

Ohio's HCBS Transition Plan

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State Overview

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

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

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

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

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

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

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

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

During the statewide formal public comment period, described in detail in Section III, the State received input from many interested parties, including individuals receiving services, family members, providers, advocates and CMS. As a result of the feedback, the State made adjustments to the draft plan by adding clarity, adjusting the approach to specific settings, and providing for an increased contribution from individuals and families. The final plan is posted on the Office of Health Transformation website at <http://healthtransformation.ohio.gov/LinkClick.aspx?fileticket=qXFV%3d&tabid=125>.

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

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

Section III of this document describes the public process for both systems.

Section IV of this document contains the summary of the required public comment process.

Section I: ICF/IID Level of Care-Based Waivers

Introduction

DODD operates four home and community-based waivers, each of which requires an ICF/IID level of care. Average monthly enrollment in these waivers is approximately 34,000. In accordance with Chapter 5160-3 of the Ohio Administrative Code (OAC), the ICF/IID level of care is mutually exclusive from both the intermediate and skilled levels of care, which are necessary for enrollment in the waivers administered by ODA and ODM.

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

I. Assessment Methodology

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

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

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

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

Several subcommittees were formed to conduct in-depth reviews of state systems, residential settings, and non-residential settings. The subcommittees reviewed current rules/regulations, policies and procedures, service definitions, and provider qualifications across Ohio's DD system to determine the level of compliance with the HCBS regulation. The information generated from these subcommittees informed the DODD's components of the Transition Plan, and are outlined below.

- **Systemic Review/State System Issues** - The task of this subcommittee was to review the current state system processes and regulations, identify areas where DODD's current system may not be in alignment with the CMS HCBS regulations, and develop a means by which the systems can align appropriately. Membership of the subcommittee included equal representation on behalf of county boards of developmental disabilities, providers of HCBS services, and advocates/**self-advocates**.
- **Residential Settings** - The task of this subcommittee was to devise a method to assess residential settings' incorporation of the HCBS settings criteria as established in the CMS regulation. This method will provide the data needed to determine a remediation strategy the State might need to implement for full compliance with CMS' requirements.
- **Non-Residential Adult Day Waiver Services** - The task of this subcommittee was to determine a method of assessing DODD's non-residential services. The service settings

determined to have the greatest risk of being provided in settings with institutional qualities are those in which Adult Day Waiver Services are provided. These services include Adult Day Support, Vocational Habilitation, Supported Employment-Community, Supported Employment-Enclave, and Integrated Employment Services. Data from this subcommittee was used to inform a separate workgroup which was tasked with redesigning both the employment and day services available to working age adults. This workgroup is examining definitions, provider qualifications, and rate methodologies to promote opportunities for integrated work and day activities.

II. Assessment Process

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

- **Systemic Review** - This subcommittee reviewed DODD's existing rules, waiver service definitions, provider qualifications, and rate structures to identify areas where changes were needed to ensure full compliance with the CMS HCBS regulation. This subcommittee looked at crosswalks of similar service definitions and rules across all four waivers to determine how revisions could best be made to enhance DODD's adherence to the new criteria.
- **Residential Settings** - The Residential Settings subcommittee chose to distribute a survey to the field that allowed providers to assess their locations to determine level of compliance with the CMS HCBS settings criteria. Providers were asked to identify the type of setting, such as a home within a neighborhood that includes individuals without disabilities or whether it was a disability-specific setting, such as a farm, apartment complex, or cul-de-sac where only people with disabilities reside. The questions used to assess compliance with the HCBS settings criteria were based largely upon the exploratory questions provided by CMS.

Additionally, county boards of developmental disabilities were given the ability to complete the survey based on their assessment of these same locations, as a means of having a validity check for the self-assessments. As an additional means of verifying the self-assessments, DODD's Office of Provider Standards and Review (OPSR) Division also compared the survey responses with results of on-site reviews conducted as part of previous compliance reviews of these settings. The State intends to conduct additional on-site evaluations using a new component of DODD's compliance tool that specifically addresses HCBS characteristics to determine whether settings comport with the regulations.

- **Non-Residential Adult Day Waiver Services** - As a means of gathering input for purposes of restructuring the Adult Day Waiver Services, DODD conducted a series of 12 Adult Day Service/Employment First forums in July and August 2014, which were attended by more than 700 stakeholders. The information and suggestions obtained during the course of these forums were used to refine the Guiding Principles that are being used as the foundation for the revised Adult Day Waiver Service package. Work on this service package continued through February 2015, with a revamped set of services/service definitions, and a rate structure targeted for completion by spring 2016. Additionally, in order to assess DODD's Adult Day Waiver Service locations, DODD distributed a survey to providers of Adult Day Support and/or Vocational Habilitation to perform an assessment of their program(s) to determine compliance with the Medicaid HCBS criteria. As with the Residential Settings Survey, this assessment helped the State to identify which areas may need the most focus as the State transitions to the new CMS regulations.

III. Assessment Results

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

A. Systemic

Based on the results of their analysis of CMS' regulation in conjunction with DODD's current waiver services and administrative rules, the State Systems Issues/Systemic Review subcommittee determined that interpretations of "integration" vary. The consensus of the group, in alignment with the CMS definition for an HCBS setting, is that integration is about what the individual experiences, and must be understood as being individual-specific. This includes a recognition that the size or physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS setting.

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

- The current Licensure, Provider Certification, and Free Choice of Provider rules will be revised;
- Waiver Service Definitions (Homemaker/Personal Care; Adult Day Waiver Services, including employment and non-work-related day services) will be revised to promote emphasis on providing supports in the community.

Existing committees will further explore how these revisions would occur and to determine feasible timeframes for implementation. Members of these committees represent county boards of developmental disabilities, providers of home and community-based services, and advocates/self-advocates.

An overview of the existing support for compliance with each component as well as areas that must be modified are outlined in the statewide **Remediation Plan, Appendix 1.**

B. Residential Settings

The results of the State’s preliminary assessment of the residential settings are described below.

1. Settings that currently meet HCBS characteristics

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

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

When combining the presumed compliant locations with the settings that were surveyed, **90.9%** are in compliance with the CMS HCBS regulations. The remaining settings will be addressed in the sections to follow.

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

Of the settings providing DODD waiver services, **5.9% (578 settings, housing 2,045 individuals)** fall under the category of not currently meeting all of the HCBS characteristics, but recognize

that they could become compliant with modifications. The providers completing the self-assessment were asked to identify barriers to compliance and potential timeframes for remediation. The majority identified changes to person-centered plans, improved linkage to the community, and staff development and training as their primary barriers. To help address these barriers, DODD has included, as part of its remediation strategy, continuation of its statewide person-centered planning training and development of web-based person-centered planning resources to be available to county boards, providers, individuals, and families.

DODD is also in the process of developing an overarching HCBS Waiver Administration rule that will align with the CMS HCBS regulations. This rule provides a resource to assist DODD in more effectively implementing the CMS HCBS criteria. Additional remediation strategies can be found in-Appendix 2.

3. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny review

CMS described settings “presumed to have the qualities of an institution” as those located in a public or private facility that provides inpatient treatment, settings located on the grounds of, or adjacent to a public institution, or other settings with the effect of isolating individuals. The assessment identified no settings that were located in a building that is also a public or private facility that provides inpatient treatment. Additionally, no settings were located in a building on the grounds of, or immediately adjacent to, a public institution. An additional 75 settings serving 335 individuals, approximately 1% of the DODD waiver population, were identified through a combination of the Residential Settings survey and previous on-site compliance reviews by DODD as potentially having the effect of isolating individuals receiving HCBS, and, therefore, would likely be subject to heightened scrutiny.

As part of the remediation strategy for this category, DODD will conduct on-site evaluations of these locations to determine their level of non-compliance. These site visits are anticipated to be completed throughout 2016. During these reviews, individuals receiving HCBS and their families will be interviewed about their experiences in an effort to determine if individuals are afforded full access to the benefits of community living. The providers’ policies and practices will also be examined to ensure they support individuals’ full access to the broader community. The determination of level of compliance will be the primary deciding factor in choosing whether enough evidence can be presented to CMS to show that the setting is not institutional in nature, whether the setting may comply with some modifications, or if another, more integrated setting will need to be selected by the individuals receiving HCBS. Action steps relating to the remediation strategy for these locations are detailed in the Settings Remediation table (Appendix 2).

4. Settings that cannot meet the HCBS characteristics

Providers at four settings housing a total of 31 individuals indicated in the Residential Settings survey that the settings cannot meet the HCBS settings characteristics. This is equivalent to .1% of the DODD Waiver population. The first step for transition with these locations is for DODD to review each location, determine the validity of this response for that particular location through both interviews and reviews of the provider's policies and practices, and where applicable, inform the provider that HCBS cannot be provided in settings with the characteristics of an institution. When a determination has been made that a setting cannot meet the HCBS characteristics, DODD will ensure that each individual's service and support administrator (SSA) through the local county board of developmental disabilities assists the individual with choosing another setting in which to receive HCBS and, if applicable, with choosing a different provider. The SSA will coordinate the transition process to minimize disruption to those involved.

C. Non-Residential Adult Day Waiver Services

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

1. Settings that currently meet HCBS characteristics

DODD also conducted a survey for its Adult Day Waiver Service (ADWS) settings to determine the level of compliance for those HCBS services. To ensure the data yielded as a result of the survey was as accurate as possible, settings in which integrated, community employment services are provided were not included. The survey was distributed to providers of facility-based work and non-work services. In the DODD system, those services are Adult Day Supports and Vocational Habilitation. In total, responses were received from 464 settings where services are provided to more than 25,000 individuals.

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

The survey results show that 50 of the 464 settings, or 8.4%, believe that, while they do not have the qualities of an institution, some improvement could be made for how those services are delivered to the individuals they serve. Although these self-assessment results from providers indicate a relatively low number of settings that have the qualities of an institution, DODD believes the self-reporting significantly underrepresents the number of Adult Day Waiver Services settings that possess these qualities.

As a means of incorporating the CMS HCBS requirements into the Adult Day Waiver Services, DODD is working with an outside consultant who is facilitating a stakeholder group charged

with creating a new service package to maximize opportunities for integrated employment and integrated wrap-around supports. The work for this waiver service package redesign is slated to conclude in mid-2015.

3. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny review.

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

4. Settings that cannot meet the HCBS characteristics

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

IV. Remediation Strategy

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

A. Rule Revisions, Waiver Amendments, and Resources

The Systemic Review subcommittee identified several existing rules that support the concepts incorporated in the CMS regulations, including the Service and Support Administration rule (OAC 5123: 2-1-11) adopted March 17, 2014, and the Employment First rule (OAC 5123: 2-2-05) adopted April 1, 2014.

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

- DODD's Behavior Support rule (OAC 5123:2-2-06) identifies the assessment, approval, and oversight required when a person-centered plan includes the use of restrictive measures and aligns those requirements in all HCBS settings, whether licensed or unlicensed.

- DODD’s Free Choice of Provider rule (OAC 5123:2-9-11), is also being amended to require an explanation of individuals’ rights when choosing to receive HCBS in provider-owned or controlled settings.
- OAC Chapter 5123:2-3, DODD’s Licensure rules, are being amended to eliminate duplication with other HCBS rules located in OAC Chapter 5123:2-9.

A new overarching rule relating to the administration of all HCBS waivers for individuals with an ICF/IID level of care is also being developed. This rule will specify the settings in which HCBS may not be provided and **will include a requirement that individuals be offered the opportunity to choose among services or a combination of services and settings that address the individual's assessed needs in the least restrictive manner, promote the individual's autonomy and full access to the broader community,** and minimize the individual's dependency on paid support staff. This rule will also outline the elements required in written agreements for individuals choosing to receive services in provider-owned or controlled settings.

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

- The Transition Plan Committee identified shared living models of service, including both the Adult Family Living and Adult Foster Care services in the Individual Options Waiver, to be among those that provide the greatest opportunities for individuals to have experiences similar to those not receiving HCBS. One of the identified obstacles to expanding this model is the current service title. Individuals and families have proposed changing the service title to “Shared Living” to reduce the stigma that was associated with receiving a foster care service for adults.
- A recommendation was also made to modify the existing Homemaker/Personal Care definition in both the Individual Options and Level One waivers to expand upon the ability for this service to be utilized to support individuals in integrated community settings.
- The existing Adult Day Waiver services, including Adult Day Support and Vocational Habilitation, were determined to have a significant bias toward facility-based supports. As a result, a workgroup was formed to redesign the adult day array of services to promote integrated, community-based supports for individuals receiving HCBS. The workgroups are expected to finalize recommendations for new service definitions, provider qualifications, and rate methodologies by **early 2016.**

- DODD began operating the Transitions DD Waiver in January 2013. This waiver was originally operated by ODM and was modeled after the Ohio Home Care Waiver, which serves individuals with nursing facility levels of care. The Personal Care Aide service is limited in scope and is designed to provide hands-on assistance with activities of daily living and instrumental activities of daily living. In addition, the Adult Day Health Center service offered only facility-based options and no employment supports to the individuals enrolled in the waiver, who are now primarily young adults with an average age of 22. A phase-out plan will be submitted to CMS that will include plans to migrate all individuals enrolled in the Transitions DD Waiver to another waiver operated by DODD, which includes the new adult day array of services.

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

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

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

Site-specific remediation strategies will be developed with providers who have identified the ability to come into full compliance with the regulation with **modifications**. Implementation of the remediation strategies will be verified by DODD through ongoing compliance reviews.

2. **Settings that are presumed to have the effect of isolating individuals and may be subject to the heightened scrutiny process**

Site visits of settings will be conducted by State personnel using the new HCBS settings evaluation tool. **These visits will include interviews with individuals receiving HCBS and their families to assess whether individuals are afforded full access to the benefits of community living, as well as a review of the provider's policies and practices to ensure they enable services to be provided in the most integrated setting.** Upon determining the settings to be considered for heightened scrutiny, DODD will work with individuals served, their families, and providers to compile evidence for submission to CMS.

3. Settings that cannot meet the HCBS characteristics

For those residential settings that DODD determines have the qualities of an institution and cannot meet the HCBS characteristics, DODD will work with individuals served, providers, and the county boards to identify a new location in which **the individuals may continue to receive HCBS from either their current providers or another provider of their choosing.**

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

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Section II: NF-LOC Waiver System

Introduction

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

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

- **Ohio Home Care** - Approved in 1998, this waiver serves individuals age 59 or younger with a nursing facility level of care (NF-LOC) and furnishes services and supports that permit individuals to reside in their community rather than in a nursing facility.
- **Transition Carve-Out** - Approved in 2006, this waiver serves individuals age 60 or older who transfer in from the Ohio Home Care Waiver. It offers the same services that are available on the Ohio Home Waiver. The waiver is being phased out and will terminate June 30, 2015. Individuals will be transferring to the PASSPORT waiver administered by ODA.
- **MyCare Ohio** - Approved in 2014, this waiver is a component of the State's 1915(b)(c) managed care duals integration demonstration. The waiver is available in 29 of 88 Ohio counties, and serves individuals age 18 or older with a NF-LOC. All the services and supports furnished in the other four nursing facility-based waivers are available on this waiver.

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

- **Assisted Living** - Approved in 2006, this waiver serves individuals age 21 or older with a NF-LOC and furnishes services only to individuals who reside in licensed residential care facilities that are certified by ODA as a home and community-based waiver provider.
- **PASSPORT** - Approved in 1984, this waiver serves individuals age 60 or older with a NF-LOC and furnishes services and supports necessary to allow them to reside in their community rather than in a nursing facility. All the services and supports furnished in the My Care Waiver are available on this waiver.

I. Assessment Methodology

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

II. Assessment Process

In the NF-LOC waiver system, settings in which the individuals reside alone or with family were presumed compliant with the regulations. Only one service (Assisted Living) is furnished in a provider-controlled residential setting; the remaining services are available to enrolled individuals residing in a private residence. Further, only one service (Adult Day Health) is furnished in a non-residential setting. As a result, the focus of the compliance analysis is directed at these two services and the characteristics of the settings in which these services are delivered.

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

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

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

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

- Approximately 54% (335) of the State's licensed residential care facilities have met the additional criteria to become an ODA-certified provider of the Assisted Living service.

- ODA-certified settings are located in approximately 71 of 88 counties. There are 73% of Ohio counties with two or more certified Assisted Living providers.
- At the time of the analysis, there were approximately 4,512 individuals receiving Assisted Living services through the Assisted Living or the MyCare waivers.

System Review - The State conducted a systematic review of applicable State statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management standards, administrative and operational processes, monitoring and operational oversight activities. To ensure clarity and consistency across the waiver programs regarding community integration and access, an overarching administrative rule addressing community characteristics is proposed. This rule will specify the characteristics in which HCBS services may not be provided and ensure full access to the broader community. In addition, establishing acceptable evidence of compliance to the settings rule, modifications to the Assisted Living service specifications, and modifying the State's HCBS ongoing provider oversight function.

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

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

Following the public comment period, the State subsequently confirmed that independent living options were available for individuals not receiving HCBS services at all the currently certified assisted living providers that had been categorized as a privately operated continuing care retirement community.

Stakeholder Perspective - Using the CMS exploratory questions as the basis, in August 2014, the State conducted an on-line survey to gauge how the current Assisted Living Waiver provider community assessed their level of compliance with the new regulations. The survey was distributed to the 326 ODA-certified providers with a 30.7% response rate. 63.3% of the responses were from for-profit facilities and 36.7% of the responses were from non-profit facilities.

Survey findings include:

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

The State Long Term Care Ombudsman (SLTCO) conducts an annual satisfaction survey of long-term care settings, including both nursing homes and residential care facilities (RCFs). Each year, the SLTCO surveys either the individuals or the family members of individuals on the quality of services received. The most recent satisfaction survey of residential care settings, including those furnishing the Assisted Living service, was conducted between August and November 2013. The average resident satisfaction score for the 335 Ohio RCFs certified to furnish the Assisted Living services was 92.8%. Going forward, the State will utilize the Resident Satisfaction survey to assess individuals' setting-specific experience with community inclusion.

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

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

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

- Adult Day Health waiver settings are located in 50% (44) of 88 counties.
- At the time of the analysis, there were approximately 2,300 individuals enrolled on one of the five waivers receiving the service.

Systematic Review - The State conducted a systematic review of the applicable State statutes, administrative rules, approved waivers, provider requirements (licensing, qualifications and waiver certification), service specifications, case management standards, administrative and

operational processes, monitoring and operational oversight activities. To ensure clarity and consistency across the waiver programs regarding community integration and access, an overarching administrative rule addressing community characteristics is proposed. This rule will specify the characteristics of settings in which HCBS services may not be provided and ensure full access to the broader community. In addition, establishing acceptable evidence of compliance to the settings rule, modifications to the Adult Day Health service specification, and **modifying the State's HCBS ongoing provider oversight function.**

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

On-Site Assessment - The State contracts with the 13 regional PASSPORT Administrative Agencies (PAAs) to conduct initial and annual on-site compliance reviews of the certified Adult Day Health Service providers. A survey was conducted to obtain information about the setting characteristics for HCBS providers of the Adult Day Health service.

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

Survey findings include:

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

III. Assessment Results

A. Residential Settings

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

1. Settings that currently meet the HCBS setting characteristics

In the preliminary analysis, the State has not identified any residential settings in which the Assisted Living service is furnished that are currently 100% compliant with the new regulation.

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

The current residential care facility (RCF) licensure standards combined with the HCBS waiver provider certification standards provide a basis for reducing the risk of isolating the individuals from the broader community. Proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system rather than relying on setting-specific policies and practices. In the preliminary analysis, the State determined 89 percent, or 298, of the currently certified HCBS assisted living waiver service providers are either free-standing communities or private continuing care retirement communities that offer independent living option for residents not receiving HCBS services. At the time of the analysis, these settings serve 4,142 approximately 92% of the individuals receiving the assisted living service available on the Assisted Living and the MyCare Ohio waivers.

3. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny process

CMS described settings "presumed to have the qualities of an institution" as those located in a public or private facility that provides inpatient treatment. The State's preliminary assessment identified one setting that may have the effect of isolating individuals and thus be subject to heightened scrutiny by virtue of location alone; assisted living settings that are located in the same building as a nursing home.

