

New Hampshire Statewide Transition Plan

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APPENDIX A
NEW HAMPSHIRE TRANSITION FRAMEWORK
MARCH 2015

Attachment A

PURPOSE:

In January 2014, the Center for Medicaid and Medicare Services (CMS) finalized regulations that require Medicaid-funded Home and Community Based Services (HCBS) possess particular qualities in residential and nonresidential settings. All states are required to demonstrate how their HCBS programs comply with the new federal HCBS rules. The purpose of this draft Transition Framework is to ensure that in New Hampshire individuals receiving HCBS are integrated in and have access to supports in the community, including opportunities to seek employment, work in competitive integrated settings, engage in community life, and control personal resources. Overall, the Transition Plan provides a roadmap for how the State will assure that individuals receiving HCBS have the same degree of access as individuals not receiving Medicaid HCBS. This Transition Plan outlines the proposed process that New Hampshire will be utilizing to ensure alignment with the HCBS requirements. Stakeholders were asked to provide public input and comment in order to allow New Hampshire to develop a comprehensive assessment plan. New Hampshire has created an Advisory Taskforce to ensure stakeholder input is obtained throughout the transition planning process.

OVERVIEW:

New Hampshire must submit an HCBS transition plan to CMS by March 14, 2015 because it operates four 1915(c) waivers: Choices for Independence, Developmental Disabilities, Acquired Brain Disorder, and In Home Supports.

The high level transition plan (draft framework) to CMS will include:

1. An inventory plan to review applicable state standards, rules, regulations and policies;
2. A preliminary assessment plan for assessing HCBS settings;
3. A 30-day public comment period of the draft transition plan;
4. A response summary of public comment received;
5. A time frame for the assessment of HCBS setting;
6. A time frame for remediation including a summary of how each setting meets or does not meet the federal HCBS setting requirements and a time frame for the development of a comprehensive transition plan and process for bringing all HCBS settings into compliance; and ultimately a plan for ensuring the health and safety of participants who reside in locations that need to meet corrective action requirements for the setting to come into compliance during the states specified transition time.

PUBLIC NOTICE:

New Hampshire's 30 day public notice and comment period ran from January 11th to February 16th. Notice was published in two statewide newspapers ; the links to the public notices published are here: [Public Notice\telegraph mon jan 12 2015 HCBS transition framework.pdf](#); [Public Notice\union leader sun jan 11 2015 HCBS transition framework.pdf](#). Notice was also published on a designated DHHS webpage found at <http://www.dhhs.nh.gov/ombp/medicaid/draft-transition-framework.htm> Two public hearings were held, one on January 20th at the Brown Building Auditorium in Concord and the other on February 10th at the New Hampshire Hospital Association in Concord. Phone and webinar participation were available at the first hearing; due to technical difficulties, the second hearing had only in-person attendance. Two additional webinars were conducted on February 19th and 25th to provide additional remote attendance opportunities. Staff from New Hampshire Department of Health and Human Services and the Institute on Disability also attended informal meetings regarding the HCBS transition planning work throughout the public process. The details of formal and informal hearings are below.

| DATE/TIME | LOCATION | ORGANIZATION | # ATTENDEES | EVENT DESCRIPTION |
|---------------------------|----------------------------|--|--------------------------|---------------------------------------|
| 1/17/15 | Walker Building | People First Service coordinator Supervisors | 17 | Informational meeting and input |
| 1/21/15 | Community Bridges, Concord | Quality Council | 10 | Presentation and feed-back |
| 1/21/15 | DD Council | Quality Council | 24 | Presentation at bi-monthly meeting |
| 1/20/2015 6:00-8:00 PM | Brown Building Concord | General Public | 3 in person, 3 online | Public Hearing - live and webinar |
| 2/10/15 2:30-4:30PM | NH Hospital Assoc. | General Public | 20-25 | Public Hearing – live; webinar failed |
| 2/10/2015 12:45 - 1:30 | ARCH Offices | ARCH Board of Directors | 10 | Informational meeting and input |
| 2/19/2015 10:00 a.m. | Online | General public | 0 | Phone and webinar |
| 2/25/2015 11:00 a.m. | Online | General public | 0 | Phone and webinar |

An advisory taskforce has been created to ensure stakeholder input is solicited throughout the planning process. The advisory taskforce will meet on the second Wednesday of each month going forward.

