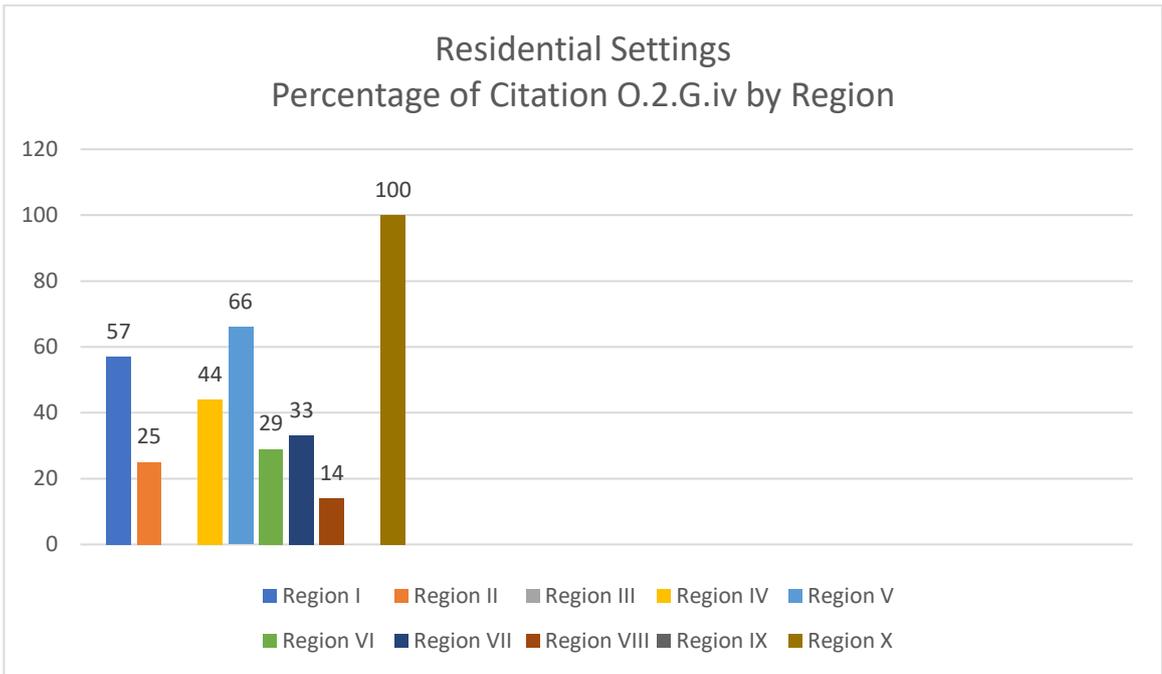


O.2.G.1 Individuals come and go at will.

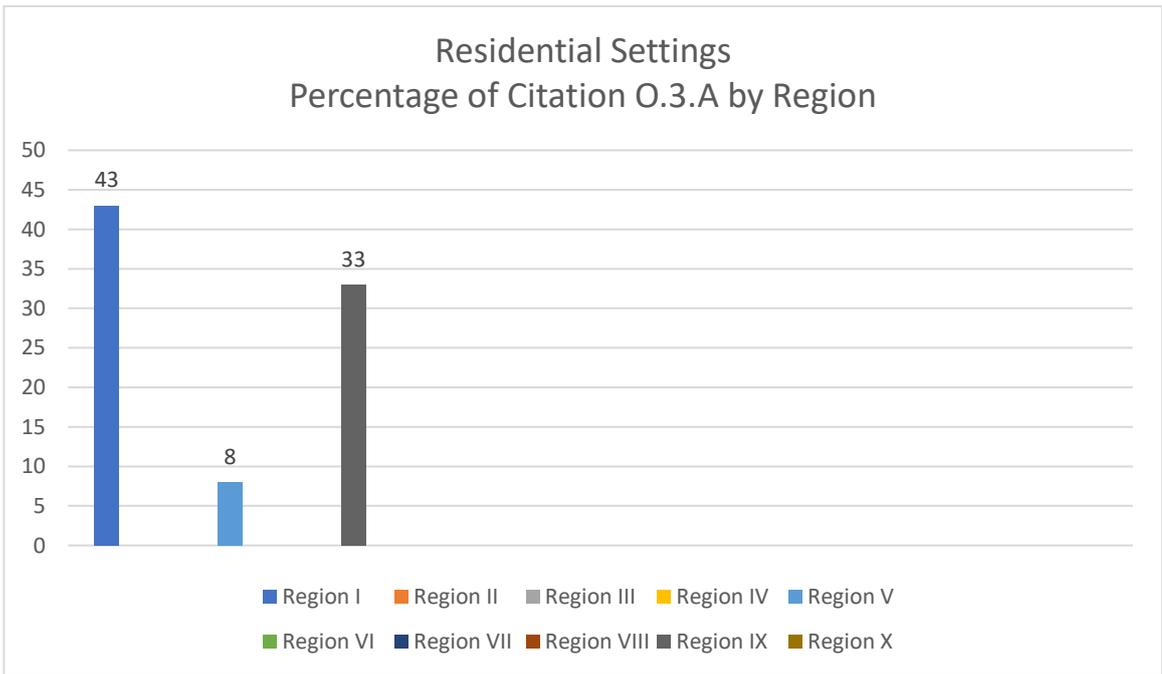
Residential Settings  
Percentage of Citation O.2.G.iii by Region



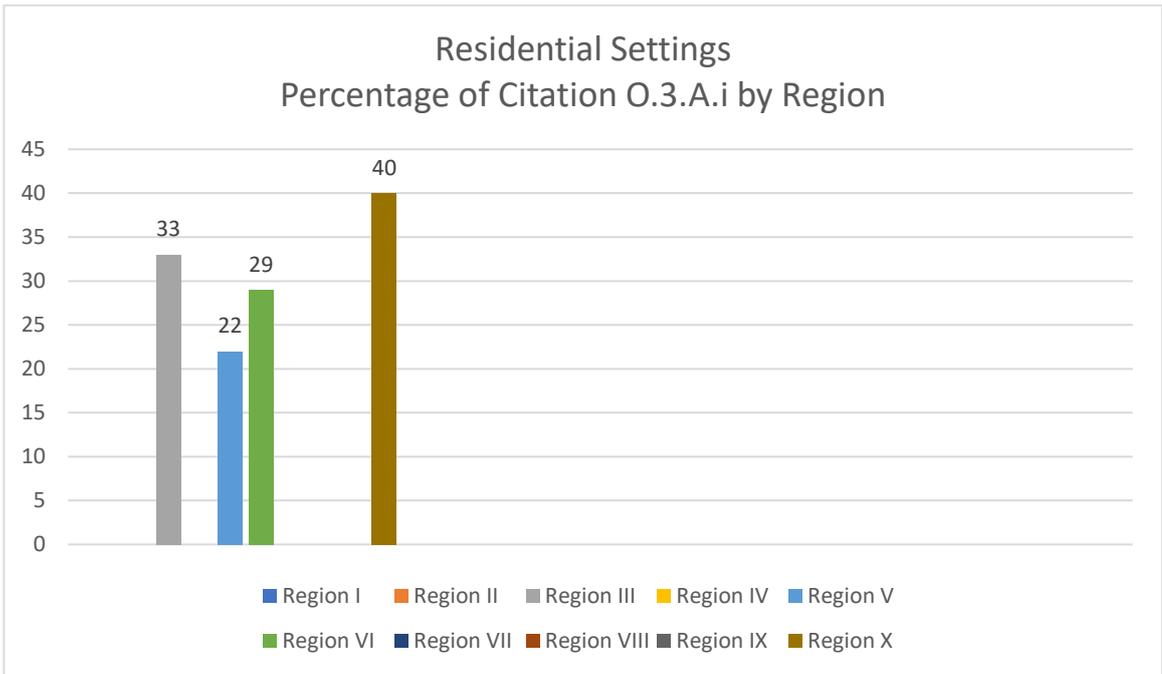
O.2.G.iii Individuals have access to public transportation.



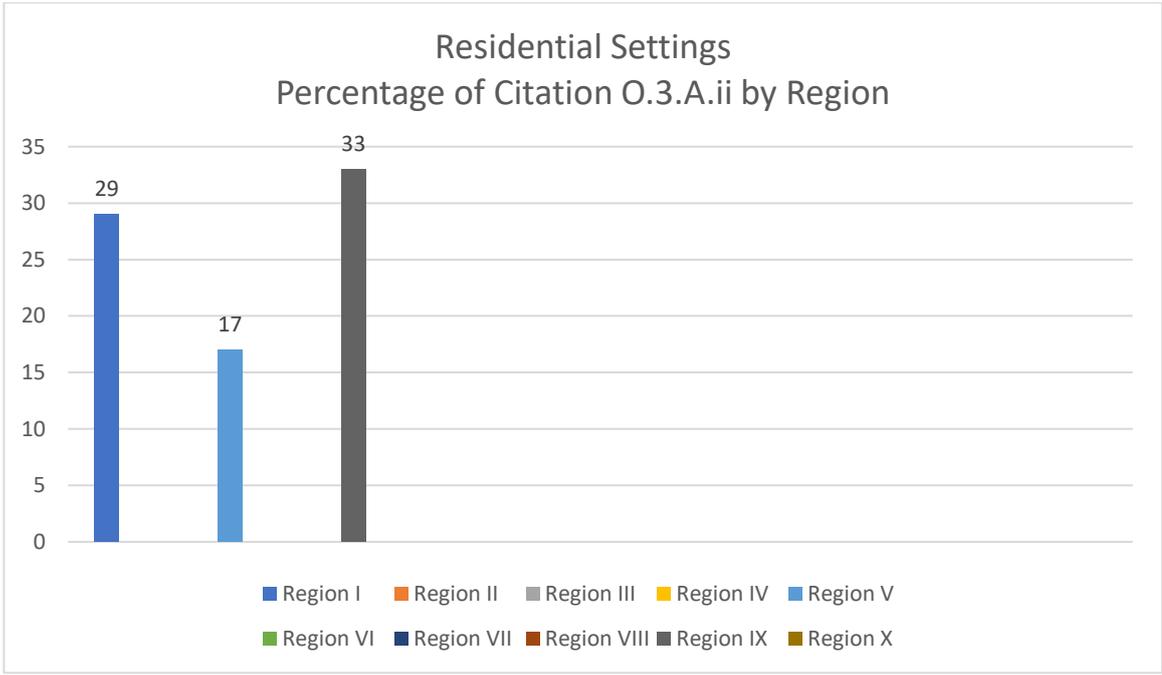
O.2.G.iv There are bus stops nearby or there are taxis available in the area.



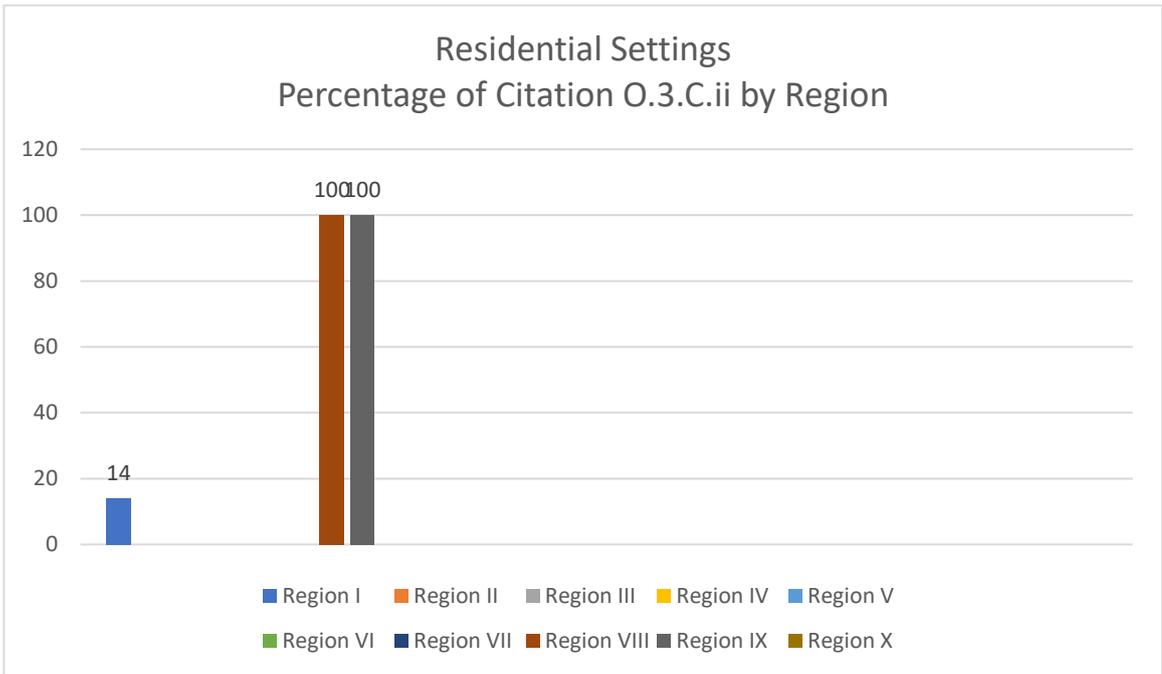
O.3.A The individual has access to make private telephone calls/text/email at the individual's preference and convenience.



