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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 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 three 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, participants, 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 2/5/15 (**Appendix A**). To complete the process, a Crosswalk for the Systemic Assessment for the West Virginia HCBS State Transition Plan was also developed in 1/31/16. (**Appendix B**).

Services provided by licensed entities were identified for all three waivers. There were no categories or settings 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	*Service may be provided in:* Licensed Behavioral Health Center Non-	*Service may be provided in:* Licensed Behavioral Health Center	Com-muni ty	Ho me setti ng	Original Approval Date	Effective Date	Expiration Date of Waiver

		Residential Facility	Residential Facility					
Aged and Disabled Waiver Program	• Case Management • Personal Assistant Services • Transportation	Yes No No	No No No	Yes Yes Yes	Yes Yes No	07/01/1985	07/01/2015	6/30/2020
Intellectual/ Developmental Disabilities Waiver Program	• Case Management/ Service Coordination • Behavior Support Professional • Facility Based Day Habilitation* • Person - Centered Support • Crisis Services • Supported Employment • Electronic Monitoring Surveillance System and On-Site Response • Skilled Nursing - Nursing Services by a Licensed Practical Nurse	Yes Yes Yes No No Yes No Yes	Yes Yes No Yes Yes No Yes Yes	Yes Yes No Yes Yes No Yes Yes	Yes Yes No Yes Yes No Yes Yes	07/01/1985	07/01/2015	6/30/2020
Intellectual/ Developmental Disabilities Waiver Program Continued	• Skilled Nursing- Nursing Services by a Registered Nurse • Pre-vocational Services • Job Development • Transportation • Out of Home Respite	Yes Yes Yes No No	Yes No No Yes No	Yes No Yes Yes Yes	Yes No No Yes Yes	7/1/1985	7/1/2015	6/30/2020
Traumatic Brain Injury	• Case Management	Yes	No	Yes	Yes	12/23/2011	7/1/2015	6/30/2020

Waiver Program	• Personal Attendant Services • Transportation	No No	No No	Yes No	Yes Yes			

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 three comment periods each using a similar format. They were November 26, 2014 to December 26, 2014, June 13, 2016 through July 13, 2016, and July 1, 2018 through July 30, 2018. The Public forum was not held for the 2018 comment period 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 30, 2018, 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 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 solicitation.

Summary of Public Comments

During the Public Comment period of November – December 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.**

An additional 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.

An additional 30-day Public Comment period from July 1, 2018 through July 30, 2018 was conducted. Again, additional comments were received from the general public via 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.

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 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.

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 Service Coordination service supports the requirements of the HCBS rule in principle. The definition specifies that along with the member, service coordination 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".

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 meet 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 12/31/15. 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 I and J**). 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-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 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 State Transition Plan will be submitted to CMS on August 15, 2018.

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) 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	• Case Management • Personal Assistant Services • Transportation	07/01/1985	07/01/2015	6/30/2020
Intellectual/ Developmental Disabilities Waiver Program	• Case Management/ Service Coordination • Behavior Support Professional • Facility Based Day Habilitation • Person -Centered Support • Crisis Services • Supported Employment • Electronic Monitoring Surveillance System and On-Site Response • Skilled Nursing - Nursing Services by a Licensed Practical Nurse • Skilled Nursing – Nursing Services by a Registered Nurse • Pre-vocational Services • Job Development • Transportation • Out of Home Respite	07/01/1985	07/01/2015	6/30/2020
Traumatic Brain Injury Waiver Program	• Case Management • Personal Attendant Services • Transportation	12/23/2011	7/1/2015	6/30/2020

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-	10/20/14	11/25/14	Bureau for Medical Services

Applicable Waiver	Compliance Area	Action Item	Start Date	End Date	Person Responsible
		residential settings. Post Report on BMS website.			
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 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.	10/24/14	6/1/18	Bureau for Medical Services
ADW, TBIW, IDDW	General	5. 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

Remedial Actions

Applicable Waiver	Compliance Area	Action Item	Start Date	End Date	Person Responsible
ADW, TBIW, IDDW	Provider Remediation - Residential	• 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.	1/2/16	1/30/17	Bureau for Medical Services with assistance from individual Waiver Quality Councils
ADW, TBIW, IDDW	Outreach and Education	• Provide training to licensure/certification staff, individuals and family members on new settings requirements.	7/1/15	2/28/17	Bureau for Medical Services and the appropriate Waiver's

					Administrative Services Organization (ASO)
ADW, TBIW, IDDW	Provider Remediation	• Strengthen enrollment and re-enrollment procedures to identify settings that may have indicators of non-compliance and require more thorough review.	10/20/14	1/1/17	Bureau for Medical Services and the appropriate Waiver's Administrative Services Organization (ASO)
ADW, TBIW, IDDW	Outreach and Education	• Conduct a webinar series to highlight the settings requirements (residential, non-residential including principles of person-centered planning). Post webinar archives on BMS website.	7/1/15	3/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDDW	Outreach and Education	• 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).	7/1/15	1/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDDW	Outreach and Education	• Provide training to enrollment staff to heighten scrutiny of new providers/facilities.	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, IDDW	Outreach and Education	• Develop and include ongoing provider training on rights, protections, person-centered thinking, and community inclusion.	7/1/15	3/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDDW	Outreach and Education	• Provide training to quality improvement system on new settings outcomes measures.	7/1/15	5/30/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDDW	Outreach and Education	• Update applicable Member Handbooks to strengthen person centered HCBS requirements.	7/1/15	3/31/17	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDDW	Quality	• Quality Measures a. Develop or revise on-site monitoring tools to meet	7/1/15	12/30/16	Bureau for Medical Services, appropriate

		compliance (e.g. opportunities for "informed" choice, choice of roommate and setting, freedom from coercion). b. Include outcomes measures on settings within the current 1915c waiver quality improvement system. c. Build community character indicators within the 6 CMS Quality Assurances reviewed through the provider self-review process.			Waiver QIA and ASO
ADW, TBIW, IDDW	Quality	• 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.	7/1/15	12/30/16	Bureau for Medical Services, appropriate Waiver QIA and ASO
ADW, TBIW, IDDW	Quality	• Crosswalk quality assurance tools against settings characteristics and person-centered planning requirements to identify areas of potential enhancement to the quality improvement system.	7/1/15	12/31/16	Bureau for Medical Services, appropriate Waiver QIA and ASO
IDDW	Policies and Procedures	• Modify regulations to ensure community characteristics are reflected across IDDW waiver services with particular attention on ISS, group homes and specialized family care homes as well as facility-based day habilitation.	7/1/15	5/1/18	Bureau for Medical Services, IDDW Waiver QIA and ASO
IDDW	Provider Remediation	• Develop a transition plan approval process which requires the provider to submit progress reports on the implementation of the specific setting identified.	7/1/15	4/3/16	Bureau for Medical Services, IDDW Waiver QIA and ASO
IDDW	Provider Remediation	• 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	7/1/15	4/3/16	Bureau for Medical Services, IDDW Waiver QIA and ASO