| Transition Framework for Establishing HCBS Settings Compliance New Hampshire Department of Health and Human Services | | | Target Timeline |
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| Action Item | Description | High-Level Strategies | Target Timeline |
| <p>Public Comment: Draft Transition Framework: Transition Plan Framework</p> <p><i>Public comment for Draft Transition Framework for establishing Home and Community Based Settings compliance</i></p> | <p>30 day public comment period for review of Draft Transition Framework</p> | <p>Statewide notice published in two statewide newspapers on January 11 and 12. MMIS sent notice in an all provider communication; NH DHHS constructed webpage which hosts the notice and draft framework; 2 public hearings held: Jan 20th and Feb 10th. Additional webinars on Feb 19 and Feb 25 held. State conducted informal meetings during and after public notice and comment period.</p> | <p>1-11-15 – 2-16-15</p> |
| <p><i>Submit Draft Transition Framework for assessing Home and Community Based Settings compliance to Centers for Medicare and Medicaid Services [CMS].</i></p> | <p>State finalizes and submits Draft Transition Framework to CMS</p> | <p>-Design NH Transition Plan Framework around successful state models.</p> | <p>2-27-15</p> |

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| <p>1. Inventory</p> <p><i>State standards inventory</i></p> | <p>Establish comprehensive list of state rules, regulations, policies, and standards to be reviewed and validated with respect to whether existing state standards conform to Home and Community Based Settings rule.</p> | <p>-Members of Transition Framework team submit lists of regulations for review. Compile submissions based on relevant waiver.</p> | <p>12-12-14</p> |
| <p><i>Collect and review current state standards (rules and regulations) as they relate to new Home and Community Based Settings rule.</i></p> | <p>Transition Framework team will collect regulations, standards and policies including rules and related policies, licensing and certification requirements, training and enrollment materials.</p> | <p>-Seek external legal counsel for thorough review.</p> | <p>1-12-15</p> |
| <p><i>Obtain active Home and Community Based Settings provider breakdown by site</i></p> | <p>NH will identify the relevant Home and Community Based service providers and establish a list that includes category of service, address and contact information.</p> | <p>-Members of Transition Framework team submit provider lists.</p> | <p>12-12-14</p> |
| <p><i>Develop and refine assessment tools</i></p> | <p>Develop and refine assessment tools to evaluate conformity and compliance with Home and Community Based Settings rules; assessment tools are reviewed and tested to ensure they adequately capture needed elements. Develop provider self-assessment tool and assessment tools for participants.</p> | <p>-Transition Framework team to review tools known to have worked successfully in other states. Develop assessment tools for providers and participants. Solicit feedback on assessment tools, the plans to deploy them, and by whom,</p> | <p>4-30-15</p> |

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| <p><i>Incorporation of assessment tool into provider enrollment process and application</i></p> | <p>State incorporates self-assessment requirement into provider enrollment process and application</p> | <p>with Advisory Taskforce. - Transition Framework team reviews language and instructions after soliciting feedback from Advisory Taskforce.</p> | <p>7-31-15</p> |
| <p>2. Assessment <i>Assess NH state standards' current level of compliance</i></p> | <p>Assess what changes are required to update provider qualification standards, licensure regulations, enrollment, training, and all other related standards, rules regulations and policies to conform to Home and Community Based Settings rules</p> | <p>-Contract third party for thorough legal review; identify areas of potential non-compliance. Share initial review with Advisory Taskforce. After soliciting feedback from Advisory Taskforce, determine which requirements will be amended.</p> | <p>2-27-15 – 4-30-15</p> |
| <p><i>Establish advisory taskforce comprised of advocates, consumers, and HCBS providers.</i></p> | <p>Convene regularly scheduled meetings to review assessment activities and findings, assist in the development of the remediation and compliance plan based on assessment results.</p> | <p>-Institute on Disability together with Department of Health and Human Services to coordinate; initial invitations sent on 2/20; additional invitations sent on 3/6; first meeting scheduled for 3/11/15</p> | <p>2-15-15</p> |
| <p><i>Providers and Participants Complete Assessments</i></p> | <p>Via assessment tools developed after soliciting feedback from Advisory Taskforce</p> | <p>After soliciting feedback from Advisory Taskforce on Assessment Work Plan, (including development of</p> | <p>6-30-15</p> |