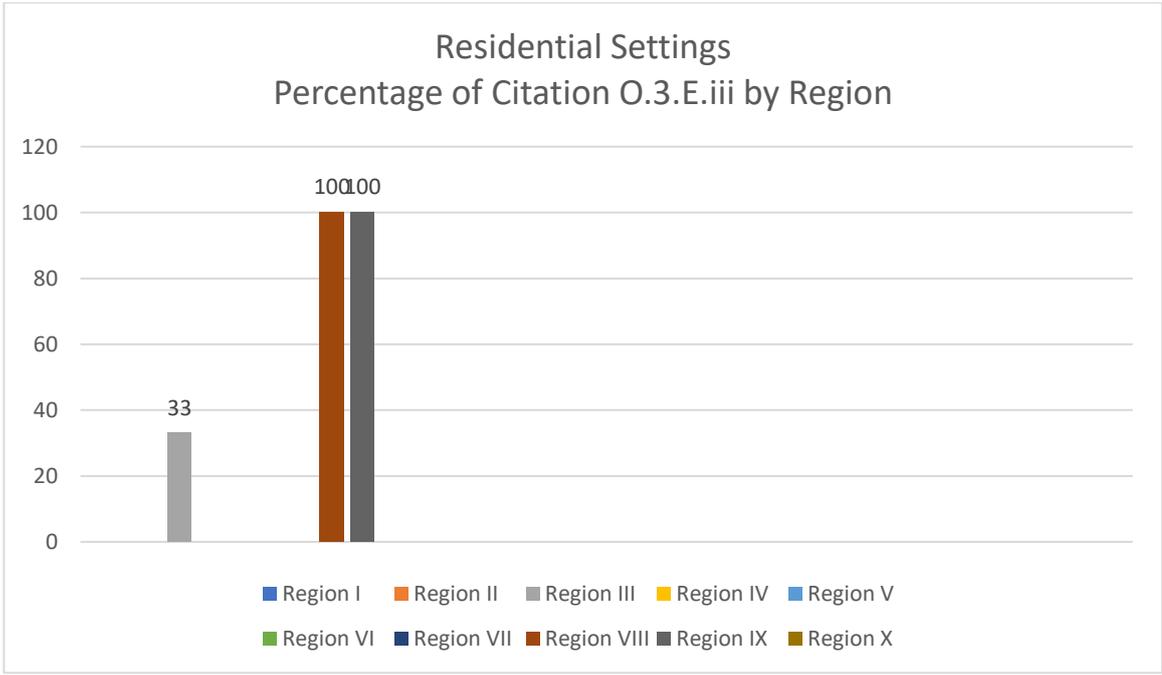
O.3.A.i The individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time.



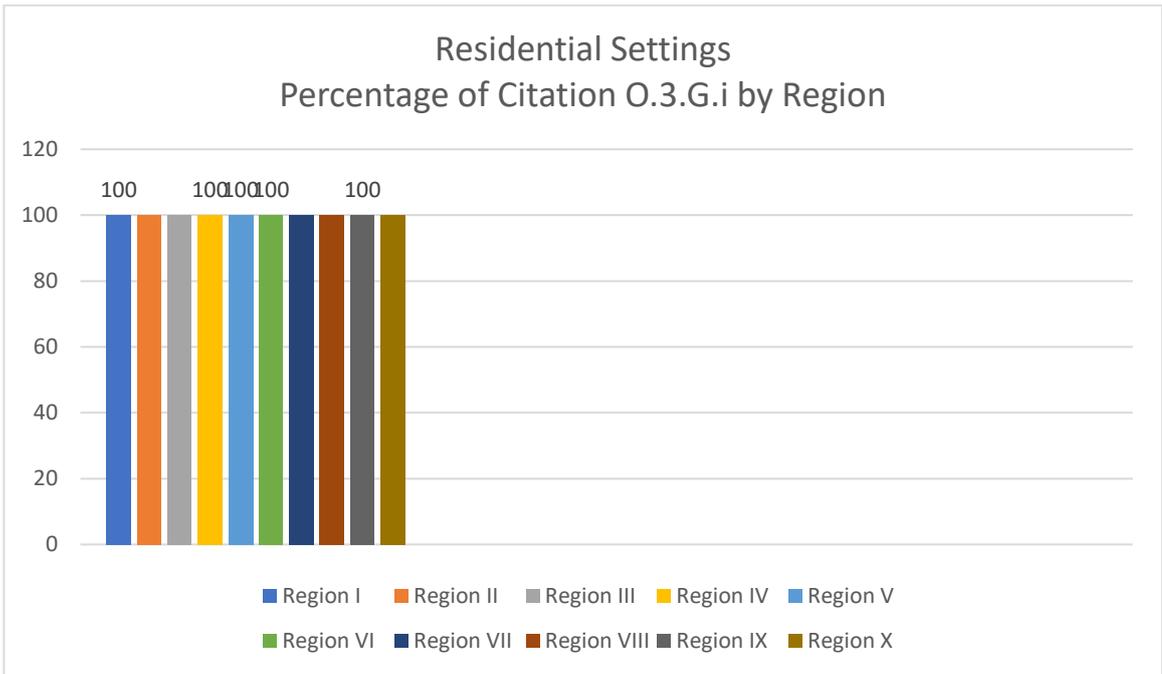
O.3.A.ii Individual's room has a telephone jack, WI-FI or ETHERNET jack.



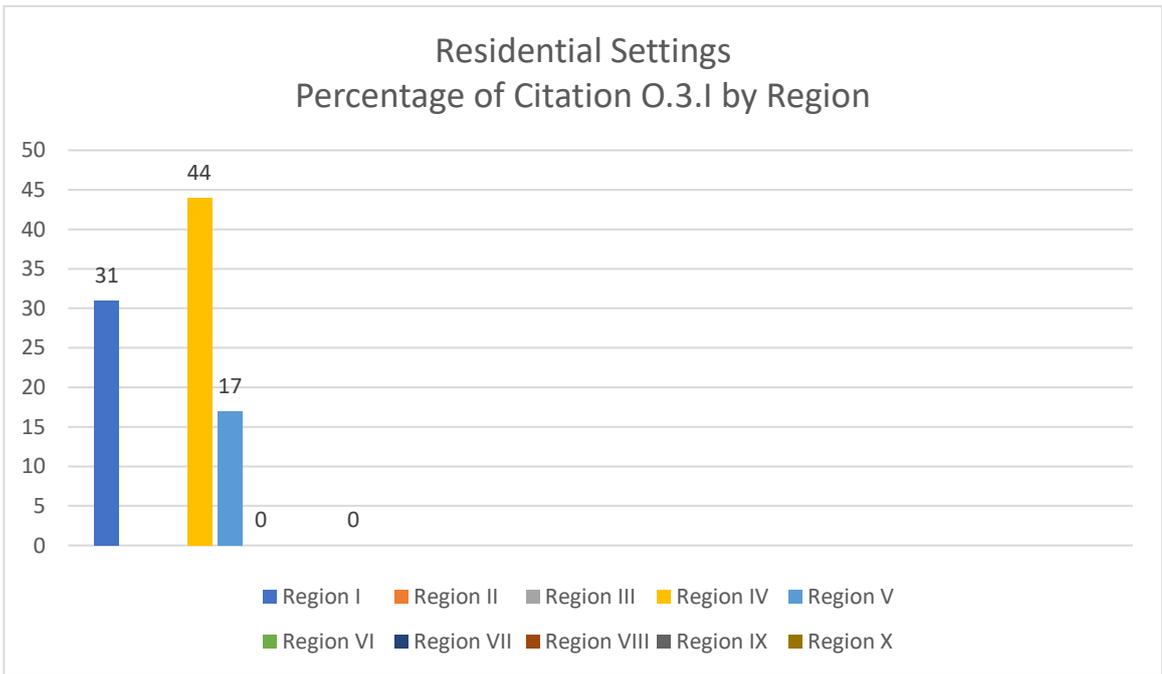
O.3.C.ii Schedules/appointments of individuals for PT, OT, medications, restricted diet, etc., are not posted in general open area for all to view.



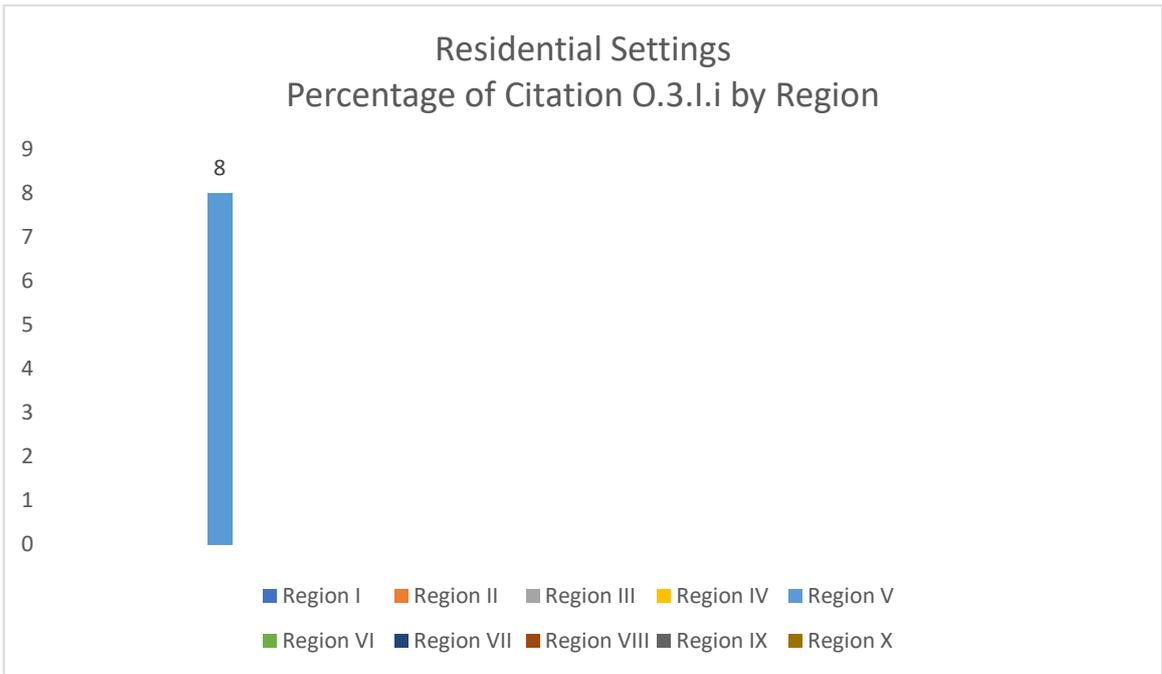
O.3.E.iii SFC home provider does not talk to others about an individual(s) as if the individual was not present or within earshot of other persons living in the setting.