		that requires action steps and timelines for compliance.			
IDDW	Provider Remediation	• 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.	7/1/15	3/1/17	Bureau for Medical Services, IDDW Waiver QIA and ASO
IDDW	Provider Remediation	• Using lessons learned from the State's MFP program, develop a process for helping individuals to transition to new settings as appropriate.	7/1/15	7/1/17	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	• 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.	7/1/15	3/1/17	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	• Work with the stakeholder group to a) Identify challenges and potential solutions to support provider changes that may be necessary. b) Develop a toolkit for provider use that includes housing resources and person-centered planning strategies.	7/1/15	1/1/16	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	• Require provider owned or controlled residences to ensure residents' rights are protected by legally binding agreements (lease or other).	7/1/15	7/1/18	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP
IDDW	Provider Remediation	• 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	7/1/15	7/1/18	Bureau for Medical Services, IDDW Waiver QIA and ASO and WV MFP

		comply such as locked doors and use of common areas.			
IDDW	Provider Remediation-Non-Residential	• 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.	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	• Develop a site visit and compliance protocol to validate provider assessments and remediate provider compliance issues.	9/1/15	3/31/16	Bureau for Medical Services
IDDW*	Provider Remediation	• Conduct site visits and implement remedial actions.	8/25/15	1/12/18	Bureau for Medical Services: ASO
IDDW*	Provider Remediation	• Develop a process for heightened scrutiny as part of the compliance protocol and using information gathered through validation and remedial action.	12/1/15	9/1/16	Bureau for Medical Services
IDDW*	Provider Remediation	• Implement heightened scrutiny process including any necessary request for CMS review.	6/1/17	9/1/16	Bureau for Medical Services
IDDW*	Provider Remediation	• Implement relocation process as needed.	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	10/20/14	Ongoing	Bureau for Medical Services

		communication on the implementation of the transition plan. Adapt the strategy to different audiences including State legislators.			
ADW, TBIW, IDDW	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, IDDW	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, IDDW	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, IDDW	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, IDDW	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, IDDW*	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,IDDW*	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, IDDW*	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 O1.0 **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 IDDW - 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 IDDW - 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.

WV02.6 IDDW - Require provider owned or controlled residences to ensure residents rights are protected by legally binding agreements (lease or other).

WV02.7 IDDW - Modify regulations to ensure community characteristics are reflected across IDDW waiver services with attention on ISS, group homes and specialized family care homes as well as facility-based day habilitation.

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 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 will be distributed to provider agencies and posted to the website.

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 50 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.

WV09.0 Completion of residential provider remediation: 50% There are 50 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.

WV10.0 Completion of residential provider remediation: 75% There are 50 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.

WV11.0 Completion of residential provider remediation: 100% There are 50 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.

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).

WV12.0 Completion of nonresidential provider remediation: 25% All nonresidential settings passed as of 1/5/18.

WV13.0 Completion of nonresidential provider remediation: 50% All nonresidential settings passed as of 1/5/18.

WV14.0 Completion of nonresidential provider remediation: 75% All nonresidential settings passed as of 1/5/18.

WV15.0 Completion of nonresidential provider remediation: 100% All nonresidential settings passed as of 1/5/18.

IDDW – 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.

WV16.0 Identification of settings that will not remain in the HCBS System. IDDW - 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.

IDDW – 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 3/18/18.

WV20.0 Submit STP with Heightened Scrutiny information to CMS for review. There have been no settings identified as of 6/1/18.

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

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 data base for sites was updated. How the agency responded to the survey was not altered. Note: unlicensed residences are private homes.

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

In addition, all residential settings (whether licensed or not) where HCBS services are provided are visited and reviewed by the member's Service Coordinator monthly. **Appendix O** contains the form used by the Service Coordinator to document the review of member rights, needs and compliance with the Integrated Services Rule. This form is also used

for the Bi-monthly Service Coordinator visit to Day Habilitation, Pre-vocational, Job Development and Supported Employment settings, again to insure member rights, needs being met and compliance with the Integrated Services Rule.

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.

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.

Heightened Scrutiny Overview

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

1) The setting meets the HCBS characteristics and is compliant.

2) The setting does not currently meet HCBS characteristics but intends to become compliant with remediation.

3) The setting cannot meet the HCBS characteristics.

4) The setting is presumptively institutional and is determined incompatible with HCBS.

5) 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 it will be submitted to CMS for a heightened scrutiny review at the time this determination is made. Evidence compiled by the

State will accompany this submission. This evidence will include review documents, stakeholder interviews and comments and other evidence as necessary. At present there are no such deemed settings.

Settings deemed during the review process, to be in Category 3 or 4 are presumptively non-HCBS settings.

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. It addresses times when the setting review finds that the site is not HCBS compliant and the BMS actions to be taken.

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, to assure that all stakeholders are notified of the dis-enrollment.

While the transitions of members to other providers or settings will begin as soon as the provider is notified, the provider will have 60 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.

Monitoring of Ongoing Compliance

Initial Setting Reviews and follow ups were completed 1/12/18 and all reviews 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.

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

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 of these analyses.

Building Capacity for Increased Non-Disability Specific Setting Access

The revised West Virginia IDD Waiver Manual, effective February 2, 2018, specifies that services to IDD Waiver members be provided in integrated, non-disability specific settings. These include but are not limited to:

Chapter 513.9.1 "Traditional Service Option….These services are provided in natural settings where the person who receives services resides and participates in community activities."

Chapter 513.15.1 "Facility-Based Day Habilitation must be based at the licensed site, but the person may access community services and activities from the licensed site….services include…use of community services and businesses…"

Chapter 513.15.3 "Job Development…may be provided (in) community settings, and/or integrated employment setting (sic)."

Chapter 513.15.4 "Supported Employment Services…are services that enable individuals to engage in paid, competitive employment, in integrated community settings…provided in an integrated community work setting and may not be provided in any setting owned or leased by an IDDW Provider agency. Most of the persons co-workers in the setting do not have disabilities."

Chapter 513.16.1 "Goods and Services (Participant Directed Option, *Personal Options* Model)…Site of Service: the goods or services are routinely provided at the person's residence or to the person as they participate in community activities."

Chapter 513.17.1.1 "Family Person-Centered Support (Traditional Option)…this service may be provided in the family residence of the person who receives services, a Specialized Family Care Home, and/or in the local public community."

Chapter 513.17.1.2 "Family Person-Centered Support (*Personal Options* Model)…this service may be provided in the family residence of the person who receives services, a Specialized Family Care Home, and/or in the local public community."

Chapter 513.17.2 "Home-Based Agency Person-Centered Support (Traditional Option)…this service may be provided in the family residence of the person who receives services, a Specialized Family Care Home, and/or in the local public community."

Chapter 513.17.3 "Licensed Group Home Person-Centered Support (Traditional Option)…This service may be provided in a group home licensed by OHFLAC and/or in the local public community."