There are 11%, or 37, RCFs certified as an HCBS assisted living provider located in the same building as a nursing facility. At the time of the preliminary analysis, these settings served approximately 370 individuals, receiving the assisted living service available on the Assisted

Living and the MyCare Ohio waivers. As a result of public comment and accounting for increases in the assisted living waiver service utilization, the State conducted further analysis to obtain a more accurate estimate of the number of individuals residing in these settings. The results confirmed there was no change in the number of HCBS assisted living providers located in the same building as a nursing facility. However, the current estimate of individuals who are residing in these settings and receiving the assisted living service available through either the Assisted Living or the My Care waiver has increased to 494.

Recognizing that the size or physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS setting, the State will conduct on-site evaluations of these locations to determine their level of compliance. The on-site review will include a review of the providers' policies and procedures as well as the experience of individuals' residing in these settings. Regulatory changes, administrative and operational processes must be established prior to conducting the on-site evaluations. The results of the on-site evaluations will be the primary factor in choosing whether enough evidence can be presented to CMS to show that the setting is not institutional in nature. Action steps relating to the remediation strategy for these locations are detailed in the settings remediation grid (Appendix 4).

4. Settings that cannot meet the HCBS characteristics

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

Non-Residential Setting Adult Day Health Waiver Service. The results of the State's preliminary assessment of the non-residential adult day waiver service settings are described below.

1. Adult Day Health waiver service settings that currently meet the HCBS setting characteristics

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

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

The HCBS waiver provider certification standards provide a basis for reducing the risk of isolating individuals from the broader community. Proposed modifications will ensure

individuals are afforded full access to the benefits of community living across the system, rather than relying on setting specific policies and practices. In the preliminary analysis, the State has identified that 92% of the currently certified HCBS adult day health providers are free standing.

These settings are located in 44 counties and are serving approximately 91% of the individuals receiving the adult day health services available on the Ohio Home Care, PASSPORT, Transition Carve Out and the MyCare Ohio waivers.

3. Adult Day Health waiver service settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny process.

CMS described settings “presumed to have the qualities of an institution” as those located in a public or private facility that provides inpatient treatment. The State’s preliminary assessment identified one setting, which may have the effect of isolating individuals and be subject to heightened scrutiny by virtue of its location alone: adult day health settings that are located in the same building as a nursing facility.

There are 22, or 8%, Adult Day Health service waiver providers, located in the same building as a nursing facility. These settings are located in 15 counties and currently serve approximately 9% of all the individuals receiving the Adult Day Health service.

Recognizing that the size or physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS setting, the State will conduct on-site evaluations of these locations to determine their level of compliance. The on-site review will include a review of the providers’ policies and procedures as well as the experience of individuals’ served in these settings. Regulatory changes, administrative and operational processes must be established prior to conducting the on-site evaluations. The results of the on-site evaluations will be the primary factor in choosing whether enough evidence can be presented to CMS to show that the setting is not institutional in nature. Action steps relating to the remediation strategy for these locations are detailed in the settings remediation grid (Appendix 4).

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

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

IV. Remediation Strategy

The proposed remediation plan for the five NF-LOC waivers utilizes five primary strategies: administrative rules; community education; provider level remediation plans to ensure the individual has greater control over the critical activities, such as access to meals, access to activities of his or her choosing in the broader community; on-site assessments and ongoing compliance monitoring, which includes the experience of individuals residing in the setting and, as a last resort, relocation.

Appendices 3 and 4 describe in detail how the proposed remediation strategies will bring the pre-existing NF-LOC 1915(c) waivers into compliance with the home and community-based settings requirements. The proposed timelines are contingent upon approval of this plan by CMS. The State's strategies for ensuring compliance with the regulations for both residential and non-residential settings are described below:

1. Settings that currently meet the HCBS setting characteristics

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

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals who choose to transition to a setting of their choice which meets the HCBS characteristic.

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

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

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals who choose to transition to a setting of their choice, which meets the HCBS characteristics.

3. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny process

The State will ensure that existing settings that are subject to heightened scrutiny come into full compliance with the HCBS characteristics by adopting a new HCBS settings rule, modifying existing OAC rules, establishing standards and defining acceptable evidence of compliance, provider remediation plans, on-site assessments which includes the individual's experience residing in the setting, and modifying the State's HCBS ongoing provider oversight function.

In the event the setting cannot or does not produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals who choose to transition to a setting of their choice, which meets the HCBS characteristics.

4. Settings that cannot meet the HCBS characteristics

By adopting a new HCBS settings rule and modifying the State's initial HCBS provider certification rules, the State will ensure no new settings that cannot meet the HCBS characteristics are permitted to furnish the HCBS Assisted Living service.

In the event a setting, which previously demonstrated evidence of compliance but subsequently cannot (or does not) produce acceptable evidence of compliance, the State's established relocation team, led by the State Long-Term Care Ombudsman, will work with individuals to transition them to a setting of their choice, which meets the HCBS characteristics.

Section III: Public Input

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

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

ODA and ODM invited consultants from Mercer Government Human Services Consulting to conduct an open forum for individuals and stakeholders of NF-LOC based waivers. The meeting was an all-day event at which details on the CMS HCBS Rule were presented to roughly 140 stakeholders. The event mirrored the outreach effort that DODD conducted with its stakeholders, utilizing an identical meeting format, location, and program.

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

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

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

In addition, as a component of the ongoing communication strategy with the stakeholders throughout the implementation phase, a NF-LOC -based waiver advisory group was formed in November 2014. The advisory group is comprised of individuals representing the following organizations: Ohio Olmstead Task Force, Ohio Council for Centers for Independent Living, Office of the State Long-Term Care Ombudsman, AARP, Ohio Association of Area Agencies on

Aging, Ohio Association of Senior Centers, Ohio Assisted Living Association, Leading Age Ohio, Ohio Health Care Association, Ohio Academy of Nursing Homes, National Church Residences, Ohio Council for Home Care and Hospice, and Midwest Care Alliance.

Following the public comment period, a summary of the comments were reviewed by the CMS HCBS Advisory Workgroup for the NF-LOC based waivers prior to the submission of the final draft of the Transition Plan to the Governor’s Office of Health Transformation.

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Section IV: Required Public Comment Process

Summary of Public Comment Process

Ohio's formal public comment period on its Home and Community-Based (HCBS) draft transition plan was held from December 15, 2014, through January 23, 2015, exceeding by 10 the required 30 days. During this period, the State received 306 submissions from a variety of sources including individuals receiving services, providers, stakeholders and advocates.

The summary of the comments received regarding the draft transition plan are organized by the topic areas brought forth by the respondents in the **Summary of Public Comments and Modifications Made Based Upon Public Comments section**, which follows this section.

The State used the following methods to provide notice to the public about the opportunity for public comment:

- **Web postings – On 12/15/2014**, Ohio posted a public notice, summary of the draft plan, the draft plan itself, and questions and answers on the Ohio Office of Health Transformation (OHT) website at <http://www.healthtransformation.ohio.gov/CurrentInitiatives/ExpandandStreamlineHCBS.aspx>, which has more than 4600 subscribers. In addition, on 12/15/2014, the Ohio Department of Medicaid (ODM), the Ohio Department of Aging (ODA) and the Ohio Department of Developmental Disabilities (DODD) posted announcements on their websites, which linked to the OHT site.
- **E-mails On 12/15/2014**, all three agencies issued public notices, which included the link to the draft plan and the questions and answers on the Ohio Office of Health Transformation website, to their respective stakeholders through established e-mail distribution groups. These distribution groups included individuals receiving services, stakeholders, providers, advocates and professional associations. The combined distribution list of the three agencies was approximately 6000 subscribers. In the distribution of the e-mails, each agency asked recipients to disseminate the information to their respective colleagues and distribution lists.
- **Remittance advice** To reach the provider community, ODM placed a notice on provider "remittance advices" during the weeks of January 14 and 21, 2015, advising providers of the draft transition plan and offering them the website at which they could read the plan and submit comments. Home health agencies, personal care aides, home care attendants, and waiver services organizations were among the provider types notified.

- **Announcements at meetings** - From as early as October 2014 each agency took the opportunity to inform attendees of various Medicaid-related meetings about the opportunity to review and comment on the HCBS draft transition plan, including instructions on how to access either an electronic or non-electronic copy of the draft plan and the options for submitting comments. This occurred as both pre-announcements and actual announcements made during the official comment period. Combined, these announcements were made at a minimum of 29 meetings.
- **Stakeholder meetings** - In March and July 2014, both DODD and ODM/ODA, held stakeholder education meetings at which they brought in national subject matter experts to educate stakeholders and to provide attendees an opportunity to discuss the new CMS HCBS regulations prior to the State's writing and posting of its HCBS draft transition plan.

To maintain consistency, both stakeholder meetings followed the same format, wherein the first part began with an educational session conducted by subject matter experts and followed by a "world café" format where attendees gathered in groups to discuss questions, concerns and opportunities, and then reported out on them. The public input received at these forums informed the subsequent information gathering activities and was considered when drafting the transition plan.

Robin Cooper of the National Association of State Directors of Developmental Disabilities Services spoke at the DODD stakeholder meeting held on March 11, 2014, with nearly 200 stakeholders in attendance. Deidra Abbott and Michelle Puccinelli of Mercer Government Human Services Consulting spoke at the ODM/ODA stakeholder meeting on July 30, 2014, with approximately 140 in attendance.

- **Stakeholder advisory groups** - Announcements were issued to both DODD and ODM/ODA Stakeholder Advisory Groups regarding the formal public comment period with a request to disseminate the information to their respective colleagues and distribution lists.
- **DODD stakeholder forums** - Information about the formal public comment period and the methods for submitting comments on the draft plans were distributed at five forums hosted by DODD.