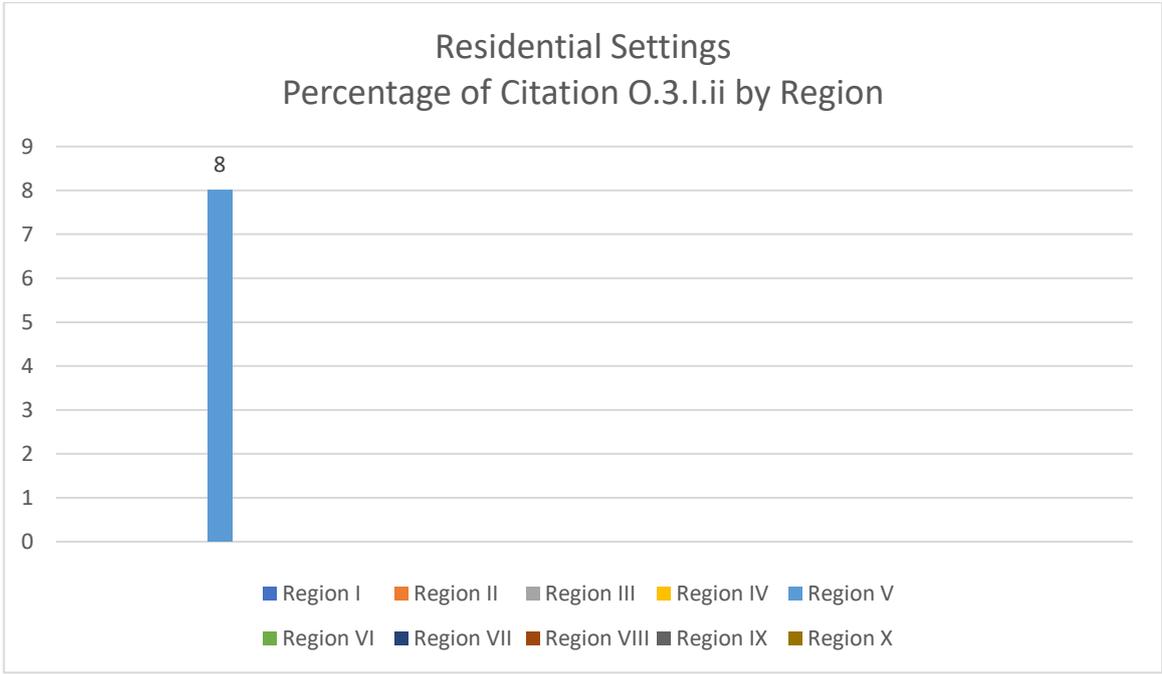
O.3.G.i Cameras are present in the home, in individual person living spaces.



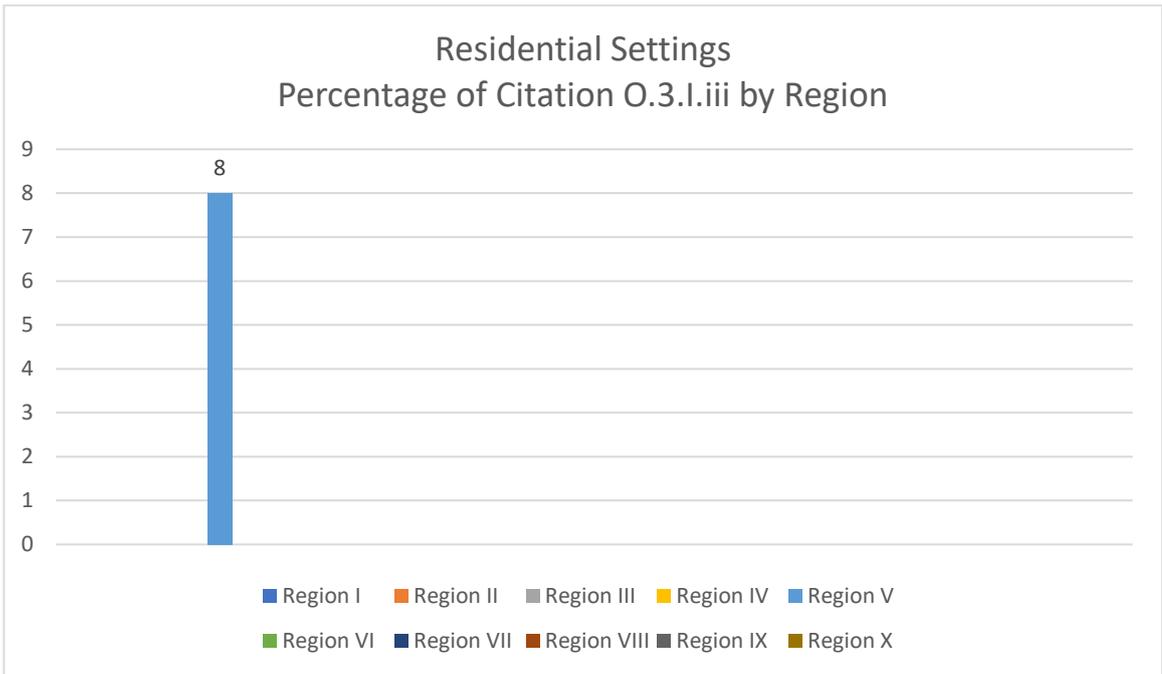
O.3.I Individuals furnish and decorate their bedrooms in the way that suits them.



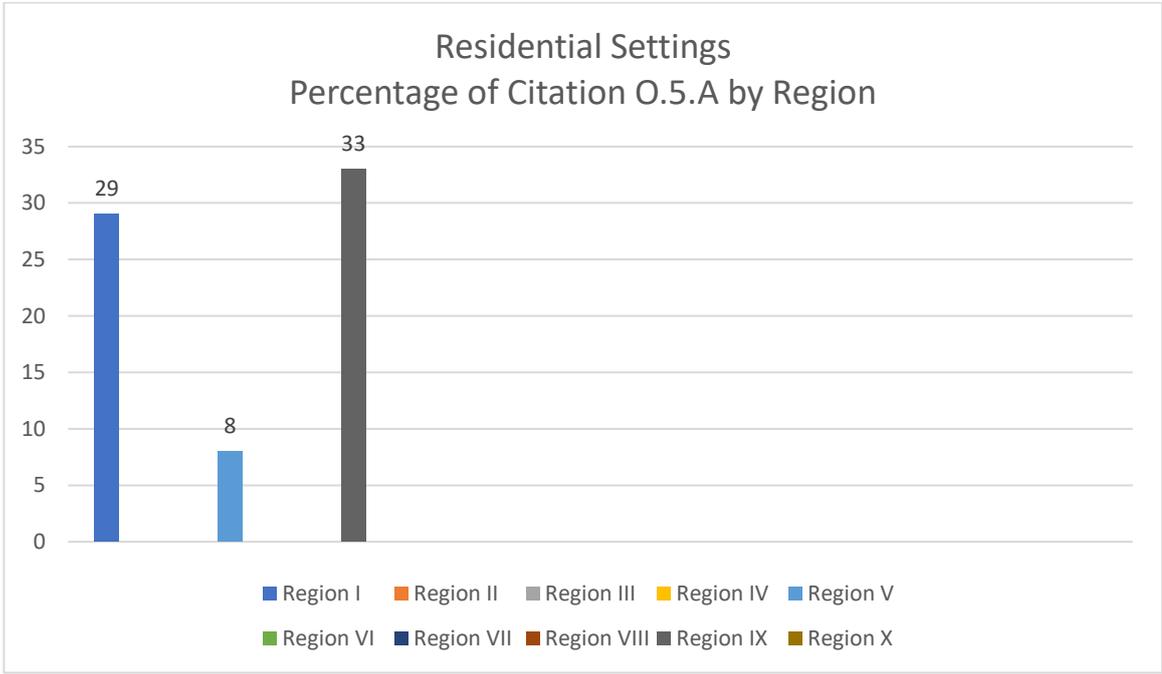
O.3.I.i The individuals’ personal items, such as pictures, books. And memorabilia are present and arranged as the individual desires. . (There was only one ‘no’ response for this tag. The reviewer stated that “{Individual} is unable to verbally communicate his desires.)



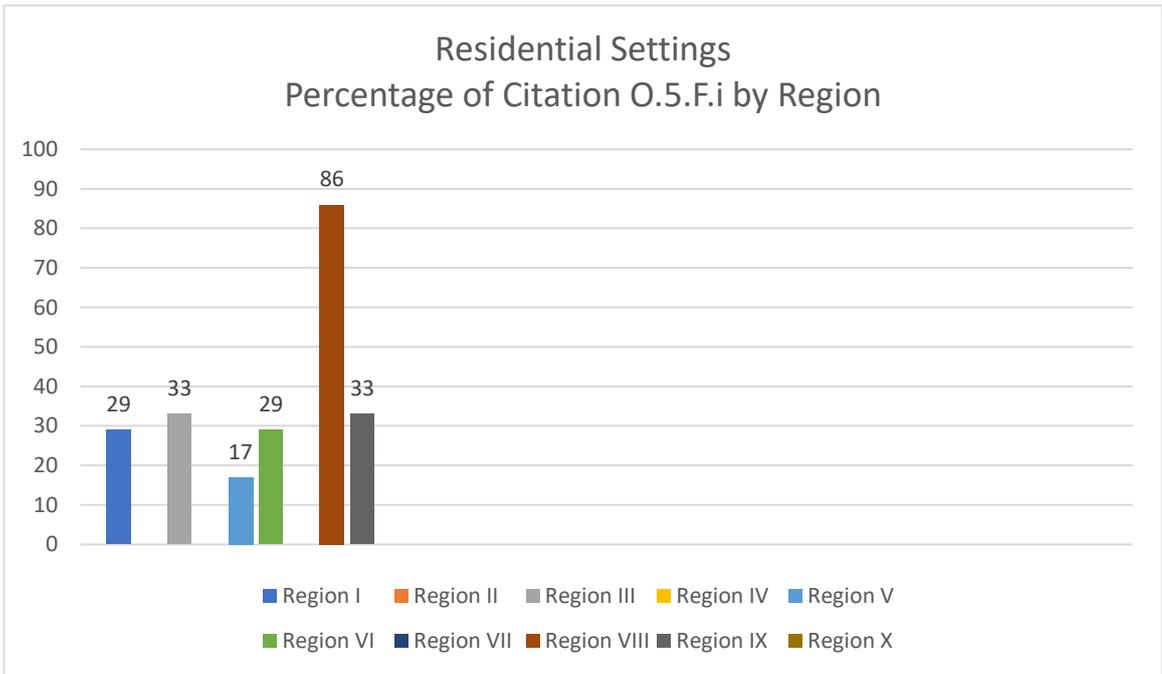
O.3.I.ii The furniture , linens, and other household items reflect the individuals’ personal choices. (There was only one ‘no’ response for this tag. The reviewer stated that “See I.i {Individual} is unable to verbally communicate his desires.)