Chapter 513.17.4.1 "Unlicensed Residential Person-Centered Support (Traditional Option)…This service may be provided in an Unlicensed Residential Home and/or in the local public community."

Chapter 513.17.4.2 "Unlicensed Residential Person-Centered Support (*Personal Options* Model)…This service may be provided in an Unlicensed Residential Home and/or in the local public community."

Summary

A reviewer conducted site visits for each IDDW agency that owns or leases settings where IDDW services are provided. The reviewer visited 100% of the licensed Facility-Based Day Habilitation/Pre-Vocational sites, all 4 bed or greater residential sites and a sample of the 3 bed or less residential sites. The sample size of the 3 bed or less residential sites was determined by how the provider answered the survey. The reviewer administered either the residential or the non-residential protocol depending upon what type of sit is being reviewed. The settings followed the same site-specific review and validation process as all other settings.

When a site review was completed, the IDDW agency received a separate report stating if each 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 IDDW agency was required to submit a Plan of compliance for each site not in compliance within 30 days of receipt of the report. The Plan detailed the agency's plan to come into compliance. BMS reviewed each plan and either accepted it or returned 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 an IDDW provider 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 July 1, 2018, no providers have necessitated these steps by BMS.

The initial round of reviews yielded the following data.

Provider Self-Assessment Results -2015

Setting Type	Total	Compliant*	Non-Compliant

Facility Based Day Habilitation	51	0	51
Supported Employment	13	0	13
Participant Centered Support ISS (serving 1-3 people)	54	0	54
Participant Centered Support – Group Home (serving 4 or more people)	18	0	18
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 II
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 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*			
Participant Centered Support - 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.

**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 service coordinators only.

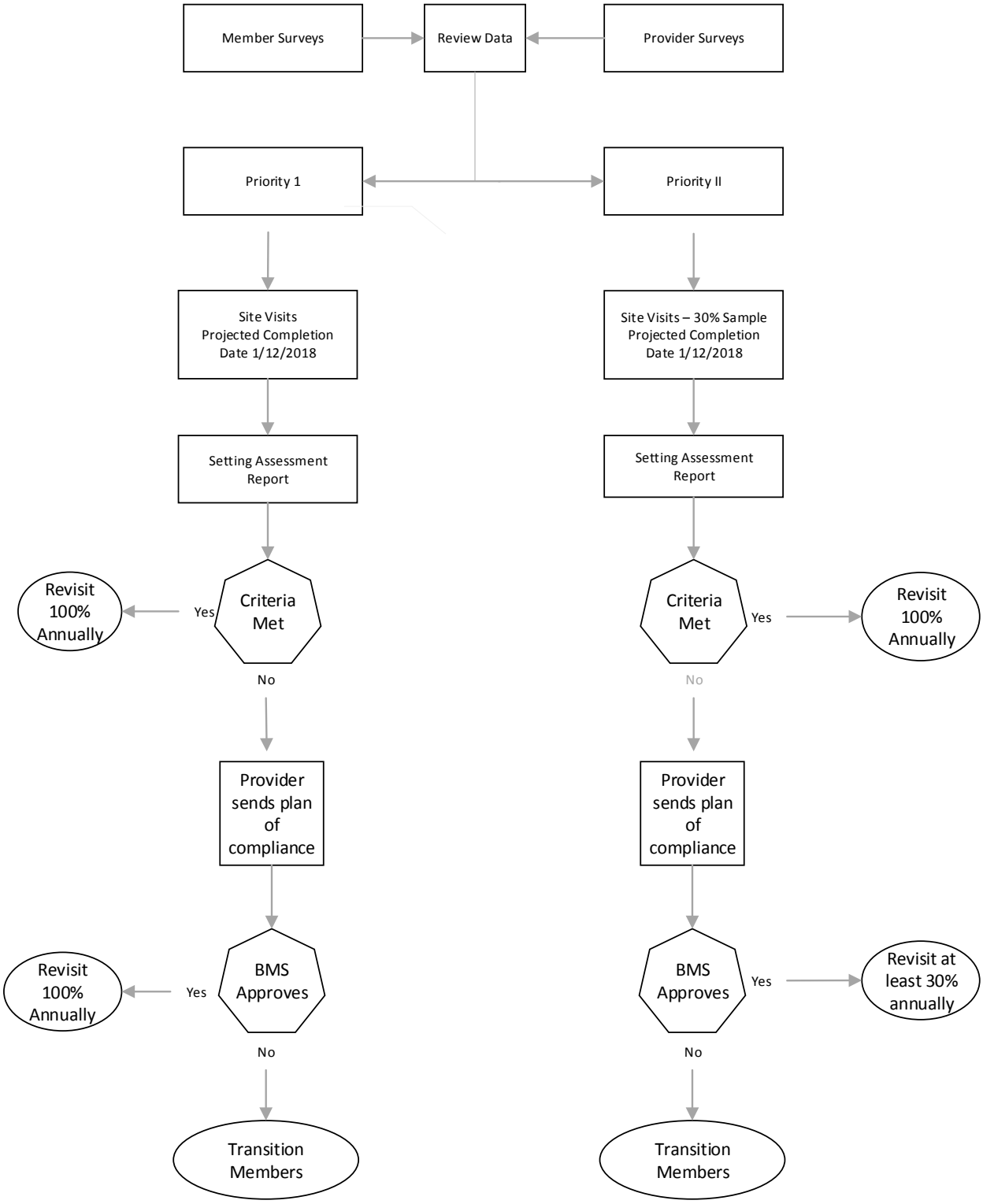
***Reasons for closure were not directly related to the Integrated Services Rule.

Follow Up On-Site Results 2016 -2018

Setting Type	Compliant	Non-Compliant	Closed
Facility Based Day Habilitation	55	0	0
Supported Employment*			
Participant Centered Support - ISS (serving 1-3 people)	33	0	0
Participant Centered Support – Group Home (serving 4 or more people)	14	0	0

No Settings were identified for Heightened Scrutiny.

Exhibit 2


Member Surveys
Review Data
Provider Surveys
Priority 1
Priority II
Site Visits
Projected Completion
Date 1/12/2018
Site Visits – 30% Sample
Projected Completion
Date 1/12/2018
Setting Assessment
Report
Setting Assessment
Report
Criteria
Met
Yes
Revisit
100%
Annually
No
Criteria
Met
Yes
Revisit
100%
Annually
No
Provider
sends plan
of
compliance
Provider
sends plan
of
compliance
BMS
Approves
Yes
Revisit
100%
Annually
No
BMS
Approves
Yes
Revisit at
least 30%
annually
No
Transition
Members
Transition
Members

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[1]. 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.