Ohio provided six methods for the public to provide input on the draft transition plan **and/or request a non-electronic copy of the plan;** all but one of which was utilized. They included:

- **E-mail** - Ohio established a dedicated e-mail box named MCD-HCBSfeedback, which received a total of 252 e-mails, 235 of which were received by the January 23, 2015, deadline.
- **Written comments** - Ohio also provided a U.S. Postal Service address, which was Ohio Department of Medicaid, ATTN: HCBS Transition Plan, P.O. Box 182709, 5th Floor, Columbus, OH 43218. It received a total of 27 mailed items, 17 of which were received by the January 23, 2015, deadline.
- **Fax** - Ohio provided a fax number, which was (614) 466-6945, but did not receive any faxes regarding the draft transition plan.
- **Toll-free phone number** - Ohio provided a toll-free number, 1 (800) 364-3153, with a recorded message advising callers they had reached the CMS HCBS draft transition plan phone message box and offering five minutes in which to leave a message. One individual utilized this option. Her message was transcribed and shared with all three agencies.
- **Testimony at public hearings** - Ohio held two public hearings on January 7 and January 15, 2015, in the State Office Tower's Lobby Hearing Room in Columbus. Copies of the CMS HCBS regulations were available at the hearing and each hearing was digitally recorded. The directors and/or key staff of all three agencies, were positioned in the front of the room facing attendees to hear testimony. Speakers read their testimony into a microphone in the order in which they signed in and at least two individuals receiving services were in attendance, one of whom offered testimony. Copies of all testimony were shared with the directors and staff and later scanned and distributed to key staff at the three agencies.

A total of 22 individuals attended the January 7 hearing, at which four testified. A total of 54 individuals attended the January 15 hearing, at which 20 testified. Some attendees submitted written rather than oral testimony at the second hearing. A total of 34 testimonials were received at both hearings. An autism-specific farm community provided three copies of a DVD to people in attendance titled, "A Thousand Words – Art and Autism."

Each hearing was covered by a major media outlet; the first by Hannah News Service and the second by *The Columbus Dispatch*. Copies of the subsequent articles are available upon request.

- **Video** - In response to a stakeholder request, Ohio also accepted e-mailed .mov video submissions. The State received four, each of which were transcribed, shared and included in the comment table.

All input from all methodologies was shared among the three agencies for quantification, analysis and potential modification of the draft plan.

Ohio ensured accessibility to the HCBS draft transition plan by posting it on an American with Disabilities Act-compliant website. The State shared the draft plan broadly and also requested key stakeholder organizations share and discuss with their members. Throughout this process, individuals could access the draft transition plan both electronically and in hard copy upon request.

Summary of Public Comments and Modifications Made Based Upon Public Comments

The table below illustrates a summary of the unduplicated 258 comments received during the December 15, 2014, through January 23, 2015, comment period. It is categorized by topics and details modifications, if any, to be made to the draft transition plan prior to submitting to CMS and re-posting for public review.

Approximately 10% of the submissions were related to intermediate care facilities. The State provided clarification that the CMS regulation pertains only to home and community-based services and does not impact the benefits available through the institutional component of Medicaid, including ICF/IIDs. In addition, 5% of the submissions addressed conflict-free case management. The State clarified that conflict-free case management is not a component of the transition plan and the State is actively involved in discussions with CMS related to this issue.

Additionally, the State received feedback outside the formal comment period in the form of letters, emails, and postcards to State agency directors. More than 144 post cards and form letters expressing opposition to the movement from facility-based day and employment settings to more integrated work and non-work settings have been received. Similarly, more than 900 stakeholders, including individuals receiving HCBS, families, providers of HCBS and county board personnel, attended five regional forums held by DODD. The recurring themes at each of these forums were concerns over the State’s elimination of existing settings options, such as sheltered workshops, specialized day programs, and residential settings serving individuals with disabilities, as well as the pace at which those changes would be implemented.

Adult Day Health: 1.5% of the comments received were on this topic. (4)

Themes	State’s Response	Modification to the Plan	Rationale if No Changes
Should not differentiate between adult day services housed in a nursing home vs. an ADS program in a	The physical location of a setting is not the only factor which determines if the	No	The plan currently outlines strategies for assessing specific settings that may have the

Themes	State's Response	Modification to the Plan	Rationale if No Changes
separate building but connected by a corridor.	<p>setting has the effect of isolating individuals from the broader community.</p> <p>The State has determined any HCBS furnished in the same building as a nursing facility may have the effect of isolating individuals and may be subject to a heightened scrutiny process.</p>		<p>effect of isolating individuals.</p> <p>Further proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting specific policies and practices.</p>
Use the CMS HCBS settings toolkit as a guide to determine whether a setting has the effect of isolating individuals.	The State agrees the toolkit is a useful guide.	N/A	N/A
The provision of HCBS in a nursing facility are not in a community-based setting and should not be permitted.	The physical location of a setting is not the only factor which determines if the setting has the effect of isolating individuals from the broader community.	No	<p>The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals.</p> <p>Proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system,</p>

Themes	State's Response	Modification to the Plan	Rationale if No Changes
			rather than relying on setting-specific policies and practices.
The draft plan could blur the line between HCBS and institutional settings and make waiver funding available in the latter.	The State does not agree. The physical location of a setting is not the sole factor in determining whether a particular location possesses the characteristics of an HCBS settings.	No	The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals. Further, proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting-specific policies and practices.
The center provides for everything I need.	Thank you for your comment.	N/A	N/A

Assisted Living: 3.5% of the comments received were on this topic. (9)

Themes	State's Response	Modifications to the Plan	Rational for Not Modifying the plan
Any freestanding Residential Care Facilities (RCF) that is licensed/certified should be viewed as fully compliant with the HCBS regulations and as a result:	Although the State agrees the Ohio licensure for RCFs and the current Assisted Living waiver	Yes. Appendix 4, II (A) has been modified.	N/A

Themes	State's Response	Modifications to the Plan	Rational for Not Modifying the plan
<p>Move from meets with modification to meets category; and eliminate the self-assessment for these settings.</p>	<p>provider requirements create a solid foundation for complying with the HCBS settings rule, the State does not agree the physical location of a setting is the primary factor that determines if the setting has the effect of isolating individuals from the broader community.</p>	<p>The initial provider assessment of full compliance strategy has been eliminated.</p>	
<p>View those settings on the campus of a continuing care retirement community from the quoted CMS perspective.</p>	<p>The State agrees.</p>	<p>Assisted living and/or adult day health settings located on the campus of a private continuing care community will be included in the "meets with modifications" category.</p>	
<p>Onsite evaluations of settings located in the same building as a nursing facility could provide evidence of compliance</p>	<p>The State agrees the physical location of a setting is not the only factor that determines if the setting has the effect of isolating individuals from the broader community.</p>	<p>No</p>	<p>Onsite evaluations of settings that may have the effect of isolating individuals is currently proposed in the plan.</p>

Themes	State's Response	Modifications to the Plan	Rational for Not Modifying the plan
Stand-alone assisted living facilities can't be assumed to be integrated.	The State agrees the physical location of a setting is not the only factor that determines if the setting has the effect of isolating individuals from the broader community.	No	<p>The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals.</p> <p>Further proposed modifications will ensure individuals are afforded full access to the benefits of community living across the system, rather than relying on setting-specific policies and practices.</p>
Inquiry regarding whether "memory care units" meet the intent of the rule.	On an individual basis, the use of the person-centered assessment and planning process will determine when this intervention is an appropriate modification.	No.	Person-centered planning is not within the scope of the transition plan.
Age-restricted admission policies create segregated settings.	Individuals have the choice of setting in which to receive services.	No.	All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the

Themes	State's Response	Modifications to the Plan	Rational for Not Modifying the plan
			federal regulation. The plan currently outlines strategies for assessing specific settings that may have the effect of isolating individuals from the broader community.
Upcoming inspections should elicit feedback from individuals in the settings.	The State agrees the experience of the individual in the setting is an essential element to determining the experience of community integration.	The plan was modified to include the experience of individuals as a component of the on-site assessment for settings that may have the effect of isolating.	
The importance of educating providers on how to come into compliance is vital for willing providers to succeed in order to maintain choice.	The State agrees shared expectations between individuals, providers, and the State is necessary to determine when a setting is compliant with HCBS community characteristics is essential.	No.	The plan currently includes an education strategy for both provider compliance and individual/family education.

Themes	State's Response	Modifications to the Plan	Rational for Not Modifying the plan
Requested re-categorizing privately operated continuing care retirement communities on the grounds or adjacent to a private institution from the heightened scrutiny category.	The State agrees the physical location of a setting is not the only factor which determines if the setting has the effect of isolating individuals from the broader community.	Assisted living and/or adult day health settings located on the campus of a private continuing care community will be included in the "meets with modifications" category.	N/A
Recommends the use of the HCBS settings tool kit as a guide to determine if the setting isolates.	The State agrees the toolkit is useful.	N/A	N/A
Assisted living offers privacy, independence, promotes remaining active, and is an important option.	Thank you.	N/A	N/A
Support for a collaborative communication plan for individuals and families.	The State appreciates ongoing support for involving individuals and families.	No	The plan currently includes a collaborative communication strategy.
Remediation is completely provider focused and lacks waiver participant involvement.	The State agrees the experience of the individual in the setting is an essential element to determining the experience of community integration	The plan was modified to include the experience of individuals as a component of the on-site assessment for settings that may have the effect of isolating.	