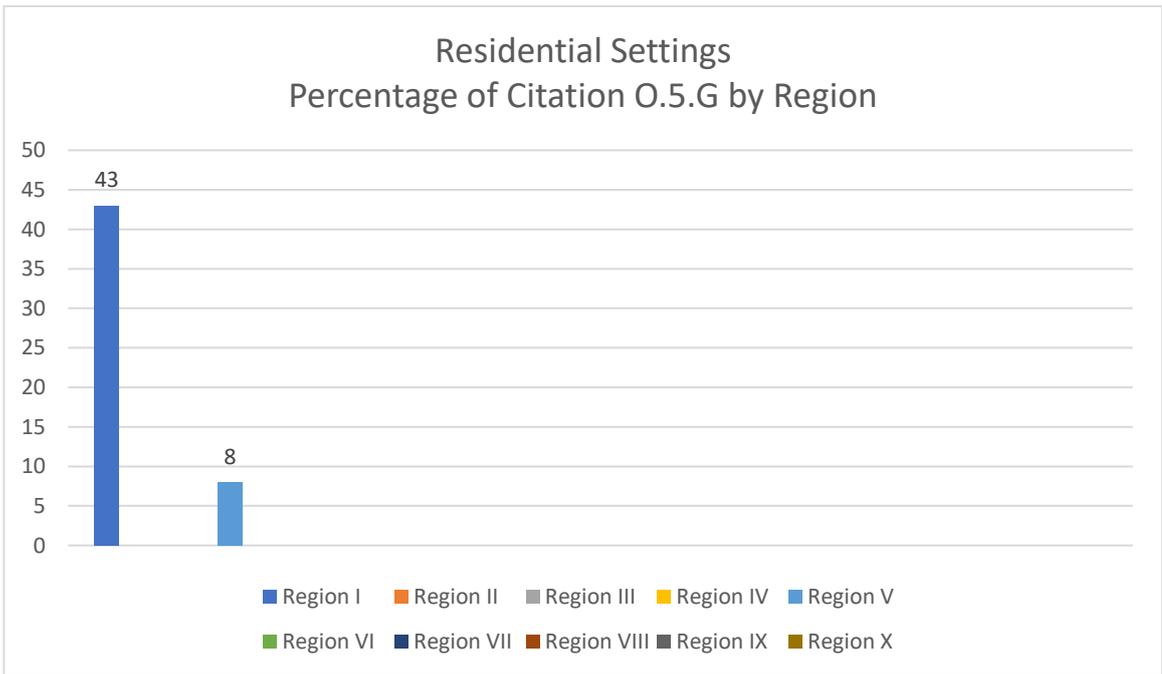
O.3.I.iii Individual’s living areas reflect their interests and hobbies. (There was only one ‘no’ response for this tag. The reviewer stated that “ See I.i {Individual} is unable to verbally communicate his desires.”)



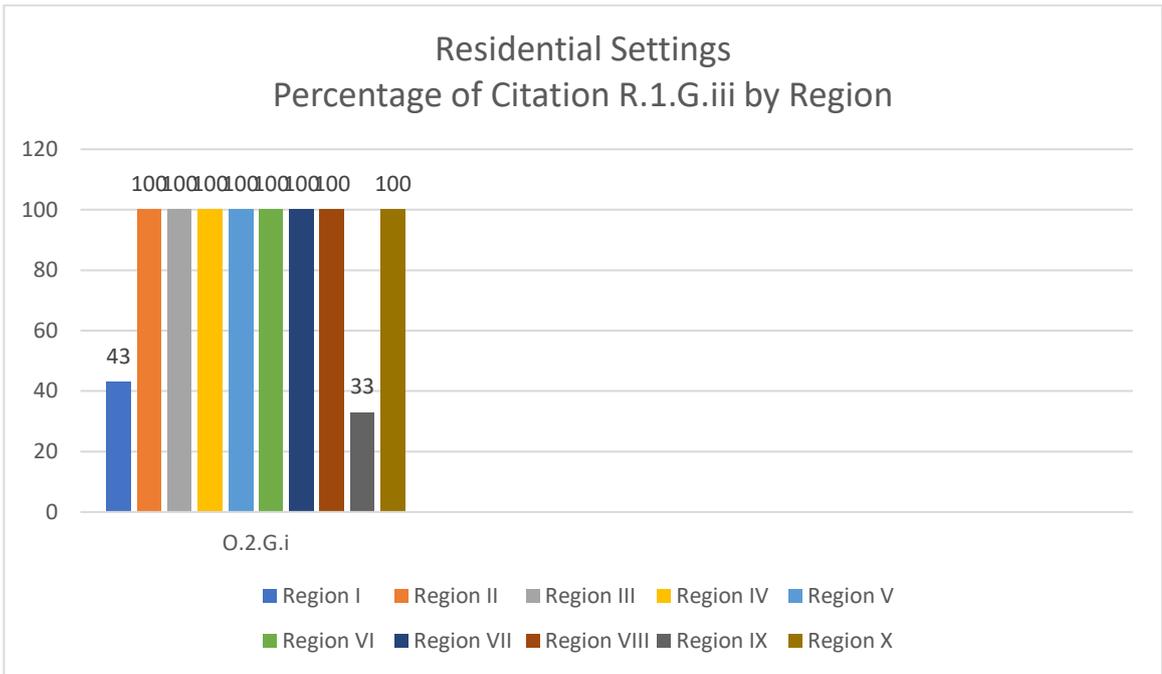
O.5.A Individuals are not required to adhere to a set schedule for waking, bathing, eating, exercising, activities.



O.5.F.i Individuals are not required to sit in an assigned seat.



O.5.G The individual chooses from whom they receive assistance and support.



R.1.G.iii Are individuals prohibited from engaging in legal activities? One would expect that all members may participate in legal activities. However, in two regions the reviewer stated that this was not the case. Upon review, this was because the members of some homes in these regions were adjudicated and their otherwise legal activities restricted. It should be noted that the restrictions or modifications to the settings requirements or otherwise legal activities were agreed to by the individual and documented in their person-centered service plans.

**CONCLUSION:** Specialized Family Care Homes provide integrated settings that ensure member choice, member needs are met and member rights. Forty-three percent of these homes reached total compliance with all components of the integrated services rule (tags) upon the first review. All homes not in total/full compliance with all these components must reach compliance.

Remedies listed below are designed to bring the other homes into compliance and monitor all homes for continued compliance. (see **Appendix M**)

I. Training will be provided to Family Based Care Specialists on 1) Individual Rights and 2) Integration.

1) In one instance, the provider stated that “Where I go, my boys go.” “My boys aren’t capable of (choice)”. There was no indication that the FBCS intervened with this provider to address this lack of understanding of member rights. Also, there were two regions where member legal rights were not recognized (see R.1.G.iii above).

2) There were some Family Based Care Specialists who stated consistently that tags were not applicable due to the severity of the member. This was even when there was no direct link between the disability and the content of the tag. For example, under OIG -Individuals have access to materials to become aware of activities occurring in the community, some FBCSs stated that the individual is non-verbal and/or not ambulatory and/or cannot read. As if a disability prohibited the member from being aware of and participating in community activities. This is recorded even when the member is his/her own guardian.

II. Specialized Family Care home data will be merged with Integrated Services Rule Data.

III. Homes that did not reach total compliance will receive a Statement of Deficiencies and will, in conjunction with the Family Based Care Specialist, complete a Plan of Compliance.

IV. Reviews will be conducted yearly, following the Integrated Services Rule Protocol.

**Appendix A (this includes only the tags that are referenced in the report)**

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

O.1.A. Individuals are not isolated from individuals not receiving Medicaid HCBS in the broader community.

O.1.F Bus and other public transportation schedules and telephone numbers are available or posted in a convenient location.

O.1.G. The individuals have access to materials to become aware of activities occurring in the community.

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

O.2.B Individuals have full access to facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas.

O.2.E The individual has unrestricted access in the home.

O.2.E.i Gates, Velcro strips, locked doors, or other barriers preventing individual's entrance to or exit from certain areas for the setting are not in evidence.

O.2.G.i Individuals come and go at will.

O.2.G.iii Individuals in the setting have access to public transportation.

O.2.G.iv There are bus stops nearby or there are taxis available in the area.

O.3.A The individual has access to make private telephone calls/text/email at the individual's preference and convenience.

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

O.3.A.i Individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time.

O.3.A.ii Individuals' rooms have a telephone jack, WI-FI or ETHERNET jack.

O3Cii Schedules/appointments of individuals for PT, OT, medications, restricted diet, etc., are not posted in a general open area for all to view.

O.3.E.iii SFC home provider does not talk to others about an individual(s) as if the individual was not present or within earshot of other persons living in the setting.

O.3.G.i Cameras are present in the setting, in individual personal living spaces.

O.3.I Individuals furnish and decorate their bedrooms in the way that suits them.

O.3.I.i The individuals' personal items, such as pictures, books, and memorabilia are present and arranged as the individual desires.

O.3.I.ii The furniture, linens, and other household items reflect the individuals' personal choices.

O.3.I.iii Individuals' living areas reflect their interests and hobbies.

O.5.A Individuals are not required to adhere to a set schedule for waking, bathing, eating, exercising, activities.

O.5.F.i Individuals are not required to sit at an assigned seat.

O.5.G The individual chooses from whom they receive assistance and support.

R.1.G.iii Are individuals prohibited from engaging in legal activities?

## ***Synthesis of SFC home and other Waiver home reviews***

*Residential N=53 IDD N=63 SFC Total = 116*

Review Citation    Number of Providers    % of Providers

O.1.A	15	13% (.129)* there were no IDD citations
O.1.E	1	1%(.008) *there were no SFC citations
O.1.F/O.1.H	25/4	22% ((.215) 4 IDD citations
O.1.G/O.1.I	6/3	5% (.051)
O.2.B	1	1%(.008) *there were no IDD citations
O.2.E	2	2% (.017) *there were no IDD citations
O.2.E.i	9	8% (.077)
O.2.F.ii	1	1% (.008) *there were no IDD citations
O.2.G	1	1% (.008) *there were no IDD citations
O.2.G.i	17	15%(.146) (1 IDD citation)
O.2.G.iii	26	22%(.224) (1 IDD citation)
O.2.G.iv	26	22%(.224) *there were no IDD citations
O.2.G.v	1	1% (.008) *there were no SFC citations
O.3.A	4	3%(.034) *there were no IDD citations
O.3.A.i	9	8% 9.077)
O.3.A.ii	5	4%(.043)
O.3.A.iii	1	1% (.008) *there were no IDD citations
O.3.C.ii	14	12% *there were no IDD citations
O.3.Eiii	14	12% *there were no IDD citations
O.3.F.ii	1	1% (.008) *there were no SFC citations
O.3.F.iii	2	2%(.017) *there were no SFC citations
O.3.G.i	114	98%(.982)
O.3.G.iv	1	1% (.008) *there were no SFC citations
O.3.I	2	2%(.017)*there were no IDD citations
O.3.I.i	1	1% (.008) *there were no IDD citations

O.3.I.ii	1	1% (.008) *there were no IDD citations
O.3.I.iii	1	1% (.008) *there were no IDD citations
O.5.A	5	4% (.043)*there were no IDD citations
O.5.F.i	14	12% *there were no IDD citations
O.5.G	3	3% (.025)*there were no IDD citations

**NOTE:**

SOME PROVIDERS HAD MULTIPLE SETTINGS. EACH SETTING WAS ENTERED IN THE DATABASE INDEPENDENTLY, SINCE CITATIONS VARIED AMONG THESE SETTINGS.

ALL DATA WAS ACQUIRED THROUGH ON-SITE SURVEYS/REVIEWS OF SETTINGS. WHILE SETTINGS NOT FOUND IN COMPLIANCE WILL RECEIVE/RECEIVED FOLLOW-UP REVIEWS, THE RESULTS OF THESE REVIEWS ARE NOT INCLUDED IN THIS ANALYSIS.

**SUMMARY/ABSTRACT**

There were tags which were cited in more than 10% of the aggregate residential settings in 2018. All of these with one exception were predominately SFC citations. O.3.G.i, which deals with cameras in the home or lack thereof, rightfully is at almost 100%. It is to be expected that the first round of reviews may identify previously unnoted issues. Once providers are aware of what is required of them, there is much greater adherence to the regulation. This was evident in the data collected in 2017 versus the 2018 data for the other Waiver providers. We anticipate the same level of improvement for the SFC providers as well.

Conclusion: 1) Settings still have some issues with community integration. SFC providers and perhaps reviewers will require some training regarding choice and integration.

2) Even though never reviewed before, 43% of the SFC homes were at full compliance after the first review. All homes not in full compliance will fall under the Protocol (**Appendix M**) and addressed accordingly.