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| | | assessment tools) Transition Framework team coordinate provider and participant outreach. Transition Framework team will coordinate schedule for provider follow-up and assessment completion. | |
| <i>Data compiled and analyzed</i> | Data compiled to determine those Home and Community Based Settings providers who meet, do not meet and could come into compliance with Home and Community Based Settings guidance. | -Upon completion of assessment, build list of providers for sample validation. Solicit feedback on sample validation plan with Advisory Taskforce . | 7-31-15 |
| <i>Selected entities validate sample of assessments</i> | Selected entities, validate a state determined percentage of provider assessments | -Transition Framework team to identify and coordinate with providers for field validation, after soliciting feedback from Advisory Taskforce. Utilize multiple validation avenues. | 9-30-15 |
| <i>Assessment Report; Comprehensive Transition Plan</i> | State formally presents results of both assessments to Advisory Taskforce; | -Summarize results of both self- and validated assessment for Advisory Taskforce. Distribute results to Advisory Taskforce. | 10-30-15 |

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| <p>3. Remediation and Compliance <i>Based on assessment results, develop comprehensive transition plan to bring NH Home and Community Based Settings into compliance</i></p> | <p>Institute on Disability and Department of Health and Human Services together with the Advisory Taskforce develop a comprehensive statewide Transition Plan which establishes a path for comprehensively addressing all components of compliance with Home and Community Based Settings rule.</p> | <p>-Draft and finalize narrative white paper summarizing the level of compliance within NH at the end of the assessment period, and establishing a plan for comprehensively addressing all components of compliance with Home and Community Based Settings rules, using advice from the Advisory Taskforce.</p> | <p>10-30-15 to 3-31-16</p> |
| <p><i>Submit Waiver Amendment to CMS</i></p> | <p>Department of Health and Human Services will submit waiver amendments as needed to CMS to ensure provider and setting requirements are met.</p> | <p>-Department of Health and Human Services will submit.</p> | <p>3-31-16</p> |
| <p><i>Policy Development</i></p> | <p>State will develop revised policies and procedures to address ongoing monitoring and compliance.</p> | <p>-Policy partners within Department of Health and Human Services, Bureau of Developmental Services, Bureau of Elderly and Adult Services with Advisory Taskforce</p> | <p>3-31-16</p> |

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| <p><i>Remediation Strategies</i></p> | <p>Design, adopt, and implement plan for achieving comprehensive compliance of provider standards with Home and Community Based Settings rules (credentialing, licensing and policies).</p> | <p>-Transition Framework Team together with Advisory Taskforce develops revised policies and procedures to address ongoing monitoring and compliance.</p> | <p>3-31-16</p> |
| <p><i>Provider Training and Education</i></p> | <p>Design and implement plan for incorporating necessary training and education into provider enrollment, orientation, and training on transition plan to providers</p> | <p>-Utilize Advisory Taskforce and other key stakeholder input and existing provider standards specific to particular provider groups.</p> | <p>3-31-16</p> |
| <p><i>Monitoring of Compliance</i></p> | <p>State, with feedback from the Advisory Taskforce, will develop surveys and/or incorporate policy and consumer satisfaction surveys to identify areas of non-compliance</p> | <p>-Rely on existing policy documents and key stakeholder input.</p> | <p>3-31-16 and ongoing</p> |
| <p>4. Outreach and Transparency <i>Public Comment and Stakeholder Input</i></p> | <p>Department of Health and Human Services provides opportunities for formal public comment according to federal standards and multiple opportunities and modalities for informal stakeholder input</p> | <p>-2 statewide public statements of notice -Direct provider outreach by Bureau of Developmental Services/Bureau of Elderly and Adult Services; Webinar, Website; E-mail for feedback; Two public hearings; Multiple meetings</p> | <p>1-17-15 to 2-17-15</p> |