Themes	State's Response	Modifications to the Plan	Rational for Not Modifying the plan

Farmsteads: 15% of comments received were related to disability-specific farming communities. (39)

Themes	State's Response	Modifications to the Plan	Rationale for no change to the plan
These communities offer safety, acceptance and opportunities that many of the individuals residing there have not experienced in other community-based settings.	The transition plan supports individuals having full access to the broader community. The person-centered planning process is used to identify the supports necessary for individuals to be safe and to achieve desired outcomes in community-based settings. Each person-centered plan must reflect the setting chosen by the individual. All settings in which HCBS are provided must comply with the regulation.	No.	No setting has been determined to be unable to meet the HCBS characteristics at this time.
Individuals choosing to reside in a rural, intentional community are not necessarily segregated.	Physical location will not be the determining factor in whether a particular	The plan was modified to reflect that a determination of whether a setting	

Themes	State’s Response	Modifications to the Plan	Rationale for no change to the plan
	<p>setting possesses the HCBS characteristics outlined by CMS. This determination will be based on onsite evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living.</p>	<p>possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that “integration” is a product of individual experiences, rather than a physical location.</p>	
<p>Eliminating these communities is eliminating choice, which is not consistent with Olmstead and the CMS regulation.</p>	<p>No setting has been determined to be unable to meet the HCBS characteristics at this time. Determinations shall be made based upon the onsite evaluations described above.</p>	<p>The plan was modified to reflect that a determination of whether or not a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that “integration” is a product of individual experiences, rather than a physical location.</p>	

Non-residential integrated day and employment services: 24% of the comments received were on this topic. (61)

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
<p>Not all individuals are able to work.</p>	<p>For a small percentage of individuals who are medically fragile or have complex needs, community employment may not be a possibility. Every person should be provided with the opportunity to make an informed choice to decide if community employment is a good fit. Some individuals will need more supports, or more time to find the right job match.</p>	<p>No.</p>	<p>There is nothing in the plan that requires an individual to work.</p>
<p>Eliminating sheltered workshops is a violation of individual's rights. These settings should remain a choice for individuals receiving HCBS.</p>	<p>Sheltered workshops began in a time when few vocational options existed for individuals with developmental disabilities. As our system has evolved over time, providers have continued to enhance their skills to better support people in community</p>	<p>No</p>	<p>Prevocational services will still be available for individuals who need them, but the settings for this service will be integrated in and support full access to the greater community, which is in compliance with the HCBS settings rule.</p>

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	<p>employment. Access to better strategies for person-centered planning, customized and self-employment, development of natural workplace supports and assistive technology are all tools providers use to help individuals achieve and maintain community employment.</p> <p>Prevocational services provide learning and work experiences, where the individual can develop strengths and skills that contribute to employability in paid employment in integrated community settings.</p> <p>Individuals who need this service will still be able to access it, but the setting will be integrated in and support full access to the broader community.</p>		

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	<p>Community-based services provide richer opportunities for authentic work experiences, which lead to better outcomes.</p>		
<p>Existing workshops and day programs provide a sense of safety, value, and acceptance.</p>	<p>Integrated day and employment services will continue to offer a sense of safety, value and acceptance for individuals served. A 2012 study conducted by Dr. Bryan Dague, University of Vermont, focused on the concerns and fears of families/caregivers related to service conversion when Vermont closed its last workshop, and four years after. The parents who opposed the conversion have found their adult children to be increasing their skills and finding satisfaction in their community-based lives. The fears of being ridiculed and unsafe in the</p>		

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	<p>community have not become reality. Overall, families preferred their loved ones have the risks and rewards of life in the community. (Dague, 2012).</p>		
<p>Individuals should be allowed to spend their days with people who are similar to them and have similar needs.</p>	<p>Individuals will still have an opportunity to spend days with other individuals with similar needs. However, by ensuring that settings are integrated in and support full access to the greater community, individuals will also have an opportunity to interact with all people, enriching their own lives and the lives of people without disabilities.</p>	<p>No.</p>	<p>Nothing in the plan isolates individuals with disabilities from other individuals with disabilities.</p>
<p>In order for a move to integrated day supports to be successful, there must be a sufficient rate structure, staff training, and transportation in place.</p>	<p>A stakeholder workgroup is currently evaluating all adult services, including staff qualifications, costs pertaining to service delivery, rate structure and transportation.</p>	<p>No.</p>	<p>This process and timelines are already reflected in the plan.</p>

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	When the group concludes its work, a waiver amendment will be submitted to CMS and new integrated services will be implemented.		
Individuals with intensive medical and/or behavioral needs will require the availability of adequate supports.	Individuals will have access to appropriate supports in order to maintain health and safety, as determined through a person-centered planning process.	No.	Nothing in the transition plan eliminates access to appropriate supports.
Individuals who do not have a facility-based day program option may be forced to remain at home all day.	Most individuals can receive integrated day and employment services outside of a facility with appropriate person-centered planning and support. It is not the intention of the transition to integrated, community-based supports to eliminate services for anyone. For individuals with medical fragility, options will be available that are appropriate and	No.	Nothing in the transition plan eliminates access to services.

Themes	State’s Response	Modifications to the Plan	Rationale for No Change to the Plan
	account for health and safety needs.		
One commenter noted that keeping segregated options perpetuates current thinking about individuals with disabilities.	The State agrees. When we isolate people in the general community from people with disabilities, we deny the opportunity for all citizens to learn from and to be exposed to people who may have different experiences and challenges.	No	The transition plan addresses how we will ensure individuals receive services in settings that support full access to the greater community.

Miscellaneous – 21% of comments received were related to a wide range of topics and not specific to any type of setting or system. (55)

Themes	State’s Response	Modifications to the Plan	Rationale for No Change to the Plan
Additional detail is needed about the State’s approach to implementing the transition plan.	Detail will be provided through a variety of mechanisms as the plan is implemented. Status updates will be posted on State agency websites. All draft rules will be made available through the State’s routine	The plan was modified to reflect the involvement of stakeholders in the development of the HCBS settings evaluation tool and to describe the elements that will be considered during the on-site evaluations.	

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	<p>processes of posting the rules for clearance and public hearings. In addition, a broad cross-section of stakeholders, including individuals, advocates, and providers, will be involved in the work of developing tools necessary for the implementation of the plan. Once developed, these tools will be accessible to the public for review.</p>		
<p>Concern was expressed about the apparent over-reliance on information from providers of HCBS.</p>	<p>The self-assessment survey process was merely one aspect of the initial phase of determining whether settings possessed HCBS characteristics. Preliminary validation was conducted through a comparison of</p>	<p>The plan was modified to reflect the initial validation through comparison of self-assessments with local/State reviews. In addition, information was added to reflect the elements included in the on-site evaluations yet to be conducted.</p>	

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	<p>self-assessments to information received through both local and State reviews of various settings. Further validation will occur through on-site evaluations of settings, including the experience of individuals residing in the setting.</p>		
<p>Adequate funding and training is needed to implement these changes.</p>	<p>The budget proposed for this biennium includes several initiatives related to funding and training for the HCBS system.</p>	<p>No.</p>	<p>These issues are typically addressed through the State's budget process.</p>
<p>Any setting should be permissible if it is determined to meet the HCBS characteristics, even those on the grounds of an ICF.</p>	<p>No setting has been determined to be unable to meet the HCBS characteristics at this time. Determinations will be made based upon the on-site evaluations described previously.</p>	<p>The plan was modified to reflect that a determination of whether or not a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that "integration" is a product of</p>	

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
		individual experiences, rather than a physical location.	
The shortage and turnover of direct care staff needs to be addressed.	The budget proposed for this biennium includes several initiatives related to funding and training for the HCBS system that are intended to improve the stability of the direct support workforce.	No.	These issues are typically addressed through the State budget process.
Need better definitions of "integration" and "community."	"Integration" is the incorporation or inclusion of individuals receiving HCBS, as equals, into society. It affords individuals receiving HCBS the same opportunities as individuals without disabilities. "Community" refers to society at large where individuals with and without	No	The transition plan indicates that "integration" is determined through the experiences of individuals, rather than by a setting location.

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	Disabilities have the opportunity to interact.		
The State should ensure flexibility and choice of settings options, based on individuals' person-centered plans.	In accordance with the CMS regulation, the HCBS Administration Rule will require that individuals be offered alternative settings in which to receive HCBS and that the chosen setting be identified in their person-centered plans. However, any setting in which individuals receive HCBS must comport with the CMS regulation.	No	All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services.
"Specialized" settings are not necessarily "segregated."	The CMS regulation and Ohio's transition plan do not inhibit an individual's ability to receive specialized services and supports, nor do they prohibit individuals with similar needs from being served in the same location.	The plan was modified to reflect that a determination of whether or not a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that "integration" is a product of individual	

Themes	State's Response	Modifications to the Plan	Rationale for No Change to the Plan
	However, all settings in which HCBS are provided must not have the effect of isolating individuals.	experiences, rather than a physical location.	
Ongoing education and Information Sharing	The State agrees ongoing education and information sharing with a variety of stakeholders, including individuals, families, advocates and providers is a key component to the development and implementation of the plan.	The plan has been modified to State a broad cross-section of stakeholders will be involved with development of the HCBS settings evaluation tools, including individuals served, families, and providers.	The plan currently includes an education strategy for both provider compliance and individual/family education.

The draft transition plan received the following 10 recommendations (35% of the comments received) for consideration (90).

	10 Recommendations	State's Response	Modifications to the Plan	Rationale for No change to the Plan
1	New language to address our concerns while giving DODD the flexibility to ensure that disabled individuals are not isolated wherever located.	Physical location alone will not be the determining factor in whether a particular setting possesses the HCBS characteristics	The plan was modified to reflect that a determination of whether a setting possesses the HCBS characteristics will	

	10 Recommendations	State’s Response	Modifications to the Plan	Rationale for No change to the Plan
		outlined by CMS. This determination will be based on on-site evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living.	be made based upon the on-site evaluation. The plan acknowledges that “integration” is a product of individual experiences, rather than a physical location.	
2	Disabled adults’ best interests will be better served if the focus is changed from the residential settings’ construction type to what they do, and from their specific geographical location to how well they are integrated into the type of community in which they reside.	Physical location alone will not be the determining factor in whether a particular setting possesses the HCBS characteristics outlined by CMS. This determination will be based on onsite evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living.	The plan was modified to reflect that a determination of whether a setting possesses the HCBS characteristics will be made based upon the on-site evaluation. The plan acknowledges that “integration” is a product of individual experiences, rather than a physical location.	
3	The entire approach to the category of settings “presumed to have qualities of an institution” should be	Physical location alone will not be the determining factor in whether a particular setting	The plan was modified to eliminate the reference to settings “presumed	

	10 Recommendations	State's Response	Modifications to the Plan	Rationale for No change to the Plan
	shifted from a focus on the type of housing at issue to the actual policies and practices that go on there in light of each resident's person-centered assessments and planning.	possesses the HCBS characteristics outlined by CMS. This determination will be based on onsite evaluations which include interviews with individuals/families and reviews of policies and practices to ensure individuals have full access to the benefits of community living.	to have the qualities of an institution" to those presumed to have the "effect of isolating" individuals.	
4	Revise "III. Settings that are Presumed to have the Qualities of an Institution and may be Subject to Heightened Scrutiny Process." Appendix 2. Page 3 with "III. Settings that, by policies and practices, are Presumed to have the Qualities of an Institution and may be Subject to Heightened Scrutiny Process."	The title of Section III of the Settings Remediation Grid for ICF/IID Waivers has been modified.	The plan has been modified to eliminate the reference to settings "presumed to have the qualities of an institution" to those presumed to have the "effect of isolating" individuals.	
5	Replace the categories of housing listed in Column, subsections A1. through A4., in their entirety and replace with a new category described as "A1. Residential settings that, by policies and practices, tend to deny	The settings types listed in Section III under Residential Settings for ICF/IID Waivers have been modified.	The settings types now refer to "settings specifically designed for people with disabilities" and "settings designed to provide people	

	10 Recommendations	State’s Response	Modifications to the Plan	Rationale for No change to the Plan
	the residents’ access to the type of broader communities in which they reside.”		with disabilities multiple types of services on-site.”	
6	New language that maintains congregate settings as viable, creative “solutions of choice” for private and public development.	All settings where HCBS are provided must comport with the regulation, including those in which individuals choose to share a residence and/or services.	No	All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services.
7	New language that insists appropriate community-based residential, employment, and day placement for each individual shall be developed through person-centered assessments and planning to determine the most integrated, least restrictive setting appropriate to that person's unique needs and desires.	The HCBS Administration Rule will require that individuals be afforded the opportunity to choose among various services and settings to address assessed needs in the least-restrictive environment, promoting autonomy and full access to the broader	The plan was modified to reference the elements of the HCBS Administration Rule.	