**Appendix O:**

*Note- comment spaces have been shortened for the State Transition Plan*

The following documents may also be found respectively at:

<https://dhhr.wv.gov/bms/Programs/WaiverPrograms/IDDW/Pages/Policy-and-Forms.aspx> (Form is titled IDD 03 SC HV\_DV Combined) IDD Service Coordinator Contact Form

<https://dhhr.wv.gov/bms/Programs/WaiverPrograms/ADWProgram/Pages/ADW-Policy-and-Forms.aspx> Case Management Monthly Contact ADW

<https://dhhr.wv.gov/bms/Programs/WaiverPrograms/TBIW/Pages/Policy-and-Forms.aspx> Case Management Monthly Contact Form TBI

## West Virginia I/DD Waiver Case Management Home/Day Visit Form WV-BMS-IDD-03

Name/Record ID# of Person Who Receives Services:

Travel To Start Time:

Travel To End Time:

Service Start Time:

Service Stop Time:

Travel From Start Time:

Travel From End Time:

Location Visited (✓):

\*HV every month

\*DV/PV every other month

\*SE *only* when clinically warranted

Home:  NF  SFCH  Waiver Group Home  Unlicensed Res.

Day:  FBDH  Pre-Vocational  SE  Job Development

Medicaid Card Verification\* :  YES  NO  N/A (for Day Visit) \*SC must verify by calling 888-483-0793. Eligibility must be verified monthly.

Has the individual received Direct Care Services during the month? :  YES  NO\*

\*If no, the SC should complete and submit a DD-12 to request an eligibility extension/hold.

SC OBSERVATION

Describe the appearance of the person who receives services (e.g., safe, neat, clean) and the condition of the home or facility (e.g., safe and clean). Is the person's privacy maintained (locks on bath and bedrooms)? Were any needs observed? Is the service location integrated (not isolated)? **If SE is observed**, how many members were being served?

Include questions, comments, concerns, and activities for the past month. Were there any health/safety issues, recent medical appointment outcomes? Are there any upcoming appointments? Are there any medication changes, sleeping or appetite issues, or items to communicate to the RN or BSP? Are there any environmental or equipment needs? Are there any problems or issues with staffing or staff attendance?

**Name of Person Who Receives Services: Service Date:**

**HABILITATION** Training documentation up to date, habilitation and/or support activity progression/regression noted/reported, staff issues, items to communicate to the BSP (e.g., program change ideas/problems):

**SC FOLLOW UP/ACTION**

Status of previous requests, new request, unmet needs:

**ELECTRONIC MONITORING**  N/A (if service is not utilized or if conducting a Day Visit)

Have there been any problems or incidents during the past month while the person was receiving assistance through the Electronic Monitoring service?  Yes No

If Yes, describe the problems or incidents and necessary follow-up.

Is all the equipment related to the Electronic Monitoring service in good working order?  Yes No

If No, describe any equipment problems and required follow-up.

\_\_\_\_\_(SC initial) I certify that I have physically seen the person who receives services on this date.

\_\_\_\_\_(SC initial) I certify that this visit took place in the residence of the person who receives services (only applicable for HV).

**SC Signature/Credentials:**

**Date:**

**Signature of Person Who Receives Services:**

**Date:**

**Direct Care Provider/Legal Rep./Title:**

**Date:**

**TRAUMATIC BRAIN INJURY (TBI) WAIVER  
CASE MANAGEMENT MONTHLY CONTACT**

Participant Name: _____	Medicaid Number: _____
Person spoken to: _____	<input type="checkbox"/> Face to Face <input type="checkbox"/> Telephone

Question	Circle		Comments and Follow-up
Did you get all of your Personal Attendant Services last month? If not, then what services did you not receive?	Yes	No	
Have you had any disagreements or problems with the people who come into your home to provide you services? If yes, who is the person and what types of problems are you having?	Yes	No	
Are there times when you needed help and you didn't get it? If yes, what happened?	Yes	No	
Have your needs for assistance changed since we last talked? If so, how?	Yes	No	
Have you visited a physician, hospital, dentist, or other health care provider at home as a patient since we last talked? If so, what was the reason for the visit?	Yes	No	
Do you need help in making any appointments? If yes, who and when?	Yes	No	
Do you need any additional medical equipment, supplies or resources? If yes, what?	Yes	No	
Are you having any problems paying for or getting food, clothing, utilities or medications?	Yes	No	
Have there been any changes in your life that affect your need for service (death, loss, divorce, etc.)?	Yes	No	
If anything happens, do you know how to report problems (services or abuse, neglect or exploitation?)	Yes	No	
Have there been any changes to your prescribed medications?	Yes	No	
Name of Staff who provided your Personal Attendant Services this month?	Case Manager confirmed with PA provider		
Is there anything else you would like to tell me? If yes, please explain.	Yes	No	
If the participant was unavailable, please note reason why and document contact attempts in the comment section below.			
Comments:			

*By signing, I certify that the reported information is complete and accurate. I understand that payment for the services certified on this form will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under Medicaid Fraud.*

\_\_\_\_\_  
Case Manager Signature, Credentials                      Date                      Start Time                      End Time

## AGED AND DISABLED WAIVER CASE MANAGEMENT MONTHLY CONTACT

Participant name: \_\_\_\_\_ Medicaid Number: \_\_\_\_\_ Face to Face Contact  
Person spoken to: \_\_\_\_\_ Telephone Contact

Note in comments section below reasons why the Participant was not available.

Yes	No	Comments
		Did you get all the services you were supposed to get last month? If not, which services?
		Have you had any disagreements or problems with the people who come into your home to provide you services? If yes, who is the person and what types of problems are you having?
		Are there times when you needed help and didn't get it? If yes, what happened?
		Have your needs for assistance changed since we last talked? If so, How?
		Have you visited a physician, hospital or nursing home as a patient since we last talked? If so, what was the reason for the visit?
		Do you need help in making any appointments? If yes, with who and when?
		Do you need any additional medical equipment services or resources? If yes, what?
		Are you having any problems paying for or getting food, housing, utilities or medications?
		Have there been any changes in your life that affect your need for service (death, loss, divorce, etc.)?
		If anything happens, do you know how to report problems (services or abuse, neglect or exploitation)?
		Is there anything that I can help you with?
		Did you receive information about your Medicaid this month?

Comments:  
*By signing, I certify that the reported information is complete and accurate. I understand that payment for the services certified on this form will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under Medicaid Fraud.*

\_\_\_\_\_  
Case Manager Signature Date Time

CM Monthly Contact

**SFC I/DD Waiver**  
**Residential Site Review**  
**West Virginia Bureau for Medical Services**

**This assessment identifies characteristics that are expected to be present in all home and community-based settings and associated traits that individuals in those settings might experience.**

**Provider:**  
**Address:**  
**Date reviewed**  
**Reviewer:**

**Number of individuals receiving services at this site. \_\_\_\_\_**

**Number of individuals receiving services under the IDD waiver at this site.** \_\_\_\_\_

**Names:** \_\_\_\_\_

---

**Type of setting:**

Specialized Family Care Home (foster home)

Home is certified through Specialized Family Care Program Y N

Individuals in placement, if adults, pay a room and board rate established by the state which is currently \$17.50 a day, for children the state provides a foster care stipend of \$600 per month.

The dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the state, county, city or other designated entity. Y N

**Observations during site visit:**

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

A. Individuals are not isolated from individuals not receiving Medicaid HCBS in the broader community.

Y / N Comments:

B. Individuals receiving HCBS do not live/receive services in a different area of the home separate from other residents not receiving Medicaid HCBS.

Y / N Comments:

C. The setting is in the community among other private residences and/or retail businesses.

Y / N Comments:

D. Individuals on the street greet/acknowledge individuals when they encounter them.

Y / N Comments:

E. Visitors are encouraged / welcomed into home. Have you ever observed visitors in the home?

Y / N Comments:

F. Bus and other public transportation schedules and telephone numbers are available or posted in a convenient location.

Y / N Comments:

G. The individuals have access to materials to become aware of activities occurring in the community.

Y / N Comments:

H. The home affords the individual with the opportunity to participate in meaningful non-work activities in integrated community settings in a manner consistent with the individual's needs and preferences.

Y / N Comments:

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A. The home is an environment that supports individual comfort, independence and preferences.

Y / N Comments:

B. Individuals have full access to facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas.

Y / N Comments:

C. Informal (written and oral) communication is conducted in a language that the individual understands.

Y / N Comments:

D. Assistance is provided in private, as appropriate, and when needed.

Y / N Comments:

E. The individual has unrestricted access in the home.

Y / N Comments:

E. i Gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting are not in evidence.

Y / N Comments:

E.ii Individuals are assisted in accessing amenities such as a pool or gym used by others in the home.

Y / N Comments:

E.iii The home is physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting. Guidance: if these are present, are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction.

Y / N Comments:

F. The physical environment meets the needs of those individuals who require supports.

Y / N Comments:

F.i For those individuals who need supports to move about the setting as they choose, supports are provided such as grab bars, seats in the bathroom, ramps for wheelchairs, viable exits for emergencies, etc.

Y / N Comments:

F.ii Appliances are accessible to individuals. For Example, the washer/dryers are front loading for individuals in wheelchairs.

Y / N Comments:

F.iii Tables and chairs are at a convenient height and location so that individuals can access and use the furniture comfortably.

Y / N Comments:

G. Individuals have full access to the community.

Y / N Comments:

G.i Individuals come and go at will.

Y / N Comments:

G.ii Individuals move about inside and outside the home as opposed to all sitting by the front door or in another area.

Y / N Comments:

G.iii Individuals have access to public transportation.

Y / N Comments:

G.iv There are bus stops nearby or there are taxis available in the area.

Y / N Comments:

G.v An accessible van and or other vehicle is available to transport individuals to appointments, shopping, etc.

Y / N Comments:

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. The individual has access to make private telephone calls/text/email at the individual's preference and convenience.

Y / N Comments:

A. i Individuals have a private cell phone, computer or other personal communication device or have access to a telephone or other technology device to use for personal communication in private at any time.

Y / N Comments:

A.ii Individuals' room has a telephone jack, WI-FI or ETHERNET jack.

Y / N Comments:

B. Individuals are free from coercion. Restraint is prohibited. See Specialized Family Care Procedural Manual page 4-46

Y / N Comments:

B.i Information about filing a complaint is discussed with individual in placement and they are asked to tell their Family Based Care Specialist, Guardian, Health Care Surrogate and/or their case manager if there are any problems or concerns.

Y / N Comments:

B.ii The individuals in the home have individualized haircut/hairstyles and hair color.

Y / N Comments:

C. The individual's right to dignity and privacy is respected.

Y / N Comments:

C.i Health information about individuals is kept private.

Y / N Comments:

C.ii Schedules/appointments of individuals for PT, OT, medications, restricted diet, etc., are not posted in a general open area for all to view.

Y / N Comments:

C.iii Individuals who need assistance with grooming are groomed as they desire.

Y / N Comments:

C.iv Individuals' nails are trimmed and clean.

Y / N Comments:

D. Individuals who need assistance to dress are dressed in their own clothes, appropriate to the time of day and individual preferences.

Y / N Comments:

D.i Individuals are wearing clothes that fit, are clean, and are appropriate for the activity, weather, and preferences

Y / N Comments:

E. SFC home provider communicates with individuals in a dignified and respectful manner.

Y / N Comments:

E.i Individuals greet and chat with visitors and other residents of the home.

Y / N Comments:

E.ii SFC home provider converse with individuals in the home while providing assistance and during the regular course of daily activities.

Y / N Comments:

E.iii SFC home provider does not talk to others about an individual(s) as if the individual was not present or within earshot of other persons living in the setting.

Y / N Comments:

E.iv SFC home provider address individuals in the manner in which the person would like to be addressed as opposed to routinely addressing individuals as 'hon' or 'sweetie'.

Y / N Comments:

F. Individuals have privacy in their bedroom and bathroom facilities.

Y / N Comments:

F.i The individual can close and lock his/her bedroom door.

Y / N Comments:

F.ii The individual can close and lock the bathroom door.

Y / N Comments:

F.iii The home provider or other residents always knock and receive permission prior to entering a bedroom or bathroom.

Y Comments: observed

G. The individual has privacy in his/her living space.

Y / N Comments:

G.i Cameras are present in the home, in individual personal living spaces.