HCBS Waiver	Services/Setting Type	Original Approval Date	Effective Date	Expiration Date

[1] 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

Aged and Disabled Waiver Program (ADW)	• Case Management • Personal Assistance/Homemaker Service	07/01/1985	07/01/2010	06/30/2015
Intellectual/ Developmental Disabilities Waiver (IDDW)	• Facility Based Day Habilitation • Participant -Centered Support • Respite • Service Coordination • Supported Employment • Electronic Monitoring/Surveillance System and On-Site Response • Skilled Nursing - Nursing Services by a Licensed Practical Nurse	07/01/1985	07/01/2010	06/30/2015
Traumatic Brain Injury Waiver Services (TBIW)	• Case Management • Personal Attendant Services	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
• **Waiver applications** • **Authorizing Legislation** • **State Rules and Operations** • **Provider training and manuals** • **Member handbooks** • **Setting-specific survey and certification review criteria**	• Definitions of services and settings • Certification and licensing (as applicable) • Participant rights • Participant choice of provider • Care planning processes including conflict of interest provisions • Enrollment procedures • Environmental standards • Restrictive interventions • Staff training • Support coordination/case management • (Others as appropriate)

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.

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: Service Coordination and Patient-Centered Support. Service Coordination 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.

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.

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 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) appears to provide a firm foundation to the overall protection of basic rights and any restrictions needed to ensure health and welfare.
- The Service Coordination service supports the requirements of the HCBS rule in principle given that the definition specifies that along with the member, service coordination 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. Service coordination 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 Service Coordinator. Chapter 513 of the provider manual implies that the member can choose the 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[2] 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.

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.

Recommendations / Areas of Potential Non-Compliance

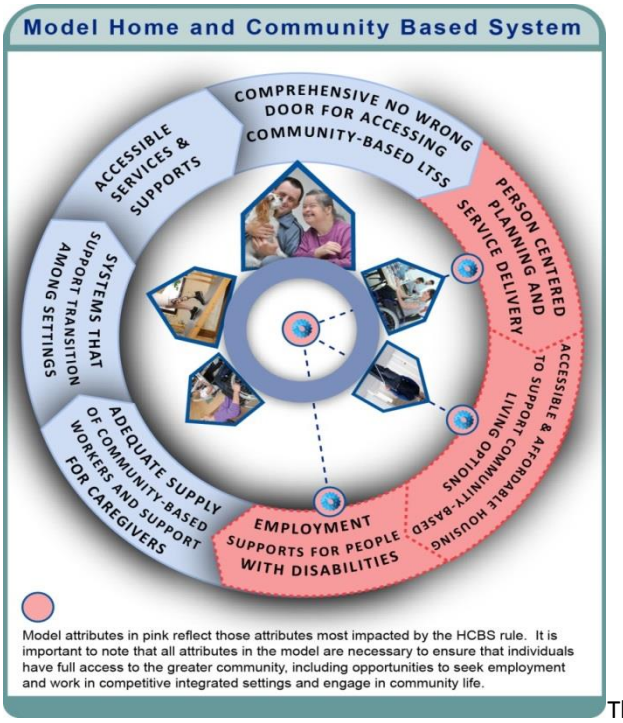
- The IDDW manual does not appear to include language that explicitly prohibits conflict of interest and/or provides guidance on "firewalls" and other conflict mitigation techniques for providers offering both case management and direct services. To comply with CMS regulation, the State may wish to adopt 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

[2] 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 appear 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
- 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	Projected Completion Date
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.	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	Projected Completion Date
	Waiver Bureau for Medical Services Medicaid Manual [compliant]) require person-centered plans. In addition, IDDW 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.	characteristics include but are not limited to Facility Based Day Habilitation, Supported Employment, Skilled Nursing, and Electronic Monitoring (**Appendix M**, Attachments 1 and 2). (1/1/2019) The Protocol (**Appendix M**) will be modified to specifically include Skilled Nursing and Electronic Monitoring in integrated settings. (9/30/2018) 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 integrated. (6/1/2016) 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)	
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.	The Bureau for Medical Services waiver manual for the IDDW (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 with developmental disabilities are presumed capable of community employment. In addition, IDDW providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules [silent], but integration, and employment	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 individuals not receiving Medicaid HCBS. 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	5/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	opportunities are not specifically required to the same degree of access to the community as individuals not receiving Medicaid HCBS.	employment and work in competitive integrated settings. (6/1/2016) 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)	
The setting…includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	The Bureau for Medical Services waiver manual for ADW (Chapter 501 Aged and Disabled Waiver Bureau for Medical Services Manual [non-compliant]) does not include language that supports the use of Personal Assistance/Homemaker to promote member integration. IDD Waiver providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Code [silent], but opportunities to engage in community life are not specifically required to the same degree of access to the community as individuals not receiving Medicaid HCBS.	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) 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 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 (**Appendix M,** Attachments 1 and 2). (1/1/2019) The Protocol (**Appendix M)** will be modified to specifically include Skilled Nursing and	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
		Electronic Monitoring in integrated settings. (9/30/2018) 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) 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 receiving Medicaid HCBS. (1/1/2019)	
The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	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. IDDW Waiver providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Rules [silent], but	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) 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	6/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	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). 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.	personal resources to the same degree of as individuals not receiving Medicaid HCBS. (6/1/2019 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)	
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.	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.	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) 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) 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	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
		synonymous terms. (9/30/2018)	
An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.	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 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. 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). 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	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, 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) Assure that the IDDW manual provides a broad list of rights granted to waiver participants. (12/1/2015) Assure that the TBIW manual provides a broad list of rights granted to waiver participants. (12/1/2015) 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) 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	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	[compliant]) were approved 12/1/15 (AD and IDDW) and 10/1/15 (TBI). Recommendations from **Appendix A**, *Recommendations from the HCBS Regulatory Review*, page 22, were incorporated into these Manuals.	and assures that rights restrictions are as minimal as possible. (1/1/2019) 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. (6/1/2016)	
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.	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. 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]).	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. (1/1/2019) 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. (6/1/2016)	1/1/2019
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	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	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	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
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.	services in provider owned or leased settings. 37CSR1, Landlord Tennant 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. 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.	and responsibilities as individuals not receiving Medicaid HCBS. This includes leases or residency agreements including protections like those in the landlord tenant law. (1/1/2019) 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) 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)	
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.	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. 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	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) Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including prompts for ensuring HCBS are	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	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.	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) 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)	
In provider owned or leased residential settings: Individuals sharing units have a choice of roommates in that setting.	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 [compliant]) do not provide services in provider owned or leased settings. Neither the IDDW 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.	Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and requires including the requirements specific to provider owned or leased settings. (1/1/2019) 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) 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)	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
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.	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. Neither the IDDW 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 the freedom to furnish and decorate sleeping and living units subject to the limitations of the lease.	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) 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 have the freedom to furnish and decorate sleeping and living units subject to the limitations of the lease. (6/1/2016) 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)	1/1/2019
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.	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.	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) Implement the HCBS setting evaluation tool designed to conduct setting reviews of providers of HCBS, including	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	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. 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.	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) 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 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)	
In provider owned or operated settings, individuals are able to have visitors of their choosing at any time.	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. 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-	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) 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	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	compliant]) specify that individuals receiving services in provider owned or leased settings must be able to have visitors at any time.	owned or leased by the provider.(6/1/2016) 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) 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)	
In Provider owned or operated settings, the setting is physically accessible to individuals.	The Bureau for Medical Services waiver manual for IDDW (Chapter 513 Individuals with Developmental Disabilities Waiver Bureau for Medical Services Medicaid Manual [compliant]) requires person-centered plans to address physical accessibility. 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. IDDW Waiver providers are licensed as Behavioral Health Centers, under 64CSR11 of the State Code, and physical accessibility is required under 64CSR11.6.1.g which requires	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) 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) 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 accessibility. (1/1/2019)	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
	compliance with Title III of the Americans with Disabilities Act.		
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.	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]	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) 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) Complete the implementation of the HCBS setting evaluation tool (**Appendix M** Attachment 1) designed to conduct setting reviews of providers of HCBS, ensuring that there are no HCBS provided in institutional settings. (1/1/2017)	1/1/2019
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.	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.	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	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
		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) 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)	
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 documented in the person-centered service plan: **1): Identify a specific and individualized assessed need.** **(2): Document the positive interventions and supports used prior to any modifications to the person-centered service plan.** **(3): Document less intrusive methods of meeting the need that have been tried but did not work.**	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. 64CSR11 of the State Rule for Behavioral Health Centers specifies in Section 7.4 [compliant] that informed consent be obtained and recorded in the treatment plan/person centered service plan.	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) Include in IDD Waiver policy that person centered service plans include the identification of specific and individuals assessed needs. (1/1/2019) 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) 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)	1/1/2019