	10 Recommendations	State’s Response	Modifications to the Plan	Rationale for No change to the Plan
		community, and minimizing dependency on paid support staff.		
8	Formal recognition of the legal rights of parents/legal guardians in the entire process.	All settings in which individuals receive HCBS must comport with the regulation, whether selected by the individual or another legally responsible party on the individual’s behalf.	No.	All settings where HCBS are provided, and the State receives Medicaid funding from the federal government, must comply with the federal regulation, including those in which individuals choose to share a residence and/or services.
9	Eliminating DODD’s pre-assigned lists based on surveys that failed to clearly disclose its purpose when disseminated (and before the draft transition plan was released for comment).	Both the surveys and the instruction sheets distributed to providers were vetted by the Transition Plan Committee, which involved a broad cross-section of stakeholders.	The settings types now refer to “settings specifically designed for people with disabilities” and “settings designed to provide people with disabilities multiple types of services on-site.”	
10	Recognize the accumulated experience, insight, and inherent authority of the State	The State acknowledges the contribution from a variety of	No	The Transition Plan was developed based upon initial

	10 Recommendations	State’s Response	Modifications to the Plan	Rationale for No change to the Plan
	Legislature in the process.	stakeholders is a key component to the development and implementation of the plan.		analysis of HCBS settings with the input of a broad cross-section of stakeholders, including State legislators who submitted comments.

Appendices: Remediation Plans

Appendix 1: ICF/IID System Remediation Grid

Appendix 2: ICF/IID Settings Remediation Grid

Appendix 3: NF-LOC System Remediation Grid

Appendix 4: NF-LOC Settings Remediation Grid

APPENDIX 1: ICF/IID Level of Care Waivers System Remediation Grid

3/13/2015

The system grid describes the impact of the federal regulation on applicable State statutes, administrative rules, administrative and operational policies.
*The proposed timelines are contingent upon approval of the plan by the Centers for Medicare and Medicaid Services (CMS)

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
Setting is integrated in, and supports full access of, individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.	Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections.	Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided 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. .	<ul style="list-style-type: none"> Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS Formal clearance for draft rule Final file Implementation. 	6/1/15
		Revise service definition of Homemaker/Personal Care under the Individual Options and Level One waivers to include language that supports the use of this service to promote individuals' integration in and access to the greater community.	<ul style="list-style-type: none"> Submit waiver amendments to CMS Formal clearance for draft rule Final file Implementation. 	7/1/16
		Implement a new HCBS settings evaluation tool utilized to conduct compliance reviews of providers of HCBS to include prompts for ensuring HCBS are provided in settings that comport with the regulation.	<ul style="list-style-type: none"> Convene workgroup with broad cross-section of individuals/families, providers of HCBS, and county board personnel Develop draft tool 	6/1/15

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

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
		individuals' integration in and access to the greater community.		
		Create new service definitions, provider qualifications, and rate methodologies for integrated community supports and integrated employment services.	<ul style="list-style-type: none"> • Convened workgroup that includes advocates/self-advocates, as well as representatives from providers of HCBS and county boards • Submit waiver amendments to CMS • Formal clearance for draft rule • Final file • Implementation. 	7/1/16
The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	Section 5123.62 of the Ohio Revised Code requires that individuals have the right to control personal financial affairs, based on individual ability to do so.	Develop a new rule addressing personal funds of individuals.	<ul style="list-style-type: none"> • Convened workgroup • Formal clearance for draft rule • Final file • Implementation. 	6/1/15
The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.		Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual's free choice of Homemaker/Personal Care provider.	<ul style="list-style-type: none"> • Convened workgroup that includes advocates, as well as representatives of providers of HCBS and county boards • Formal clearance for draft rule • Final file • Implementation 	4/1/15
		Implement a new HCBS settings evaluation tool utilized to conduct compliance reviews of providers of HCBS to ensure services are provided in settings that comport with the regulation.	<ul style="list-style-type: none"> • Convene workgroup with broad cross-section of individuals/families, providers of HCBS, and county board personnel • Develop draft tool • Share draft with stakeholders for feedback • Provide training on new tool • Implementation. 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
<p>An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	<p>Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.</p>			
	<p>Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.</p>			
	<p>Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.</p>			
<p>Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>Ohio Administrative Code 5123:2-1-11 outlines the decision-making responsibility of individuals receiving services and a requirement for person-centered plans to assist the individual with self-advocacy, if desired.</p>			
<p>Individual choice regarding services and supports, and who provides them, is facilitated.</p>		<p>Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual's free choice of homemaker/personal care provider.</p>	<ul style="list-style-type: none"> • Convened workgroup that includes advocates, as well as representatives of providers of HCBS and county boards • Formal clearance for draft rule • Final file • Implementation 	<p>4/1/15</p>

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
<p>Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, 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.</p>		<p>Amend Ohio Administrative Code to specify the required contents of a residency agreement or other written agreement for individuals residing in a provider-owned or controlled setting.</p>	<ul style="list-style-type: none"> • Convened workgroup • Formal clearance for draft rule • Final file • Implementation. 	<p>6/1/15</p>
		<p>Implement a new HCBS settings evaluation tool utilized to conduct compliance reviews of providers of HCBS to ensure services are provided in settings that comport with the regulation.</p>	<ul style="list-style-type: none"> • Convene workgroup with broad cross-section of individuals/families, providers of HCBS, and county board personnel • Develop draft tool • Share draft with stakeholders for feedback • Provide training on new tool • Implementation. 	<p>6/1/15</p>
<p>Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities.</p>	<p>Implement new HCBS Services Administration rule that describes the characteristics required of all settings in which HCBS is provided, including the requirements specific to provider owned or controlled settings.</p>	<ul style="list-style-type: none"> • Developed content with the subcommittee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file • Implementation. 	<p>6/1/15</p>

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

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

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

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
	Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS.			
	Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served.			
	Ohio Administrative Code 5123:2-2-06 outlines requirements when behavioral strategies incorporated in person-centered plans include restrictive measures.			
Provider owned or controlled residential settings: The setting is physically accessible to the individual.	Ohio Administrative Code 5123:2-3-10 addresses the physical environment standards in licensed settings.	Implement new 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 controlled settings.	<ul style="list-style-type: none"> • Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file Implementation. 	6/1/15

Regulation	Areas of Compliance	Remediation Required	Action Steps	*Timeline
<p>Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.</p>		<p>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.</p>	<ul style="list-style-type: none"> • Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file • Implementation. 	<p>6/1/15</p>
<p>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.</p>		<p>Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided and recognizes the individual's opportunity to choose among services/settings that address assessed needs in the least restrictive manner, promote autonomy and full access to the community, and minimize dependency on paid supports.</p>	<ul style="list-style-type: none"> • Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS • Convene workgroup • Formal clearance for draft rule • Final file • Implementation. 	<p>6/1/15</p>

APPENDIX 2: ICF/IID Level of Care Waivers Settings Remediation Grid 2/17/2015

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

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

I. Settings which currently meet HCBS characteristics. (Settings serving 90.9% of ICF-IID waiver population or 31,341 individuals)

A. Setting Type	Living alone
	Living with family
	Shared living

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

Setting Type	Remediation Required	Action Steps	*Timeline
A. Residential Settings 5.9% (578 settings)			
	<ul style="list-style-type: none"> Adopt and implement an overarching DODD HCBS Waiver Administration rule that reflects the characteristics of settings where HCBS may be 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. Modify Homemaker/Personal Care (HPC) service definition to incorporate CMS' required HCBS community integration/access characteristics. 	<ul style="list-style-type: none"> Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS Post draft rule for comment, make necessary revisions, final file, and final file with proposed implementation date by 6/1/15 Submit waiver amendment to CMS and modify service rules. 	<p>Implementation by 6/1/15</p> <p>Submit to CMS April 2016, implement 7/1/16</p>

	<ul style="list-style-type: none"> • Implement a new HCBS settings evaluation tool to assess the HCBS settings standards. • Implement setting-specific remediation strategies. 	<ul style="list-style-type: none"> • Form a workgroup with a broad cross-section of individuals/families, providers of HCBS and county boards to develop an HCBS settings evaluation tool utilized to conduct compliance reviews of providers to ensure that HCBS services are provided in settings that comport with the regulation. • Request remediation plans from providers who identified the ability to comply with the regulation with modifications. • Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. • Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. 	<p>Complete By June 2015</p> <p>By 7/1/15</p> <p>50% complete by 7/1/16, remainder by 7/1/17</p> <p>Ongoing</p>
B. ADULT DAY WAIVER SERVICES SETTINGS 8.4% (50 settings)			
	<ul style="list-style-type: none"> • Create and implement a new Adult Day Waiver Service (ADWS) package (service definitions, provider qualifications, rate structure) that maximizes opportunities for integrated employment and integrated wrap-around supports. • Monitor compliance with the provision of services in integrated settings. 	<ul style="list-style-type: none"> • Submit waiver amendment to CMS and modify service rules. • Submit DODD HCBS Rule and the new Day Services rules through rule review and implementation process. • Form a workgroup with a broad cross-section of individuals/families, providers of HCBS and county boards to develop an HCBS settings evaluation tool utilized to conduct compliance reviews of providers to 	<p>Submit by March 2016 implement by July 2016</p> <p>Complete by March 2016</p> <p>Complete by June 2015</p>

		<p>ensure that HCBS services are provided in settings that comport with the regulation.</p> <ul style="list-style-type: none"> Request remediation plans from providers who identified the ability to comply with the regulation with modifications. Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. 	<p>By 7/1/15</p> <p>50% by 7/1/16, remainder by 7/1/17</p> <p>Ongoing</p>
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III. Settings that are Presumed to have the effect of isolating individuals receiving HCBS from the broader community and may be Subject to Heightened Scrutiny Process.