Y / N Comments:

H. The individuals have comfortable places for private visits with family and friends.

Y / N Comments:

I. Individuals furnish and decorate their bedrooms in the way that suits them.

Y / N Comments:

I.i The individuals' personal items, such as pictures, books, and memorabilia are present and arranged as the individual desires.

Y / N Comments:

I.ii The furniture, linens, and other household items reflect the individuals' personal choices.

Y / N Comments:

I.iii Individuals' living areas reflect their interests and hobbies.

Y / N Comments:

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. Individuals have his/her own bedroom or share a room with a roommate of choice. Y / N  
Comments:

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. Individuals are not required to adhere to a set schedule for waking, bathing, eating, exercising, activities. (Most IPP's establish a schedule)

Y / N Comments:

B. Individuals have access to such things as a television, radio, and leisure activities that interest him/her, and he/she can participate in such activities at his/her convenience. Y / N  
Comments:

C. Individuals may choose when and what to eat. This is a home where family style meals are offered, but an individual may elect to not eat it and have soup or a sandwich etc. at another time. Y / N Comments:

D. Snacks are accessible and available.

Y / N Comments:

F. The individual chooses with whom to eat or to eat alone.

Y / N Comments:

F.i Individuals are not required to sit at an assigned seat.

Y / N Comments:

F.ii Individuals converse with others during mealtimes.

Y / N Comments:

F.iv The SFC home provider asks the individual about her/his needs and preferences. Y / N  
Comments:

F.v Requests for assistance and supports are accommodated as opposed to ignored or denied. Y / N Comments:

F.vi Individual choice is facilitated in a manner that leaves the individual feeling empowered to make decisions. Y / N Comments:

G. The individual chooses from whom they receive assistance and support.

Y / N Comments:

*Procedure: Review Policies and Procedures of SFC homes for the following:*

*1. The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

A. The home provider confirms that the individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCBS services.

Y / N Comments:

A.i Individuals regularly access the community.

Y / N Comments:

A.ii The individuals shop, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, as each individual chooses and as determined by the treatment team.

Y / N Comments:

A.iii Individuals may come and go at any time as determined by the treatment team.

Y / N Comments:

B. The SFC Program's policy/procedure ensures that each individual is employed or active in the community outside of the setting as determined by the treatment team.

Y / N Comments:

Guidance: This includes volunteer services.

B.i Individuals work in integrated community settings.

Y / N Comments:

B.ii If individuals would like to work, this is pursued by the individual's treatment team and the individual.

Y / N Comments:

B.iii Individuals participate in meaningful non-work activities in integrated community settings as desired by each individual.

Y / N Comments:

C. The individual and their treatment team ensures that each individual controls his/her personal resources to the extent possible.

Y / N Comments:

C.i Each individual has a representative payee who oversees the individuals checking and/or savings account assisting the individual in managing his/her funds.

Y / N Comments:

C.ii The individual is not required to sign over his/her paychecks to the provider.

Y / N Comments:

D. The SFC Program policies and procedures assure that visitors are welcome during normal waking hours.

Y / N      Comments:

E. The SFC home provider is required to have a vehicle and to be able to provide transportation for individuals in their home to work, appointments, recreational activities, etc.

Y / N      Comments:

G. State laws, regulations, licensing requirements, or protocols or practices do not limit individuals' choices.

Y / N      Comments:

G.i Do State regulations prohibit individuals' access to food at any time?

Y / N      Comments:

G.ii Do State laws require restrictions such as posted visiting hours or schedules?

Y / N      Comments:

G.iii Are individuals prohibited from engaging in legal activities?

Y / N      Comments:

Interview Questions, on or off site. May be asked in any order.

**General : Tell me about your day. What do you do here?**

**Do you like it here?**

**If you could change one thing about here, what would it be?**

**Do you have any questions for me?**

*1.The setting 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. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)*

Guidance: Interview at least 2 members residing in the setting, or his/her guardian, if possible.

A. Do you have a job?

Y / N      Where? \_\_\_\_\_

A.i If, no, what do you do during the day?      Comment:

A.ii Who works at your job with you?      Comment:

Guidance: Is the job setting integrated?

B. Would you like to work?

Y / N

B. i If yes, is anyone helping you to find a job?

Y / N Comment:

Guidance: is there activity that ensures the option is pursued

C. Do you go out of your home?

Y / N

C.i How often?

C.ii Where do you go?

C.iii Do you get to choose where and when you go?

Y / N Comments:

Guidance: does the individual participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual.

D. Tell me about how you handle your money. Comment:

Guidance: the individual controls his/her personal resources

E. Do you know about activities occurring outside your home? Y N

E.i How do you find out about these activities? Comment:

E. ii Do you go shopping, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, when you want to do so? Y / N

Comments:

F. Can you leave and come back any time you want?

Y / N Comment:

G. Tell me about your usual day. What happens?

Comments:

Guidance: Does the individual talk about activities occurring outside of the setting?

H. Do you have a checking or savings account?

Y / N

H.i How do you get access to your money? Comment:

H.ii Do you have to sign over your paycheck to \_\_\_\_\_?(the provider)

Y / N

*2. The setting is selected by the individual from among setting options including non-disability specific settings ... The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, ... 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)*

A. Did you get to choose this setting/house to live in?

Y / N

A.i Tell me about that. (ask this for both yes and no responses)

Comments:

A.ii Did you choose your roommate?

Y / N / NA Comments:

A.iii Where would you like to live?

Comments:

*3. The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/ 441.710(a)(1)(iii)/441.530(a)(1)(iii)*

A. If you needed help, with getting dressed or bathing for instance, what would you do?

Comment:

Guidelines: Does the setting support individuals who need assistance with their personal appearance to appear as they desire, and is personal assistance, provided in private, as appropriate?

*4. The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact. 42 CFR 441.301(c)(4)(iv)/ 441.710(a)(1)(iv)/441.530(a)(1)(iv)*

A. Can you have visitors any time you want to?

Y / N

B. Is there a special place you have to meet when someone visits you?

Y / N Where:

C. Does anyone train you or show you how to ride a bus or taxi? Y / N

*5. The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)/441.530(a)(1)(v)*

A. Were you provided a choice regarding the services, provider and settings before you came here?

Y / N

B. Did you have the opportunity to visit/understand these choices/options?

Y / N

C. Can you change your mind about these choices?

Y / N

D. How do you do that?

Y / N

Guidance: (Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?)

E. Do you decide what you do here?

Y / N

F. Does anyone help?

Y / N      Comment: \_\_\_\_\_ (who)

G. Do you know how to make a request for additional help or services, or change the services you have right now?

Y / N

Comments:

## Appendix P: West Virginia Specialized Family Care Agreement



### West Virginia Department of Health and Human Resources Specialized Family Care Agreement

This Agreement is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the Specialized Family Care Program at the WVU Center for Excellence in Disabilities as the agent for the West Virginia Department of Health and Human Resources, Bureau of Children and Families and \_\_\_\_\_, the Specialized Family Care Provider.

As the Specialized Family Care Provider, I agree to and understand the following requirements of the Specialized Family Care Provider:

1. To ***maintain the service standards*** for individuals residing in Specialized Family Care Homes by providing the individuals in placement the opportunities to live, work, and receive services in integrated, community settings ***as outlined in the Integrated Services Rule 42 CFR 441.301 (c)(4) (i-vi)/441.71 (a)(1)/441.530 (a)(1)***.
2. To ***maintain the health, safety, and sanitation standards*** for Specialized Family Care Homes as established by the West Virginia Department of Health and Human Resources (DHHR) and the Specialized Family Care Program.
3. To ***communicate honestly with the Family Based Care Specialist and other professionals*** involved in providing services for those placed in my home, or who I provide respite care to in the home of another.
  - a. To ***immediately report*** to the Family Based Care Specialist any serious illness, accident, or hospitalization involving the person in placement, any household member's contact with the criminal justice system to include police contact, arrests, convictions or plea bargains entered into, or other problems within the family (i.e. change in medical status, use of alcohol or illicit drugs, marital discord, or any other problem that has the potential to negatively impact the environment or care of the person in placement).
  - b. To ***immediately report*** to the Family Based Care Specialist any need to have person(s) in placement transferred to another home or to be cared for in my own home by another person. This requires the prior approval of the Family Based Care Specialist and includes emergency circumstances.
  - c. To ***promptly report, within 24 hours***, to the Family Based Care Specialist any major changes in the household, including but not limited to: change of address, telephone number, income, members in the home, employment, routine commitments outside the home, changes in facilities for those placed in my/our home, significant changes in the behavior of those placed in my home, any serious or contagious illness in my family.
  - d. To discuss with the Family Based Care Specialist any ***complaints or suggestions regarding the Person-in-Placement or the Program***. To refer complaints of relatives or friends of the Person-in-Placement to the Family Based Care Specialist, if they are not able to be handled personally.
  - e. To seek approval from the DHHR or other guardian to take those placed in my home on any ***overnight trips in West Virginia or on any trips out of state***.
  - f. To seek the approval of the Family Based Care Specialist prior to accepting ***payment for care from relatives and/or friends*** of person(s) in placement, as these payments may be prohibited by program rules and regulations.
4. To ***participate in the development of any person-centered planning*** (i.e. IEP, IPP, MDT) and further agree to carry out the expectations/goals assigned to me, as the SFC Provider.
  - a. To involve the Family Based Care Specialist in decisions affecting the Person-in-Placement. The Family Based Care Specialist will then assess whether additional professionals should be involved.
  - b. To cooperate in obtaining community services for those placed in my home.
  - c. To permit the Family Based Care Specialist and other professionals to make home visits to meet with the SFC provider, household members, and/or the person(s) in placement. To allow for full safety inspections by the Family Based Care Specialist, if requested.
5. To ***provide adequate and appropriate care*** to person(s) in placement.
  - a. To comply with the DHHR's ***Discipline Policy*** (attached), which has been discussed with me.

- b. To provide person(s) in placement **with housing and utilities such as required for heat and water, food, general hygiene items, appropriate bedroom furnishings (bed, dresser and closet), and space for personal belongings.**
  - c. To include person(s) in placement in **family activities and other social and community activities.**
  - d. To allow **relatives and friends to visit person(s) in placement** in my home during reasonable visiting hours (9 a.m. to 10 p.m.) or, if necessary, by prior arrangements involving the Family Based Care Specialist.
  - e. To **respect the religious interests**, or lack thereof, of the person(s) in placement.
  - f. To **maintain an operating telephone** that the person in placement has access to and may use in private.
  - g. To ensure all children eligible for the entitlement of public education are enrolled and accessing this service.
6. To **provide for the medical care** of the person(s) in placement and ensure the involvement of the guardian or health care surrogate, if one is appointed, in any medical matters relating to the person in placement.
- a. To give **prescription medicine** to person(s) in placement only as prescribed by a licensed physician. Medications for the Person-in-Placement must be kept in an area away from other medications and must be in clearly marked containers, depicting content and dosages.
  - b. To have **consent for any surgery, anesthesia, or other medical procedure** for person(s) in placement given only by the person's Medical Power of Attorney, Health Care Surrogate, or Legal Guardian. I understand that making medical decisions on behalf of any adult persons in placement in my care is in violation of W. Va. State Code.
  - c. To **adhere to medical protocols and guidance**, as directed, to safeguard the spread of illness when any member of the household has a serious or contagious illness.
  - d. To assure that **children in placement, as well as my own minor children who have contact with the person(s) in placement, receive all necessary comprehensive health screens as required by Early and Periodic Screening Diagnosis and Treatment (EPSDT) Program.** To maintain records of such screening and to ensure all necessary follow-up medical, dental, optical or psychological treatment as prescribed by the screening provider are completed.
  - e. To abide by the **rules and regulations related to use of the Medicaid and/or Medicare** card(s) for the Person-in-Placement.
7. To **keep records** as required by the Family Based Care Specialist. To participate in and keep records of training as required for Certification and as determined necessary to provide for those in placement in my home.
8. To **provide transportation**, including appointments and medically necessary transportation, that meets safety requirements established by the State of West Virginia.
9. To **protect the confidentiality** of person(s) in placement, as specified in the confidentiality policy, which has been provided to me.
- a. To secure **documented approval from the DHHR for any children in the custody of the Department** before the release of any information or picture(s).
  - b. To secure **documented approval from the guardian or Interdisciplinary Team** members of adult person(s) in placement before any information or picture is released to the public. **This policy applies to use of information and pictures on internet sites, such as Facebook.**
- I further understand there is no guarantee that placement or assignment to respite care will occur or be ongoing and that agencies mandated by law to protect the welfare of children and adults have

the right to remove person(s) in placement. Reasons for removing a person from my home or care may include, but are not limited to:

- 1) A request by the Person-in-Placement's guardian;
- 2) Abuse or neglect is reasonably suspected;
- 3) Changes in family situation occur which are likely to result in abuse or neglect;
- 4) Any household member fails to fulfill any condition of this agreement;
- 5) The Interdisciplinary Team or mandated agency recommends another type of residential setting for those placed; or
- 6) Home environment or care is not conducive to the best interest or welfare of person(s) in placement and corrective action cannot be achieved.