Federal Regulation	Areas of Compliance in State Standards	Remediation Required	Projected Completion Date
(4): Include a clear description of the condition that is directly proportionate to the specific assessed need. **(5): Include regular collection and review of data to measure the ongoing effectiveness of the modification.** **(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 assurance that interventions and supports will cause no harm to the individual.**		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) 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) Include in IDD Waiver policy that person centered service plans document the time limits for periodic reviews to determine if the modifications/interventions are still necessary or may be terminated. (1/1/2019) Include in IDD Waiver policy that person centered service plans document the informed consent of the individual for treatment, interventions and modifications. (1/1/20190 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)	

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 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 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 htttp://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 in to 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 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 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.

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 Development 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.d hhr.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 Development 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/Pagesidefault.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

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 IDDW Providers
- All TBIW providers
- IDDW Quality Improvement Advisory Council
- IDDW Specialized Family Care / West Virginia UCEDD
- WV Development 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://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 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.

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)	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". 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. 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?" 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	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.

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				facility. Our Waiver employees 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.	
1	11/24/2014	Email	(Not indicated)	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. Our purpose is to provide those with disabilities competitive employment in the community, 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	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.

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				tasks in various departments with people who have various levels of functioning.	
2	12/12/2014	Email	(Not indicated)	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 - 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	This comment falls outside of the scope of the Transition Plan

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				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.	
3	12/16/2014	Email	(Not indicated)	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.	This comment falls outside of the scope of the Transition Plan
4	12/18/2014	Email	I/DD	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.	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.
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	More specific timeframes and actionable items will be released in future versions of the Transition Plan.

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				Plan are not specific, but encompass the entire five years.	
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.
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.

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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 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 un-biased manner?	Action Item 2 of the Remedial Actions section is updated to include individuals and families as 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.

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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.
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

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					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.

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4	12/18/2014	Email	I/DD	Stakeholder engagement actions are concentrated on provider agencies. There are over 4500 individuals served by the IDDW 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.
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.

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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 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	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.

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				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 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] contends that the Assessment	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.

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				section fails to meet these two CMS expectation	
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 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. .	The survey is available online. All providers are mandated to complete the survey. The State will issue guidance to providers via Action Item 5 of the Remedial Action section.

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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 making you can pretty much expect to get bad results.	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.
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	This comment will be taken under consideration as the State pursues fielding the survey per Action Item 3.

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				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?	
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.

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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 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 new services. They have been billing WVBMS HCBS for years	WV BMS believes this Action Item does meet CMS requirements. This comment will be taken under consideration in future Transition Plans.

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				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 IDDW 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 IDDW Waiver service delivery system so it can become a truly community based, client centered program. There is a critical stage of this transition 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	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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				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 IDDW 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 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	

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				consequence of waiver members losing services that they current have.	
5	12/18/2014	Email	Statewide	(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 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.	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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5	12/18/2014	Email	Statewide	(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 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	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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				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 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	

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				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 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 function that can happen as Stated in any permanent way based on BMS incorporating assessment outcome data into	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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				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.	
5	12/18/2014	Email	Statewide	(2) The second part of the Statement is that they (licensure? Unclear who the 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?	WVBMS will consider this comment in the development of future Transition Plans surrounding Action Item 1.
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	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

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				requirements are already known and in writing?	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 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 IDDW 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:

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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 IDDW 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 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?	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.
5	12/18/2014	Email	Statewide	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	WVBMS will consider this comment in the development of future Transition Plans surrounding Action Item 11 (previously 10).

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				establishing baselines and measuring implementation is not an appropriate role for the QIA Counsels. A different group (ASO?) should be doing this and summarizing that data and presenting it to the Councils.	
5	12/18/2014	Email	Statewide	Item #13 &. Transition plan approval - [Organization] absolutely disagrees with this time line. 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) Time line 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 time line 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	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, WVBHHF 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 life time opportunity to shift to a serious effort to support 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	This is now Action Item 22. WV BMS appreciates this comment and will take it under consideration as it considers provider transition plans.

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				integrated settings require a strong emphasis on employment and limits payment for day time activities such as riding in the car and going to Wal-Mart all day.	
5	12/18/2014	Email	Statewide	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 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	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.

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				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 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.	
5	12/18/2014	Email	Statewide	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	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.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
				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 create integrated, client centered services, not just sets of rules.	
5	12/18/2014	Email	Statewide	[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 IDDW 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 IDDW 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 IDDW 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 member's right to client centered services and provider	This comment falls outside of the scope of the Transition Plan

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				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 cut 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.	
5	12/18/2014	Email	Statewide	[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 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	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.

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				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.	
5	12/18/2014	Email	Statewide	[Organization] does not understand why the transition plan fails to address the CMS requirement to transition to independent service coordination. What is the plan for compliance with this CMS requirement?	This comment falls outside of the scope of the Transition Plan
6	12/15/14 Meeting	Public Meeting		[Individual] asked if we are going to take information from certain groups and [WV BMS] said they would from everybody.	This is addressed in the Transition Plan, Assessment section, action items 2 and 3.
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.

ID	Date (date received)	Mode (email, phone, public meeting, other)	Waiver (ADW, I/DD, TBIW, Statewide)	Comment (feedback submitted)	Response and/or Action Steps
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 eState recovery provisions.	No action needed
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	Addressed in Remedial Actions section, Action item 6.