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| <i>Public Comment and Stakeholder Input</i> | Department of Health and Human Services collects public comment and stakeholder input through multiple methods and makes appropriate changes to Transition Framework. | -Comments will be taken via email, in person or by written submission. | 1-17-15 to 2-17-15 |
| <i>Public Comment- collection and plan revisions</i> | Department of Health and Human Services incorporates appropriate changes to initial transition plan based on public comments | -Transition Framework team review feedback -Edit Draft Transition Framework as needed. | 2-17-15 to 2-27-15 |
| <i>Public Comment - retention</i> | Department of Health and Human Services will safely store public comments and state responses for CMS and the public | -Department of Health and Human Services to record and store according to internal protocol. | 2-17-15 - ongoing |
| <i>Posting of revisions to initial document</i> | Department of Health and Human Services will post the rationale behind any substantive change to the comprehensive transition plan | -Department of Health and Human Services to make changes available to public. | 2-17-15 - ongoing |
| <i>Stakeholder training and education</i> | Design, schedule and conduct training for individual recipients of waiver services, their families and similarly situated stakeholders on waiver compliance, including changes they can expect to see and which will affect their services | -Institute on Disability with Department of Health Human Services to coordinate. | ongoing |
| <i>Public Comment - ongoing input</i> | State will leverage various stakeholder groups to periodically present feedback to Comprehensive Transition Plan development in preparation for comprehensive plan submission | -Advisory Taskforce to meet monthly -Organize groups according to waiver as needed. | 2-17-15 |

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| <p>5. Public Comment: Draft Comprehensive Transition Plan</p> <p><i>Public comment for draft Comprehensive Transition Plan</i></p> | <p>30 day public comment period for review of Draft Comprehensive Transition Plan</p> | <p>-State will follow same public notice and comment period including 2 statewide public statements of notice -Direct provider outreach by Bureau of Developmental Services/Bureau of Elderly and Adult Services -Webinar -Website -E-mail for feedback -Two public hearings; multiple public presentations</p> | <p>1-31-16</p> |
| <p><i>Submit Comprehensive Transition Plan to CMS</i></p> | <p>State finalizes and submits Comprehensive Transition Plan to CMS</p> | <p>-Department of Health and Human Services with Institute on Disability and Advisory Taskforce</p> | <p>3-31-16</p> |

March 10, 2015

Transparency and Stakeholder Engagement

Comment 1: Several commenters expressed concern that the process for determining membership in the Advisory Taskforce was opaque and that it did not sufficiently represent the external stakeholders who are knowledgeable and relevant to this process, including direct support workers, people living with developmental or intellectual disabilities, and those with acquired brain disorders.

Response 1: The State is sensitive to the concern that the Advisory Taskforce, as the body who will be consulted for feedback throughout the assessment and remediation processes, will be representative of the people whose lives will be impacted by these regulatory requirements and any changes made to establish compliance with them. The State has taken steps to mitigate that risk. First, New Hampshire has outlined that at least four of the seats on the Advisory Taskforce need be held by people who are receiving services who will be impacted by these regulations and has asked three external organizations, Granite State Independent Living, The Office of the Long-Term Care Ombudsman, and the federally required Medical Care Advisory Committee (MCAC) to help select those consumers. In response to concerns raised about membership, the State will extend additional invitations as needed to assure that the interests of people who are served by the Waivers that will be affected by these regulations are represented well within the Advisory Taskforce.

Comment 2: Commenters expressed concern that that the work plan offered limited opportunity for stakeholder engagement.

Response 2: In response to concerns that stakeholder input into the comprehensive statewide plan appears to be very limited, the State has edited the work plan to reflect the junctures at which the State anticipates that the Advisory Taskforce will provide feedback: in reviewing the summary of the regulatory landscape, assisting in the development of the assessment tools, assisting in development of plans to deploy the assessment tools, reviewing the results of the assessments, and assisting in the development of the formal remediation plan which will establish for New Hampshire what changes need to be made to in order to establish the State's compliance with the settings requirement. Finally, the work plan also notes that the State will put the final comprehensive transition plan, when developed, out for a statewide, thirty day public notice and comment period. The State recognizes that inclusion of key stakeholders is central to an effective HCBS transition planning process.

Comment 3: Commenters expressed concern that Direct Support Professionals are underpaid in general and are crucial to the HCBS transition planning process.

Response 3: The State is sensitive to the need for Direct Support Professional to be involved in the HCBS transition planning process and will assure their participation.

Draft Transition Plan

Comment 4: Commenters expressed concern that the draft transition plan was vague and lacked details about each step of the process and that significant work relating to the policy review at the State level was being conducted without the inclusion of key stakeholders.