I agree to use any respite time available to me as a period of rest and will not engage in alternative employment activities or provide respite services for another individual during any respite time afforded me. I agree to provide the Family Based Care Specialist and Service Coordinator with a sixty (60) day notice of intent to discontinue program participation or decision to discontinue care for individuals placed in my care.

This contract will terminate on \_\_\_\_\_ or sooner, if requested by the Specialized Family Care Provider or by the West Virginia Department of Health and Human Resources in the case of noncompliance with this agreement.

I have fully read and accept the provisions of this Agreement.

Specialized Family Care Provider (Print)

Date

Specialized Family Care Provider's Signature

**ADDENDUM TO THE FOSTER PARENT AGREEMENT**

**DISCIPLINE POLICY**

1. I/We understand the West Virginia Department of Health and Human Resources discipline policy which states; "punishments, including any type of physical hitting or any type of physical punishment inflicted in any manner upon the body; or punishment which subjects the child to verbal abuse, ridicule, intimidation or humiliation is strictly forbidden."
2. I/We understand that non-compliance issues including, but not limited to, physical punishment of any kind, threats of removal from the home, humiliating words or acts, screaming at a child in anger, verbal abuse, derogatory remarks about a child or his biological family, keeping a child out-of-school, denying meals or food, closing or locking a child in a closet, shed, room, inside or outside the home, denying a child mail/ phone calls - visits with the family, and fondling or any form of sexual abuse are also not acceptable.
3. I/We understand that the Department has the obligation to investigate any allegation of physical or emotional abuse or non-compliance issue and agree to cooperate with the Department during such investigation.
4. I/We agree to adhere to the above discipline policy and understand that failure to do so could result in the removal of the child(ren) and closure of my/our home.

\_\_\_\_\_  
Foster Mother

\_\_\_\_\_  
Date

\_\_\_\_\_  
Foster Father

\_\_\_\_\_  
Date

\_\_\_\_\_  
Social Worker

\_\_\_\_\_  
Date

Foster Parent Provider file - legal block - original  
Foster Parent(s)

## **Appendix Q: Room and Board Policy, Specialized Family Care Room and Board Agreement, and Sample Lease**

Current Policy:

**effective October 1, 2019:**

### **West Virginia Department of Health and Human Resources Room and Board Policy for Individuals with Developmental Disabilities**

Original Effective Date: April 1, 2002  
**Revision Effective Date: January 1, 2007**  
**Revision Effective Date: January 1, 2009**  
**Revision Effective Date: March 1, 2015**  
**Revision Effective Date: October 1, 2019**

**RE: Room and Board Rate for Specialized Family Care Homes and Non-ICF/IDD group homes serving individuals with developmental disabilities.**

#### **Background**

Historically the Medley Management Team has set the rate for Specialized Family Care Homes and non-ICF/IDD group homes which include 1,2 and 3 intensive support settings (ISS) which are owned and or leased by the Service Provider. This is the amount a Service Provider or a Specialized Family Care Provider can charge a resident for the cost of room and board. The Rate for Specialized Family Care Home had not been adjusted since 1989 and the rate for non-ICF/IDD group homes since 1996. The Medley Management Team formed a committee of Department staff, providers and advocated to review these rates. The committee met several times and developed recommendations that were adopted by the Medley Management Team in November 2001. The Medley Management Team last reviewed the policy in December 2008 meeting and recommended a \$1 a day increase, and an increase occurred in January of 2009. The Medley Management Team again reviewed the policy and rate at its January 2015 meeting and recommended a \$1.50 a day increase. The committee looked at information from the Consumer Price Index and the annual inflation increase from the standard

monthly SSI payment. The SSI monthly rate in 1989 was \$368.00, in 1996 it was \$603.00. The standard monthly SSI rate in 2009 was \$674.00. The SSI rate for 2015 was \$733.00. Effective January 2019, the SSI monthly rate is \$771.00. It has been determined that the use of consumer's benefits and entitlements for the residential care of individuals with ID/DD residing in Specialized Family Care Homes or non-ICF/IID group homes and ID/W ISS settings shall be standardized at \$18.25 a day effective October 1, 2019. This is an increase from the previous rate of \$17.50 a day for Specialized Family Care and non-ICF/IID group homes/ISS.

The personal allowance will be the difference of the monthly residential care share of \$565.75 per a 31-day month and the recipient's monthly entitlement. It is recommended that the IDT team develop a budget for the individual's personal allowance.

### **Definition**

**Room and Board Services:** Room and Board is defined as the provision of food and shelter (does not include food preparation or feeding the individual) including supplies, housekeeping duties lavatory supplies (i.e. hand soap, towels, toilet paper); maintenance and operation of home and grounds, including all utility costs. Incontinence laundry is not included in Room and Board.

### **Discussion**

In keeping with the principle of normalization, individuals should be given the opportunity to learn to manage their own finances. Certainly, for many this will be a difficult goal to reach. Nonetheless all person can take part in determining the use of their personal finances to some degree. The means of carrying this out should be individually tailored for each consumer. Weekly allotments may prove best for many individuals. The method for distributing such allowances should be established in the IPP.

The following list represent appropriate expenditure items for an individual's monthly allowance:

- Modest savings (no more than 1/2 of the monthly allowance amount per month and not to exceed \$2,000 total: the team should be aware that savings \$2,000 and over could have a direct impact on benefits).
- Deposits into WVABLE Accounts: A Tax-Free savings plan for disability related expenses. Save and invest without losing federal needs-based benefits. <https://wvable.com>.
- Special purchases (those articles where the expenses exceed normal economical costs for such items: (i.e. the individual wishes to buy a \$200.00 jacket). Personal care items (i.e. individual preferred soap, shampoo, cologne, deodorant, etc.)
- Entertainment (i.e. movies, concerts, gym membership, radio, television,) Note: Such expenditures are primarily for the individual consumer. If others in the household benefit the consumer shall only pay his or her pro-rated share of the cost.
- Gifts (i.e. special occasion, Birthdays, Holidays)
- Other personal items and services (i.e. watch, jewelry, make-up, tobacco products, haircuts, manicures).

For tangible items receipts should be kept for bookkeeping purposes. For some other items (i.e. popcorn at the movies) it would be impractical to always get a receipt. When care providers help manage their allowance, a monthly listing of the items should be documented.

Personal allowance funds shall not be used for basic living expenses. (i.e. regular meals, household paper supplies, and other general household expenses).

Social Security Administration rules shall be followed regarding use and accounting of benefits and actions of representative payees.

The Room and Board Rate will be reviewed every two years and economic standards such as the Consumer Price Index will be considered when adjusting the rate.



## West Virginia Department of Health and Human Resources Specialized Family Care Agreement

This Agreement is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the Specialized Family

Care Program at the WVU Center for Excellence in Disabilities as the agent for the West Virginia Department

of Health and Human Resources, Bureau of Children and Families and \_\_\_\_\_, the Specialized Family Care Provider.

As the Specialized Family Care Provider, I agree to and understand the following requirements of the Specialized Family Care Provider:

1. To ***maintain the service standards*** for individuals residing in Specialized Family Care Homes by providing the individuals in placement the opportunities to live, work, and receive services in integrated, community settings ***as outlined in the Integrated Services Rule 42 CFR 441.301 (c)(4) (i-vi)/441.71 (a)(1)/441.530 (a)(1)***.
2. To ***maintain the health, safety, and sanitation standards*** for Specialized Family Care Homes as established by the West Virginia Department of Health and Human Resources (DHHR) and the Specialized Family Care Program.
3. To ***communicate honestly with the Family Based Care Specialist and other professionals*** involved in providing services for those placed in my home, or who I provide respite care to in the home of another.
  - g. To ***immediately report*** to the Family Based Care Specialist any serious illness, accident, or hospitalization involving the person in placement, any household member's contact with the criminal justice system to include police contact, arrests, convictions or plea bargains entered into, or other problems within the family (i.e. change in medical status, use of alcohol or illicit drugs, marital discord, or any other problem that has the potential to negatively impact the environment or care of the person in placement).
  - h. To ***immediately report*** to the Family Based Care Specialist any need to have person(s) in placement transferred to another home or to be cared for in my own home by another person. This requires the prior approval of the Family Based Care Specialist and includes emergency circumstances.
  - i. To ***promptly report, within 24 hours***, to the Family Based Care Specialist any major changes in the household, including but not limited to: change of address, telephone number, income, members in the home, employment, routine commitments outside the home, changes in facilities for those placed in my/our home, significant changes in the behavior of those placed in my home, any serious or contagious illness in my family.
  - j. To discuss with the Family Based Care Specialist any ***complaints or suggestions regarding the Person-in-Placement or the Program***. To refer complaints of relatives or

friends of the Person-in Placement to the Family Based Care Specialist, if they are not able to be handled personally.

- k. To seek approval from the DHHR or other guardian to take those placed in my home on any **overnight trips in West Virginia or on any trips out of state**.
- l. To seek the approval of the Family Based Care Specialist prior to accepting **payment for care from relatives and/or friends** of person(s) in placement, as these payments may be prohibited by program rules and regulations.

**4. To participate in the development of any person-centered planning** (i.e. IEP, IPP, MDT) and further agree to carry out the expectations/goals assigned to me, as the SFC Provider.

- a. To involve the Family Based Care Specialist in decisions affecting the Person-in-Placement. The Family Based Care Specialist will then assess whether additional professionals should be involved.
- d. To cooperate in obtaining community services for those placed in my home.
- e. To permit the Family Based Care Specialist and other professionals to make home visits to meet with the SFC provider, household members, and/or the person(s) in placement. To allow for full safety inspections by the Family Based Care Specialist, if requested.

**5. To provide adequate and appropriate care** to person(s) in placement.

- h. To comply with the DHHR's **Discipline Policy** (attached), which has been discussed with me.
- i. To provide person(s) in placement **with housing and utilities such as required for heat and water, food, general hygiene items, appropriate bedroom furnishings (bed, dresser and closet), and space for personal belongings**.
- j. To include person(s) in placement in **family activities and other social and community activities**.
- k. To allow **relatives and friends to visit person(s) in placement** in my home during reasonable visiting hours (9 a.m. to 10 p.m.) or, if necessary, by prior arrangements involving the Family Based Care Specialist.
- l. To **respect the religious interests**, or lack thereof, of the person(s) in placement.
- m. To **maintain an operating telephone** that the person in placement has access to and may use in private.
- n. To ensure all children eligible for the entitlement of public education are enrolled and accessing this service.

**6. To provide for the medical care** of the person(s) in placement and ensure the involvement of the guardian or health care surrogate, if one is appointed, in any medical matters relating to the person in placement.

- f. To give **prescription medicine** to person(s) in placement only as prescribed by a licensed physician. Medications for the Person-in-Placement must be kept in an area away from other medications and must be in clearly marked containers, depicting content and dosages.
- g. To have **consent for any surgery, anesthesia, or other medical procedure** for person(s) in placement given only by the person's Medical Power of Attorney, Health Care

Surrogate, or Legal Guardian. I understand that making medical decisions on behalf of any adult persons in placement in my care is in violation of W. Va. State Code.