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				know right now since it's in the planning stages.	
9	12/15/14 Meeting	Public Meeting		[Individual] said the 21 biggest groups of people are not in congregant homes but are day rehabilitation which have differences.	Addressed in Assessment section, Action item 2. The 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

Comment Number	Date Comment Received	Comment	Status	Response
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	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.

Comment Number	Date Comment Received	Comment	Status	Response
		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 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	Identifying information redacted: 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"... They have their own rooms.... They have their own TV's They can have their own personal items in their room.... They have caring Staff that fix them good nourishing meals.....	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

Comment Number	Date Comment Received	Comment	Status	Response
		They are kept clean and looking good.... They have a nice yard that they can walk around in.... They have a picnic pavilion with picnic tables and Basket Ball court.... They can sit outside without fear of being bothered by Druggies that live in the low income apartments.... 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 ..... The area of his XXXXX that is damaged is XXXXX ... That is why He will never be able to live on his own..... They have 24 hour staffing... They can have visitors at any time..... 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..... It is just a wonderful arrangement for our Guys .. So please let them remain in their "Home" where they can be Happy and in a Safe environment.....		together constitutes a congregate setting. Through on-site visits, BMS is working 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.
4	6/30/16	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	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

Comment Number	Date Comment Received	Comment	Status	Response
		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 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		community to the same degree as individuals not receiving Medicaid HCBS.

Comment Number	Date Comment Received	Comment	Status	Response
		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 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.		
5	6/30/16	To Whom It May Concern: First off I would like to thank you ahead of time for reading, listening and acting upon my concerns. 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 about the amount of time that is being	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.

Comment Number	Date Comment Received	Comment	Status	Response
		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. 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. 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 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		

Comment Number	Date Comment Received	Comment	Status	Response
		follow and flow with. Why change something if it is working already? Why take something so simplified and make it much more difficult? 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. 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. 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. 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		

Comment Number	Date Comment Received	Comment	Status	Response
		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 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. 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! 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. 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.		

Comment Number	Date Comment Received	Comment	Status	Response
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 active role and has influenced the transition process at all.	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 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 Number	Date Comment Received	Comment	Status	Response
				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.
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	No action needed	The self-assessment questionnaire was completed by individuals and other stakeholders and by

Comment Number	Date Comment Received	Comment	Status	Response
		details about a setting's efforts to support integration in the community.		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 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 reported being more compliant. The	No action needed	There is such a process to expand reviews if necessary. It is included in the Methodology in the

Comment Number	Date Comment Received	Comment	Status	Response
		State should have a process to expand on-site reviews if they identify discrepancies between on-site reviews and self-reported responses.		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	The protocol States that initial reviews are announced and that subsequent reviews may be announced or unannounced. The Administrative Services Organization (ASO) now known as the Utilization Management Contractor (UMC) will conduct visits in conjunction with their annual reviews.
17	7/1/16	Heighted 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)
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

Comment Number	Date Comment Received	Comment	Status	Response
				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 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)

Comment Number	Date Comment Received	Comment	Status	Response
				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.
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.

Comment Number	Date Comment Received	Comment	Status	Response
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 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 IDDW 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.
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

Comment Number	Date Comment Received	Comment	Status	Response
				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 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

Comment Number	Date Comment Received	Comment	Status	Response
				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 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

Comment Number	Date Comment Received	Comment	Status	Response
				with HCBS requirements and to assure the safety and rights of members.
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

Comment Number	Date Comment Received	Comment	Status	Response

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, IDDW) 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 <u>each</u> 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?

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 account
    - ☐ 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.

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 <u>each</u> 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?

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 account
    - ☐ 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 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.

Characteristics of Home and Community
• Part of the community (e.g. within a neighborhood next to persons without disabilities) • Active in the community with consistent interaction with persons without disabilities • Choice of roommate or private room • Landlord-tenant protections • Physical accessibility • Unrestricted access to home and lockable doors • Choice of roommates • Freedom to furnish and decorate • Control over schedule • Access to private calls, e-mail and text • Control over personal resources • Access to food anytime • Visitors anytime

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 friends 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?	☐ Yes ☐ No ☐ Not applicable
4. Did you or your guardian have a say in where you were going to live?	☐ Yes ☐ No ☐ Not applicable
5. If you have roommates or housemates who are not family members, did you or your guardian choose your roommates or housemates?	☐ Yes ☐ No ☐ Not applicable
6. Do you have full access to the following areas in your home? (Check all that apply)	☐ Kitchen ☐ Dining room ☐ Laundry room ☐ Living room ☐ Basement ☐ None of the above
7. When you want or need to eat, are you able to access food?	☐ Yes ☐ No ☐ 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)?	☐ Yes ☐ No ☐ Not applicable
9. I interact with my neighbors…	☐ Multiple times per week ☐ Once a week ☐ A few times a month ☐ Rarely ☐ Never ☐ 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?	☐ Yes ☐ No ☐ Not applicable
11. Do you receive information (by mail or word of mouth) about activities going on in your community?	☐ Yes ☐ No ☐ 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.	☐ Yes ☐ No ☐ Not applicable

13. Do you choose where you go during the week. (e.g. grocery shopping, church, visit family/friends)	☐ Yes ☐ No ☐ Not applicable
14. Do you have friends and relationships with persons other than paid staff or family?	☐ Yes ☐ No ☐ Not applicable
15. Do you volunteer, have a paid job or participate in a day habilitation program in the community?"	☐ Yes ☐ No ☐ Not applicable
16. Do you work or volunteer at a job that employs people with and without disabilities?	☐ Yes ☐ No ☐ Not applicable
17. Do you like where you volunteer or work?	☐ Yes ☐ No ☐ 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)?	☐ Yes ☐ No ☐ Not applicable
19. Are you able to access more than one service in any given day/week?	☐ Yes ☐ No ☐ Not applicable
20. Do staff members respect your privacy?	☐ Yes ☐ No ☐ Not applicable
21. Is there a safe place for you to store your personal items?	☐ Yes ☐ No ☐ Not applicable
22. Are you able to access all areas of the setting, without locked doors, fences or other barriers?	☐ Yes ☐ No ☐ Not applicable
23. Are you able to change or update your service preferences at will?	☐ Yes ☐ No ☐ Not applicable
24. Does the setting provide you information on how to request changes or additions to your services?	☐ Yes ☐ No ☐ Not applicable
25. Do you or your guardian decide how to spend your money?	☐ Yes ☐ No ☐ 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.

Provider Name	**Provider Address**

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
• Part of the community (e.g. within a neighborhood next to persons without disabilities) • Active in the community with consistent interaction with persons without disabilities • Choice of roommate or private room • Landlord-tenant protections • Physical accessibility • Unrestricted access to home and lockable doors • Choice of roommates • Freedom to furnish and decorate • Control over schedule • Access to private calls, e-mail and text • Control over personal resources • Access to food anytime • Visitors anytime	• Part of the community (e.g. work next to business or persons without disabilities) • Active in the community with consistent interaction with persons without disabilities • Make money by accessing and seeking employment • Receive support to find competitive employment and training • Access to age appropriate activities and community resources • Opportunities for community relationships and interaction with community member • Ability to choose or refuse activities based on choice • Engagement in community activities that align with interests • Opportunities to volunteer

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.