Setting Type	Remediation Required	Action Steps	Timeline
A. RESIDENTIAL SETTINGS 1% (73 settings)			
<p>Settings specifically designed for people with disabilities</p> <p>Settings designed to provide people with disabilities multiple types of services on-site, including housing, day services, and social/recreational activities</p>	<ul style="list-style-type: none"> Adopt and implement an overarching DODD HCBS Waiver Administration rule that reflects the characteristics of settings where HCBS may be 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. Modify Homemaker/Personal Care (HPC) service definition to incorporate CMS' required HCBS community integration/access characteristics. 	<ul style="list-style-type: none"> Developed content with the sub-committee with equal representation from advocates/self-advocates, county boards, and providers of HCBS. Post draft rule for comment, make necessary revisions, final file, and final file with proposed implementation date by 6/1/15. Submit waiver amendment to CMS and modify service rules. 	<p>Implementation by 6/1/15</p> <p>Submit to CMS April 2016, implement 7/1/16</p>

	<ul style="list-style-type: none"> • Implement a new HCBS settings evaluation tool to assess the HCBS settings standards. • Determine the locations for which heightened scrutiny will be requested • Implement setting-specific remediation strategies for settings that, based upon the on-site evaluation, do not currently comply, but have the ability to do so with modifications • Develop relocation plans for settings that, based upon the on-site evaluation, cannot comply with the HCBS characteristics, even with modifications. 	<ul style="list-style-type: none"> • Form a workgroup with a broad cross-section of individuals/families, providers of HCBS and county boards to develop an HCBS settings evaluation tool utilized to conduct compliance reviews of providers to ensure that HCBS services are provided in settings that comport with the regulation. • Conduct on-site evaluations of locations, which include interviews with individuals served to gain insight into the opportunities for integration they experience at the setting and also a review of policies/practices adopted by the provider to promote these opportunities. • Compile evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics based upon the on-site evaluation. • Submit requests for heightened scrutiny to CMS. • Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. • Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. • Work with individuals, providers, and county boards to identify new locations in which individuals may receive HCBS from the provider of their choice. 	<p>Complete By June 2015</p> <p>Complete by December 2016</p> <p>Complete by December 2016</p> <p>By January 2017</p> <p>By January 2019</p> <p>Ongoing</p> <p>By January 2017</p>
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B. ADULT DAY WAIVER SERVICES SETTINGS 4.1% (19 settings)			
<p>Facility-based work</p> <p>Facility-based non-work</p> <p>Facility-based combination of work/non-work</p>	<ul style="list-style-type: none"> • Create and implement a new Adult Day Waiver Service (ADWS) package (service definitions, provider qualifications, rate structure) that maximizes opportunities for integrated employment and integrated wrap-around supports. • Determine the locations for which heightened scrutiny will be requested. • Implement setting-specific remediation strategies for settings determined to have institutional qualities based upon the on-site evaluation. 	<ul style="list-style-type: none"> • Submit waiver amendment to CMS and modify service rules. • Conduct on-site evaluations of locations, which include interviews with individuals served to gain insight into the opportunities for integration they experience at the setting and also a review of policies/practices adopted by the provider to promote these opportunities. • Compile evidence for settings that were presumed to have institutional qualities but were determined to have HCBS characteristics based upon the on-site evaluation. • Submit requests for heightened scrutiny to CMS. • Verify implementation of providers' remediation strategies to determine completion of action steps in relation to the identified remediation timeframes. 	<p>Submit by March 2016 implement by July 2016</p> <p>Complete by December 2017</p> <p>Complete by December 2017</p> <p>By January 2018</p> <p>By March 2024</p> <p>Ongoing</p>

	<ul style="list-style-type: none"> Develop relocation plans for settings that, based upon the on-site evaluation, cannot comply with the HCBS characteristics, even with modifications. 	<ul style="list-style-type: none"> Monitor ongoing compliance with standards via monitoring by Service and Support Administrators and ongoing provider compliance reviews. Work with individuals, providers, and county boards to identify new locations in which individuals may receive HCBS from the provider of their choice. 	Complete by March 2024
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IV. Settings which cannot meet the HCBS characteristics (such as a nursing facility, ICF/IID, and hospitals, or other locations that have qualities of an institutional setting, as determined by the Secretary.)

Setting Type	Remediation Required	Action Steps	Timeline
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A. RESIDENTIAL SETTINGS

TBD	<ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. 	<ul style="list-style-type: none"> DODD will conduct site visits of the 4 settings whose providers that indicated through the self-assessment survey that relocation may be necessary. These visits will include interviews with individuals served to gain insight into the opportunities for integration they experience at the setting and also a review of policies/practices adopted by the provider to promote these opportunities. If necessary, DODD will provide technical assistance to the provider regarding modifications which may be made to enable the setting to comply with the HCBS characteristics. If the site visits confirms the setting has the qualities of an institution, DODD will inform these providers the location where they are providing waiver services does not meet HCBS Criteria. DODD will inform individuals served in these settings that the location does not meet HCBS criteria. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to 	<p>Complete by September 2015</p> <p>September 2015</p> <p>Complete by September 2015</p> <p>September 2015</p>
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		a setting that does comply with the criteria and, if necessary, with choosing a new provider.	Transition complete by March 2019
B. ADULT DAY WAIVER SERVICES SETTINGS 2.8% (or 13 settings)			
<p>Located inside, on the grounds of, or adjacent to a public institution.</p> <p>Located inside a private institution.</p>	<ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. 	<ul style="list-style-type: none"> Inform these providers the location where they are providing services does not meet HCBS Criteria. DODD will inform individuals served in these settings that the location does not meet HCBS criteria. DODD will ensure the individuals' service and support administrators assist individuals with transitioning to a setting that does comply with the criteria and, if necessary, with choosing a new provider. 	<p>Complete by June 2016</p> <p>Complete by March 2019</p>

Appendix 3: NF-LOC Waivers System Remediation Grid 3/13/2015

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

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

Regulation	Areas of Compliance	Remediation Required	Action Steps	Timeline*
<p>Setting is integrated in and supports full access of individual receiving Medicaid HCBS to the greater community, includes opportunities to seek employment and work in competitive integrated settings, opportunities to engage in community life, and to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Assisted Living Service</p> <p>Residents Rights ORC 3721.13</p> <p>Licensure Rules OAC 3701-17-50 – 68.</p>	<p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. Amend the following administrative rules to incorporate HCBS community integration/access characteristics:</p> <p>Assisted Living OAC 173-39-02.16</p> <p>Adult Day Health OAC 5160-46-04 (C) OAC 173-39-02.1</p> <p>Modify the ongoing provider oversight process.</p>	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p>	7/2015-7/2016
	<p>Adult Day Health Service</p> <p>Consumer Choice & Control Rules OAC 5160-45-03 OAC 5160-58-03.2 OAC 173-42.06</p>		<p>Issue guidance to impacted providers and case management entities.</p>	1/2016-6/2016
			<p>Ongoing Compliance: On site I provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p>	1/2016-6/6016
			<p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey to assess waiver participants</p>	7/2016 and ongoing
				2016 and ongoing

			<p>experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey to assess the individual's experience with community inclusion.</p>	2017 and ongoing
<p>The setting is selected by the individual from among setting options including non-disability-specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Informed choice of HCBS services rather than institutional services documented for both services, in accordance with the approved waivers.</p> <p>Assisted Living</p> <p>Service Specification OAC 173-39-02.16</p> <p>Room and Board obligation documented in the care plan.</p> <p>Adult Day Health</p> <p>N/A</p>	N/A	N/A	
<p>An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	<p>Assisted Living</p> <p>Residents' Rights ORC 3721.10-15</p>	N/A	N/A	

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

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

<p>under the jurisdiction's landlord tenant law.</p>				
<p>Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Assisted Living Residents' rights ORC 3721.13</p> <p>Equipment and Supplies OAC 3701-17-64, 65</p> <p>Living Unit Characteristics OAC 173-39-02.16 (B)(2)</p> <p>Adult Day Health N/A</p>	<p>N/A</p>		
<p>Provider owned or controlled settings: Individuals sharing units have a choice of roommates in that setting.</p>	<p>Assisted Living Living Unit Characteristics OAC 173-39-02.16 (B)(2)</p> <p>Adult Day Health N/A</p>	<p>N/A</p>		

<p>Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>Assisted Living</p> <p>Supplies OAC 3701-17-65 (c)</p> <p>Community Transition Service OAC 173-39-02.17</p> <p>Adult Day Health N/A</p>	<p>N/A</p>		
<p>Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>Assisted Living service</p> <p>Dietary Services OAC 3701-17-60</p> <p>Service Specification OAC 173-39-02.16</p> <p>Adult Day Health Service N/A</p>	<p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.</p>	<p>Rule Process: Utilize rule development and filing processes that includes individuals, advocates, and providers.</p> <hr/> <p>Training: Modify provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <hr/> <p>Ongoing Compliance: On-site provider reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as</p>	<p>7/2015-7/2016</p> <p>1/2016-6/2016</p> <p>7/2016 and ongoing</p> <p>2016 and ongoing</p>

			<p>the National Core Indicators-Aging and Disability (NCI-AD survey, to assess waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey to assess the individual's experience with community inclusion.</p>	2017 and ongoing
<p>Individuals are able to have visitors of their choosing at any time.</p>	<p>Assisted Living</p> <p>Residents' rights ORC 3721.13</p> <p>Service Specifications OAC 173-39-02.16</p> <p>Adult Day Health Service N/A</p>	<p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.</p>	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <p>Training: Modify Provider and case management operational manuals and applicable forms as needed.</p> <p>Issue guidance to impacted providers and case management entities.</p> <p>Ongoing Compliance: On-site provider reviews, including the experience of individuals residing in the setting, in accordance with OAC rules.</p> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD survey, to</p>	<p>7/2015-7/2016</p> <p>1/2016-7/2016</p> <p>7/2016 and ongoing</p> <p>2016 and Ongoing</p>