- h. To **adhere to medical protocols and guidance**, as directed, to safeguard the spread of illness when any member of the household has a serious or contagious illness.
- i. To assure that **children in placement, as well as my own minor children who have contact with the person(s) in placement, receive all necessary comprehensive health screens as required by Early and Periodic Screening Diagnosis and Treatment (EPSDT) Program**. To maintain records of such screening and to ensure all necessary follow-up medical, dental, optical or psychological treatment as prescribed by the screening provider are completed.
- j. To abide by the **rules and regulations related to use of the Medicaid and/or Medicare** card(s) for the Person-in-Placement.

7. To **keep records** as required by the Family Based Care Specialist. To participate in and keep records of training as required for Certification and as determined necessary to provide for those in placement in my home.

8. To **provide transportation**, including appointments and medically necessary transportation, that meets safety requirements established by the State of West Virginia.

9. To **protect the confidentiality** of person(s) in placement, as specified in the confidentiality policy, which has been provided to me.

- a. To secure **documented approval from the DHHR for any children in the custody of the Department** before the release of any information or picture(s).
- b. To secure **documented approval from the guardian or Interdisciplinary Team** members of adult person(s) in placement before any information or picture is released to the public. **This policy applies to use of information and pictures on internet sites, such as Facebook.**

I further understand there is no guarantee that placement or assignment to respite care will occur or be ongoing and that agencies mandated by law to protect the welfare of children and adults have the right to remove person(s) in placement. Reasons for removing a person from my home or care may include, but are not limited to:

- 7) A request by the Person-in-Placement's guardian;
- 8) Abuse or neglect is reasonably suspected;
- 9) Changes in family situation occur which are likely to result in abuse or neglect;
- 10) Any household member fails to fulfill any condition of this agreement;
- 11) The Interdisciplinary Team or mandated agency recommends another type of residential setting for those placed; or
- 12) Home environment or care is not conducive to the best interest or welfare of person(s) in placement and corrective action cannot be achieved.

I agree to use any respite time available to me as a period of rest and will not engage in alternative employment activities or provide respite services for another individual during any respite time afforded me. I agree to provide the Family Based Care Specialist and Service Coordinator with a



the two by clarifying the expectations and responsibilities of the Specialized Family Care Provider and the Person Accepting Placement in the SFC Home.

The SFC Home is located at:

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Address	City	State	Zip
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SFC Provider:

Person Accepting Placement:

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Length of Agreement: Month – to – Month

Either party may cancel or change terms of this agreement upon thirty (30) days WRITTEN notice. The notice period may be lengthened or shortened by mutual WRITTEN agreement, but no less than 7 days.

Room and Board Payments:

The current Room and Board amount as established by the Medley Management Team and is subject to change as determined by the Medley Management Team. As of October 1, 2019 the established Room and Board rate is \$18.25 per day and is due and payable on the first (1<sup>st</sup>) day of the following month and covers the provision of food and shelter including housekeeping supplies, general hygiene supplies, maintenance and operation of the home and grounds, including home utility costs. Not included is cable in the Person in Placement’s bedroom, specialty items such as a specific name shampoo, colognes, etc. that may be desired by the person in placement, also incontinence laundry and associated costs. Costs that are directly related to and for the benefit of the Person in Placement are the responsibility of the Person in Placement. There is no security deposit required, but a PIP may be asked to pay for damages they cause to the home or the provider’s personal property.

Privacy:

The SFC Home Provider will respect the Person In Placement’s privacy and only enter their bedroom only for the following reasons: (a) in case of an emergency; (b) to make necessary repairs, improvements or decorations; (c) to provide necessary and agreed upon services; and only (d) only when the person in placement has given their permission.

Conditions that could initiate an eviction and the process to terminate an agreement and the process to appeal:

Reasons for eviction from SFC Home Provider perspective: Aggressive behaviors resulting in physical injury to the provider or others in the home, excessive intentional property damage, medical needs of the person in placement become more than the SFC Home Provider can provide care for, the health of the SFC Home Provider and/or their spouse becomes so compromised that they can no longer provide the care or supervision for the Person in Placement.

Reasons for terminating a Room and Board Agreement from the Person in Placements perspective: PIP chooses to live somewhere else for any reason, this requires a 30-day written notice.

Other reasons a Room and Board Agreement may need to be terminated: The SFC Home is no longer meeting the SFC certification requirements and refuses to meet Plan of Correction requirements and the determination is made to rescind the home providers certification and close the home. Home Provider would follow the existing grievance policy with Specialized Family Care Program.

Process to Appeal: An appeal for eviction may be filed with the WV Department of Health and Human Resources Bureau of Children and Families explaining the reasoning and providing any documentation or testimony as evidence. An appeal may also be filed for termination of a Room and Board Agreement with the WV Department of Health and Human Resources Bureau of Children and Families listing points of grievance.

Furnishings / Decorations provided by SFC Home Provider:

Please list all items in the room being provided by the SFC Home Provider:

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Personal Items and Furnishings brought to home by Person in Placement (other than clothes, shoes, hygiene items such as brush, comb, etc.)

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This Room and Board Agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
SFC Home Provider (Print)

\_\_\_\_\_  
Person in Placement (Print)

\_\_\_\_\_  
SFC Home Provider Signature

\_\_\_\_\_  
Person in Placement Signature  
Or Legal Representative

### **SAMPLE LEASE (As included in WV Milestone 02.5)**

**THIS LEASE**, Made and entered into on the \_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_, hereinafter referred to as the "LESSOR" and \_\_\_\_\_, hereinafter referred to as the "LESSEE"

THE LESSOR agrees to rent to Lessee and Lessee agrees to rent from the Lessor the property as described below in accordance with the following terms:

1. Description of leased premises:
  - a.
2. Term:
  - a. The term of this Lease begins and ends as in Section 11.
3. Rent:
  - a. The Lessee agrees to pay the Lessor as rent for the leased premises the sum of \_\_\_\_\_ per month.
  - b. Due Date: The sum of \_\_\_\_\_ will be taken out of each of the Lessee's account by the 20<sup>th</sup> day of each calendar month.
  - c. If the Lessor terminates the lease prior to the end of the term, through no fault of Lessee, the Lessee does not owe any rent.
  - d. If Lessee terminates the lease prior to the end of the term, through no fault of Lessor, the Lessee owes the balance of the rent due.

4. Utilities:
  - a. The electricity, water, and cable/phone/internet will remain in the name of the Lessor. All utilities will be split equally between the Lessor and each Lessee. Each agrees to pay for ¼ of the electricity, water, and cable/phone/internet.
  - b. Lessee agrees not to waste utilities and further agrees not to use these utilities for any improper or unauthorized purpose.
  
5. Use of Home:
  - a. The Lessor agrees to maintain the home in compliance with applicable residential landlord tenant laws regarding Lessee's use of the home as a personal residence.
  - b. Lessee agrees to comply with applicable federal, state and local laws as rules regarding the use of the home as a personal residence.
  - c. Lessee agrees to use the premises only for lawful and moral residential purposes and is not permitted to use the home for any unlawful purpose.
  - d. Lessee agrees not to create or allow any nuisance to exist on the premises. Lessee further agrees to stop any nuisance that may arise promptly if Lessee is responsible for the nuisance. Lessee agrees that there be no cost to use for stopping any nuisance Lessee has created.
  - e. Lessee agrees to share the home with other individuals, each of whom must have an executed version of this lease.
  
6. Maintenance:
  - a. The Lessees agree to maintain the home in good condition and repair by:
    1. Properly using the electrical and plumbing systems and appliances, including routine maintenance.
    2. Maintaining the home and surrounding grounds in a clean, presentable and safe condition, including yard and landscaping care.
    3. Keeping any sidewalks and driveways free and clean of obstructions. The Lessor will take care of snow removal and mowing the grass as appropriate to the situation.
    4. Maintaining all smoke detectors and other safety devices in the home in good working order. Notifying us in a timely manner if smoke detectors or other safety devices need repaired.
    5. Disposing of trash at reasonable and regular intervals.
  
7. Obligations:
  - a. Lessee obligations including all elements of Paragraph 5 and:
    1. Not keeping a pet, under any circumstances.
    2. Not making modifications to the facility without prior written consent.
    3. Not intentionally or negligently destroying or damaging the home, including appliances, electrical and plumbing systems.

4. Giving us prompt written notice, in writing, and within five (5) days of any electric or water shut offs.
  5. Purchasing, at lessees' sole discretion, insurance coverage for lessees' personal belongings located at the home. Our insurance will not cover personal items at the home, and we cannot accept responsibility for these items.
  6. Not unreasonably interfering with the rights of any other residents in the home.
  7. Not subleasing the home to anyone else without prior written consent from us.
  8. Not restricting us from access to the facility. The lessor retains the right to enter the home at any time.
  9. Pay for any damage lessees caused to the home.
- b. Lessors' obligations include:
1. Assure the maintenance of the structural components of the home, including electrical and plumbing systems in good repair in accordance with the applicable residential landlord-tenant laws.
  2. Provide on-site residential support serviced to lessees in the home.
8. Interest in the Premises:
- a. The Lessees agree to share this home. If one lessee moves out, the Lessor will find a potential replacement for the vacant bedroom
  - b. The Lessee, subject to remaining Lessee's approval, may share all the common spaces of the home, including, but not limited to, the living room, dining room, kitchen, bathrooms, breezeway, porches, laundry room, and yard equally with all other residents.
  - c. The Lessee shall be able to lock his/her bedroom(s) and bathroom.
9. Property Improvements:
- a. The Lessee may, at Lessee's own cost and expense, make non-structural changes and improvements to the premises during the term of this lease if Lessees obtain the Lessor's prior written consent.
  - b. If we request it, at the expiration or sooner termination of this lease, lessees agree to return the premises to us in the same condition as existed on the date the premises were originally made available to Lessee.
  - c. All improvements, including fixtures the Lessees made to the premises during the term of this lease, shall remain a part of the premises and become the sold property of the Lessor.
10. Termination:
- a. If any of these occur, the Lessor may terminate the lease. We must give Lessee written notice of termination at least thirty (30) days prior to the date this lease will terminate, and Lessee must move out:
    1. Lessees' serious or repeated violations of the terms of this lease.
    2. Lessees' violation of federal, state or local law that imposes obligations on the tenants in connection with Lessee's occupancy of the home.
    3. Lessee's criminal activity.
    4. Other good causes such as disturbing the neighbors, destroying property or having living or housekeeping habits that damage the home.
  - b. This lease will terminate automatically at the end of the month for a lessee if his or her death occurs.
  - c. This lease will terminate at the date we agree to when we agree to terminate the lease by a signed written document.
11. Term: This lease will begin on the date first above written and continue for one year. The Lease will automatically renew at the end of each lease year unless terminated or amended by written agreement of the parties.
12. Amendment: This lease may be amended by written agreement of the parties.
13. Surrender of the home:

- a. If the lease is terminated for any reason as described in Paragraph 10, Lessee must move out and give the home back to the Lessor.
- b. When any Lessee moves out, that Lessee must remove all personal belongings.

- 14. Notice: Any notice required under this lease must be made in writing.
  - a. Notice to Lessees must be delivered personally, by mail or by email, at the home or other address Lessee provided us for this purpose. Any email notification will follow the requirements of state and federal privacy and confidentiality laws and rules.
  - b. Notice to us must be delivered personally, by mail, or email to the same address where Lessees' rent is to be paid (Paragraph 3.c.) or any other address we provide to Lessee for this purpose.

- 15. Peaceable Enjoyment: The Lessor agrees that, with Lessee, paying the rent and observing and keeping the agreements of this lease, the Lessee shall lawfully, peaceably and quietly hold and occupy the home during the agreed to term or any renewal without any hindrance or molestation by the Lessor or anyone claiming to be the Lessor.

- 16. Governing Law: This Lease is governed by the laws of the State of West Virginia.

IN WITNESS WHEREOF, the parties have executed this lease as of the date set forth above.

Representative:

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Lessee: \_\_\_\_\_

Lessee:

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Lessee:

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