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?	☐ Yes ☐ No ☐ Not applicable
33. Is your workplace in the community among other private residences or retail businesses?	☐ Yes ☐ No ☐ Not applicable
34. Do you work or volunteer at a job that employs people with and without disabilities?	☐ Yes ☐ No ☐ Not applicable
35. Did you or your guardian have a say in where you were going to live?	☐ Yes ☐ No ☐ Not applicable
36. If you have roommates or housemates who are not family members, did you or your guardian choose your roommates or housemates?	☐ Yes ☐ No ☐ Not applicable
37. I interact with my neighbors…	☐ Multiple times per week ☐ Once a week ☐ A few times a month ☐ Rarely ☐ Never

	☐ I don't have neighbors
38. Do you have friends and relationships with persons other than paid staff or family?	☐ Yes ☐ No ☐ 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?	☐ Yes ☐ No ☐ 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.	☐ Yes ☐ No ☐ Not applicable
41. Do you have full access to the following areas in your home? (Check all that apply)	☐ Kitchen ☐ Dining room ☐ Laundry room ☐ Living room ☐ Basement ☐ None of the above
42. When you want or need to eat, are you able to access food?	☐ Yes ☐ No ☐ Not applicable
43. "Do you volunteer, have a paid job or participate in a day habilitation program in the community?"	☐ Yes ☐ No ☐ Not applicable
44. Did you choose where you go during the weekday (e.g. workshop, job in the community, volunteer position)?	☐ Yes ☐ No ☐ Not applicable
45. Are you happy with how much money you make at your job?	☐ Yes ☐ No ☐ Not applicable
46. How do you feel about how many hours you work in a week?	☐ I like the number of hours I work ☐ I don't work enough; ☐ I work too much; ☐ 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)?	☐ Yes ☐ No ☐ Not applicable
48. Do staff address you in the way you prefer (such as without nicknames or talking about you in front of others)?	☐ Yes ☐ No

	☐ Not applicable
49. Are you able to access more than one service in any given day/week?	☐ Yes ☐ No ☐ Not applicable
50. Do staff members respect your privacy?	☐ Yes ☐ No ☐ Not applicable
51. Is there a safe place for you to store your personal items?	☐ Yes ☐ No ☐ Not applicable
52. Are you able to access all areas of the setting, without locked doors, fences or other barriers?	☐ Yes ☐ No ☐ Not applicable
53. Are you able to change or update your service preferences at will?	☐ Yes ☐ No ☐ Not applicable
54. Does the setting provide you information on how to request changes or additions to your services?	☐ Yes ☐ No ☐ Not applicable
55. Do you or your guardian decide how to spend your money?	☐ Yes ☐ No ☐ 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:

Provider Name	**Provider Address**

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.

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.

Should any site visit result in the setting falling under the designation CMS Heightened Scrutiny, CMS will be notified.

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.

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.

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 (see Section 6).

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

Section 8. *Heightened Scrutiny if Necessary*

There may be times that a provider cannot comply or refuses to come into compliance with the Home and Community Based Services Rule. In these cases, BMS will identify this setting as a 'Presumptively non-HCBS Setting" and will submit evidence to CMS of provider non-compliance to CMS. This will include State as well as other stakeholders evidence.

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

If CMS determines that the setting is a non-HCBS setting, BMS will begin the Relocation of Beneficiaries process found in Section 9.

Section 9. *Transition of Members to Integrated Settings*

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. This notification will be by certified mail as well as electronically. 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. KEPRO notify member as well.

The provider will have 60 calendar days from the date of the notification to transition individuals to other services and/or settings that do comply with the Rule. Individual team meetings will be held and the individual and their legal representative (if applicable) will make the final choice from available settings/sites. Disenrollment will occur at the end of the 45 days or when all members are successfully transitioned. 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.

AGENCY TRANSITION PLAN 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.

BMS shall be copied on all provider 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. 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.

The provider will submit updates to the Agency's Transition plan weekly to BMS, completing items 4-6 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 60-day transition period for an individual member.

Section 10. *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.

Section 11. *Ongoing Reports*

There will be an omnibus report of the analysis of the data provided to BMS on a semi-annual basis. This report is described in Section 5.

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

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___

Supported Employment___

Individual____

Group____

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:

C.i 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 meal times. 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* e*nsures 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

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:

Ei 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 wheel chairs, 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 meal times. 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:

<u>Record Reviews during site visit or off site:</u>
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 e*nsures 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

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* e*nsures 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

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

HCBS Setting Assessment Plan of Compliance
West Virginia Bureau for Medical Services

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
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 or 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.
- he 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 RECEIVE/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.

Provider response Log for Assessment						
Center	2007 or later	2000 or later	O.1.A	O.1.E	O.1.G	O.1.L
Appalachian3/11/1965						
ARC 3 R8/8/1952 Charleston				x		x
ARC 3 R8/8/1952 Madison			x	x	x	x
Arc of Harrison4/9/1959				x		
ASC3/29/1979						
Autism Management Group6/27/2011	*	*	x	x		x
Bright Horizons 7/1/1977						x
Community Services12/8/2003		*		x		
Daily Companions2/25/2004		*				
Developmental Center and Workshop1/30/1969				x		
Diversified Assessment and Therapy4/12/2012	*	*	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 Employment6/10/1969			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 19th 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 8th 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)						
Russell Nesbitt 6/14/1958 Fulton					x	
Russell Nesbitt 6/14/1958 Main			x	x	x	x

So Highlands 3/15/1968 Princeton				**x**	**x**	
So Highlands 3/15/1968 Mullens				**x**	**x**	
Stonebrook 6/2/1987			**x**	**x**	**x**	**x**
SW Resources 9/24/1964				**x**	**x**	
United Summit 2/17/1970 Clarksburg						
United Summit 2/17/1970 Grafton						
United Summit 2/17/1970 Sutton						
United Summit 2/17/1970 Weston						
Unlimited PosAbilities 1/31/2011	*	*		**x**	**x**	
Valley 4/14/1972 Morgantown			**x**			**x**
Valley 4/14/1972 White Hall						
Westbrook 4/15/1966 Parkersburg						
Westbrook 4/15/1966 Spencer						

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.