			<p>assess waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey to assess the individual's experience with community inclusion.</p>	2017 and ongoing
The setting is physically accessible to the individual.	<p>Assisted Living</p> <p>Conditions of Participation OAC 173-39-02</p> <p>Adult Day Health</p> <p>Conditions of Participation OAC 173-39-02 OAC 5160-46-04</p>	N/A	N/A	
Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.		Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and stakeholders to draft rules and obtain stakeholder input.</p> <hr/> <p>Standards: With input from individuals, advocates, and providers, establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community.</p>	<p>7/2015-7/2016</p> <p>1/2016-6/2016</p>

			<p>Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed.</p>	<p>1/2016-6/016</p> <p>1/2016-6/2016</p>
<p>. 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.</p>		<p>Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings.</p>	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p>	<p>7/2015-7/2016</p>

Appendix 4: NF-LOC System **Waivers** Settings Remediation Grid **3/13/2015**

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

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

I. Settings which currently meet HCBS characteristics.

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

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

Setting Type	Remediation Required	Action Steps	*Timeline
A. RESIDENTIAL SETTINGS 89% (298)			
Free standing licensed residential care facilities furnishing the assisted living waiver service Licensed residential care facilities located on a privately operated continuing care retirement community campus	<ul style="list-style-type: none"> • Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. • Modify the assisted living service specification to incorporate CMS' required HCBS community integration/access characteristics. <li style="background-color: yellow;">• Modify the provider oversight process. • Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. 	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Provider Education: Develop provider self-assessment tools and training to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to identify current level of compliance and changes needed.</p> <p>Develop and implement a compliance review tool to ensure consistent assessment of the level of compliance.</p>	<p>7/2015-7/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p>

<p>Free Standing Adult Day Health settings furnishing the waiver service</p>	<ul style="list-style-type: none"> • Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. <p>Modify the adult day health service specification rule to incorporate CMS' required HCBS community integration/access characteristics.</p> <ul style="list-style-type: none"> • Modify provider oversight process <ul style="list-style-type: none"> • Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. 	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Provider Education: Develop provider self-assessment tools and training to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to identify current level of compliance and changes needed.</p> <p>Develop and implement a compliance review tool to ensure consistent assessment of the level of compliance.</p> <hr/> <p>Communication Plan: In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics.</p> <hr/> <p>Compliance Time Frame</p> <p>Ongoing Compliance: On-site provider compliance reviews, including the experience of the individuals' residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey, to assess waiver participants experience with community integration and access.</p>	<p>7/2015-7/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>7/1/2016 and ongoing</p> <p>2016 and ongoing</p>
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		In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey to assess the individual's experience with community inclusion.	2017 and ongoing
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III. Settings that are presumed to have the effect of isolating individuals and may be subject to heightened scrutiny process.

Setting Type	Remediation Required	Action Steps	Timeline
A. RESIDENTIAL SETTINGS			
<p>11 percent (37 settings) are licensed residential care facilities certified as an HCBS assisted living provider are in the same building as a nursing facility and operate separately and in accordance with residential care facility licensure rules and the CMS approved 1915 (c) Assisted Living Waiver.</p> <p>Further analysis is required to determine the settings do not have the effect of isolating individuals from the greater community.</p>			

<p>Licensed residential care facilities located in the same building as a nursing facility and furnishing the assisted living waiver service</p>	<ul style="list-style-type: none"> • Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. • Identify the settings for which heightened scrutiny will be requested. • Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. 	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Standards: With input from individuals, advocates, and providers, establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community.</p> <p>Provider Education: Develop provider self-assessment tools and training to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed.</p> <p>Communication Plan In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics.</p> <p>Compliance Timeframe:</p> <p>Provider Remediation Plan: For settings that heightened scrutiny will be requested, providers will submit a written remediation plan describing actions to be taken to achieve full compliance within six months.</p> <p>On-Site Assessments: Conduct on-site evaluations, including the experience of individuals, of each setting for which heightened scrutiny is requested to verify the implementation of the providers’ remediation plans and to assess the providers’ level of compliance with established standards.</p>	<p>7/2015-7/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>7/2016-12/2016</p> <p>7/2016-12/2016</p>
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		<p>Heightened Scrutiny Evidence Package: Following each on-site assessment for those locations that the compliance reviews confirm a case for heightened scrutiny can be made, evidence will be compiled and submitted to CMS.</p> <p>For those locations that the compliance reviews show they continue to have the effect of isolating individuals from the broader community, the State's established relocation team, led by the Office State Long Term Care Ombudsman will work with individuals who choose to transition to a setting of their choice.</p> <p>Ongoing Compliance: On-site provider compliance reviews, including the experience of individuals in the setting, conducted for each setting in accordance with OAC rules.</p> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey, to assess waiver participants experience with community integration and access.</p> <p>In collaboration with the State Long Term Care Ombudsman Office, utilize the Resident Satisfaction Survey to assess the individual's experience with community inclusion.</p>	<p>1/2017-12/2017</p> <p>1/2017 and ongoing</p> <p>2016 and ongoing 2017 and ongoing</p>
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<p>B. Non-Residential: Adult Day Health waiver service settings. 8% (22 settings) are in the same building as a nursing facility and operate in accordance with the adult day health service specification outlined in the CMS approved 1915 (c) waivers.</p> <p>Further analysis is required to determine to what extent these settings demonstrate the settings do not have the effect of isolating individuals from the greater community.</p>			
<p>Adult Day Health settings in the same building as a nursing facility furnishing the adult day health waiver service</p>	<ul style="list-style-type: none"> • Adopt and implement an overarching HCBS Waiver Administration rule that details the CMS HCBS settings characteristics required for all provider controlled settings. • Determine level of non-compliance for locations that are believed to be subject to Heightened Scrutiny. • Develop a communication strategy to educate individuals and families about the implementation of the community characteristic standards. 	<p>Rule Process: Utilize rule development and filing processes which includes individuals, advocates, and providers.</p> <hr/> <p>Standards: With input from individuals, advocates, and providers, establish standards around acceptable evidence of compliance demonstrating the setting does not have the effect of isolating individuals from the greater community.</p> <p>Provider Education: Develop provider self-assessment tools and training for each rule to identify changes needed to demonstrate full compliance.</p> <p>Educate provider network on how to use tools to assess current level of compliance and develop remediation plans, as needed.</p> <hr/> <p>In conjunction with the State Long Term Care Ombudsman Office, develop and implement a public education and outreach campaign on the HCBS settings characteristics.</p> <p>Compliance Timeframe:</p>	<p>7/2015-7/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p> <p>1/2016-6/2016</p>

		<p>Provider Remediation Plan: For settings that heightened scrutiny will be requested, providers will submit a written remediation plan describing actions to be taken to achieve full compliance within six months.</p> <p>On-Site Assessments: Conduct on-site evaluations, including the experience of individuals, of settings for which heightened scrutiny is requested to verify the implementation of the providers' remediation plans and to assess the providers' level of compliance with established standard.</p> <p>Heightened Scrutiny Evidence Package: Following each on-site assessment for those locations that the compliance reviews confirm a case for heightened scrutiny can be made, evidence will be compiled and submitted to CMS.</p> <p>For those locations that the compliance reviews show they continue to have the effect of isolating individuals from the broader community, the State's established relocation team, led by the Office State Long Term Care Ombudsman will work with individuals who choose to transition to a setting of their choice.</p> <p>Ongoing Compliance: On-site provider compliance reviews, including the experience of individuals residing in the setting, conducted for each setting in accordance with OAC rules.</p> <hr/> <p>Quality Strategy: Use results from a nationally recognized, statistically valid survey, such as the National Core Indicators-Aging and Disability (NCI-AD) survey, to assess waiver participants experience with community integration and access.</p>	<p>7/2016-12/2016</p> <p>7/2016-12/2016</p> <p>1/2017-12/2017</p> <p>1/2017 and ongoing</p> <p>2016 and ongoing</p>
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IV. Settings which cannot meet the HCBS characteristics			
Setting Type	Remediation Required	Action Steps	Timeline
A. RESIDENTIAL SETTINGS: No NF-LOC services are currently being furnishing in a nursing facility, a hospital, or an ICF-IID.			
N/A	<p>Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings.</p> <p>If a provider chooses the 2nd option above, individuals will be given the option of relocating to an HCBS-compliant location in a manner that is least disruptive to them.</p>	<p>Relocation Process:</p> <p>Inform these providers the location where they are providing waiver services do not meet HCBS Criteria.</p> <ul style="list-style-type: none"> Work with provider to develop a transition plan for coming into compliance. <p>Inform the individuals receiving services the setting does not meet HCBS criteria.</p> <ul style="list-style-type: none"> In the event the provider is not willing/able to come into compliance, the State's established relocation team, led by the Office State Long Term Care Ombudsman will work with individuals who choose to transition to a setting of their choice. 	12/ 2019

B. Non-Residential: Adult Day Health waiver service settings. No NF-LOC adult day health waiver services are currently being furnishing in a nursing facility, a hospital, or an ICF/IID.			
N/A	<ul style="list-style-type: none"> Providers will be given the option to relocate the place where they provide waiver services to more integrated setting, or opt to no longer receive Medicaid waiver funds for services that continue to be provided in these institutional settings. If a provider chooses the second option above, individuals will be given the option of relocating to an HCBS-compliant location in a manner that is least disruptive to them. 	<p>Relocation Process:</p> <p>Inform these providers the location where they are providing waiver services do not meet HCBS Criteria.</p> <ul style="list-style-type: none"> Work with provider to develop a transition plan for coming into compliance. <p>Inform the individuals receiving services the setting does not meet HCBS criteria.</p> <ul style="list-style-type: none"> In the event the provider is not willing/able to come into compliance, the State's established relocation team, led by the Office State Long Term Care Ombudsman will work with individuals who choose to transition to a setting of their choice. 	12/2019