Provider response Log for Assessment						
Center	Census N	DH/SE	O.1.A	O.1.E	O.1.G	O.1.L
Appalachian	29	29/0				
ARC 3 R Charleston	29	29/0		x		x
ARC 3 R Madison	10	10/0	x	x	x	x
Arc of Harrison	31	31/0		x		
ASC	6	6/0				
Autism Management Group	10	10/0	x	x		x
Bright Horizons	40	20/20				x
Community Services	10	10/0		x		
Daily Companions	19	19/0				
Developmental Center and Workshop	40	25/15		x		
Diversified Assessment and Therapy	36	36/0	x			x
EastRidge Water Street	3	0/3	x		x	x
EastRidge Coumo Road	72	72/3				
EastRidge Morgan Co	6	6/0				x
EastRidge Jefferson Co	1	0/1	x		x	x
Empowerment through Employment	10	0/10	x	x	x	x
Hampshire Co Sp Services	64	64/0		x	x	x
Hancock Co SW	58	29/29				x
Healthways HCOC	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 19th 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
Prestera Michael St	40	40/0				
Prestera 967 8th 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
REM Charleston	29	29/0				
REM Martinsburg	4	0/4	x	x	x	x
REM New Martinsville	38	0/38	x	x	x	x
REM Paden City	4	0/4	x	x	x	x
REM Bridgeport	2	0/2	x		x	x
REM Morgantown	2	0/2	x		x	x
Rescare Huntington	26	26/0				
Russell Nesbitt Fulton	30	28/2			x	
Russell Nesbitt Main	32	16/16	x	x	x	x
So Highlands Princeton	48	48/0		x	x	
So Highlands Mullens	9	9/0		x	x	
Stonebrook	9	9/0	x	x	x	x
SW Resources	19	12/7		x	x	
United Summit Clarksburg	50	25/25				
United Summit Grafton	8	8/0				
United Summit Sutton	10	10/0				
United Summit Weston	7	7/0				
Unlimited PosAbilities	8	8/0		x	x	
Valley Morgantown	30	30/0	x			x
Valley White Hall	17	17/0				
Westbrook Parkersburg	27	27/0				
Westbrook Spencer	18	17/1				

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

21-30	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

31-40	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

41-50	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

51+	correct	% of N
O.1.A	0	0%
O.1.E	3	60%
O.1.G	2	40%
O.1.L	3	60%

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	BEDS	MEMBERS	Notes
Arc of Harrison	624 Locust	3	3	
Arc of Harrison	1751 15th Street	2	2	
Arc of Harrison	121 Matthew St	3	3	Cluster 1
Arc of Harrison	122 Matthew St	3	3	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	
EastRidge	Hoffmaster I Martinsburg	7	7	Cluster 2

EastRidge	Hoffmaster II Martinsburg	7	7	Cluster 2
Healthways	Cove House Weirton	3	3	
Healthways	*Shiloh Apartments Wellsburg*	*25*	*18*	
Healthways	*Greenbrier Manor Weirton*	*8*	*6*	
Horizons	*934 Williams St Parkersburg*	*6*	*4*	
Northwood	*Twin Acres W Wheeling*	*5*	*5*	Cluster 3
Northwood	*Twin Acres E Wheeling*	*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
Prestera	Clendenin Waiver 2	3	3	Cluster 4
Prestera	Clendenin Waiver 3	3	3	Cluster 4
Prestera	Clendenin Waiver I	3	3	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	Williamsport Pike Martinsburg	3	3	Private owner
Sycamore Run	House III Keyser	4	4	Cluster 7
Sycamore Run	House IV Keyser	4	2	Cluster 7
Sycamore Run	House I Jeffy Keyser	3	3	Cluster 7
Sycamore Run	House II Keyser	2	2	Closed
United Summit	Alpha Street	3	3	
Valley	Harlem Morgantown	3	3	Not Sample
Valley	McCartney Ave Morgantown	3	3	Not Sample

Valley	**Cathy Morgantown**	**3**	**3**	**Not Sample**
Valley	***Pixler Hill Morgantown***	***6***	***6***	
Valley	**Herman Morgantown**	**4**	**4**	
Valley	**Sabraton Ave Morgantown**	**4**	**4**	
Valley	**Elysian Morgantown**	**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

Cluster Homes only							
CENTER	SETTING	BEDS	MEMBERS	Notes	O.1.A	O.1.F	O.1.H
Arc of Harrison	121 Matthew St	3	3	Cluster 1	x	x	
Arc of Harrison	122 Matthew St	3	3	Cluster 1		x	
EastRidge	Hoffmaster I Martinsburg	7	7	Cluster 2			
EastRidge	Hoffmaster II Martinsburg	7	7	Cluster 2			
Northwood	*Twin Acres W Wheeling*	*5*	*5*	Cluster 3	x	x	x
Northwood	*Twin Acres E Wheeling*	*5*	*4*	Cluster 3	x	x	x
Prestera	Clendenin Waiver 2	3	3	Cluster 4	x		x
Prestera	Clendenin Waiver 3	3	3	Cluster 4	x	x	x
Prestera	Clendenin Waiver I	3	3	Cluster 4	x		x
Russell Nesbitt	413 Fulton St	3	3	Cluster 5			x
Russell Nesbitt	120 Euclid Wheeling	3	3	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**
Sycamore Run	**House III Keyser**	**4**	**4**	**Cluster 7**			**x**
Sycamore Run	**House IV keyser**	**4**	**2**	**Cluster 7**			**x**
Sycamore Run	**House I Jeffy Keyser**	**3**	**3**	**Cluster 7**			**x**
Westbrook	**Stella I Parkersburg**	**4**	**4**	**Cluster 8**	**x**		
Westbrook	**Stella II Parkersburg**	**4**	**4**	**Cluster 8**	**x**		
					8	**5**	**16**
					36%	**23%**	**73%**

N=22

Italics – homes grandfathered into Transition Plan

Non-Cluster Homes	N=24 Italics - homes grandfathered into Transition Plan						
CENTER	**SETTING**	**BEDS**	**MEMBERS**	**Notes**	**O.1.A**	**O.1.F**	**O.1.H**
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**	
Healthways	***Shiloh Apartments Wellsburg***	***25***	***18***			**x**	**x**
Healthways	***Greenbrier Manor Weirton***	***8***	***6***		**x**	**x**	**x**
Horizons	***934 Williams St Parkersburg***	***6***	***4***		**x**	**x**	**x**
Open Doors	**Nettie**	**3**	**2**			**x**	**x**
Potomac Ctr	**Shadyside Romney**	**3**	**3**		**x**	**x**	**x**
Potomac Ctr	**Hardy House Moorefield**	**3**	**3**		**x**		**x**

REM Wheeling	**Church Ave**	**3**	**3**		**x**		**x**
Russell Nesbitt	**25 Storch Wheeling**	**3**	**3**				
Russell Nesbitt	**107 Frazier Run Wheeling**	**2**	**2**				
Starlight	**823 23rd St Huntington**	**3**	**3**		**x**	**x**	**x**
United Summit	**Alpha Street**	**3**	**3**				
Valley	***Pixler Hill Morgantown***	***6***	***6***				
Valley	**Herman Morgantown**	**4**	**4**		**x**		
Valley	**Sabraton Ave Morgantown**	**4**	**4**		**x**		
Valley	**Elysian Morgantown**	**3**	**4**		**x**		

Appendix A

Non-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

Appendix O*:* West Virginia I/DD Waiver Service Coordination Home/Day Visit Form

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:**