Response 4: The State recognizes that at this initial stage, the work plan is very high level. This is a reflection of the need to solicit feedback from stakeholders throughout the inventory, assessment and remediation processes. Moreover, it does provide for the time frames for conducting inventory, assessment and remediation tasks that are necessary as well as a description of the parties to be involved in those steps. As the work progresses in each phase, in consultation with the Advisory Taskforce, more details regarding each additional step will be developed and communicated. Regarding the concern about the State's reliance on a third party for review of state compliance without inclusion of key stakeholders, the State has clarified in the work plan that the summary of the third party's work, which is a review and summary of the regulatory landscape relating to each of the State's four waivers, has been prepared in order to be shared with the Advisory Taskforce to solicit the Advisory Taskforce's feedback. The summary of the regulatory landscape that has been conducted, while thorough, is preliminary and not final.

Comment 5: One commenter noted that the settings requirements do not only apply to residential services and that therefore the title of the document, "Draft Transition Framework for Establishing Home and Community Based Services Residential Settings Compliance" was confusing.

Response 5: The State has deleted the term "residential" from the title of the document.

Comment 6: One commenter encouraged the state to seek clarification as to how the rules are intended to apply to people living in their own homes and encouraged the state to expand the transition planning process to include assessing supports provided to people living in their own homes or with family and that day programs should be included as well.

Response 6: Subregulatory guidance indicates that the regulations allow states to presume the enrollee's private home or the relative's home in which the enrollee resides meet the requirements of HCBS settings. Person-centered planning remains an important protection to assure that individuals have opportunities for full access to the greater community to the same degree as individuals not receiving Medicaid HCBS when they live in their own or a relative's private home. The State will work with CMS to clarify how non-residential home and community based settings should be addressed.

Assessment Phase

Comment 7: Commenters expressed concern that there is a lack of clarity about which entities will conduct the assessments and about the level of expertise and training of those entities and individuals who will conduct the assessments, and encouraged the State to assess as many people as possible. One commenter encouraged the State to ensure that those conducting the assessments be trained in Social Role Valorization or other comparable values-based training.

Response 7: The State is in the process of developing an initial approach to assessment that has not yet been reviewed with the Advisory Taskforce. As a result, the details regarding who will conduct the assessment and how the assessments will be deployed and what the requirements are for those assessments in terms of skill and training are not yet finalized. As noted above, the State will be soliciting feedback from the Advisory Taskforce about its initial approach to assessment to ensure that the assessment tasks are deployed in an effective way.

Comment 8: Commenters expressed concern that the draft transition plan did not contain sufficient detail about a variety of issues related to assessment and remediation phases including how to protect people who will need to be transitioned, whether there will be accessible methods for participants to voice complaints about a setting, how the State will establish what the current array of compliant settings are, and the absence of a plan to evaluate capacity or increase the home and community based service capacity to fulfill the requirements of this regulation.

Response 8: These concerns will be addressed based on the results of the assessments the State needs to complete. Assessment will include, by necessity, an evaluation of current capacity; and the State assures that participants will be able to voice complaints. When the results of the assessments are completed, the State will be able to address whether plans to increase capacity are needed, when and how participants would have to be transitioned, and how to transition participants safely. The State will provide the assurances that are required under sub-regulatory guidance from the Centers for Medicare and Medicaid Services, should relocation of beneficiaries be part of the State's remedial strategy, which include the following: an assurance that the State will provide reasonable notice to beneficiaries and due process to those individuals; a description of the timelines for the relocation process; the number of beneficiaries impacted, and a description of the State's process to assure that beneficiaries, through the person-centered planning process, are given the opportunity, information and supports to make an informed choice of an alternate setting that aligns or will align with the regulation and that critical services/supports are in place in advance of the individual's transition.

Comment 9: One commenter noted that in the assessment phase that personal experience of participants is central and that provider input should supplement, but not replace, first hand reports of people receiving services.

Response 9: The State recognizes the importance of assessing participants as well as providers and is committed to ensuring that both are effectively assessed.

Broad application of 42 CFR 441.301(c)(4)

Comment 10: Several commenters expressed concern that implementing the new federal regulations in a one-size-fits-all manner, especially with respect to lockable doors, forcing people to be engaged in community even if they don't want to be, making food available at all times, and choice of roommate are impractical, will require additional funding to providers to make needed modifications and may disrupt the lives of residents, who like their current residences.

Response 10: 42 CFR 441.301(c)(4) requirements are based "on the needs of the individual as indicated in their person-centered service plan." That qualification provides some flexibility to ensure a balance between safety and well-being of the individual and the required qualities of Home and Community Based Services outlined in the regulation. Moreover, it requires that the individual's person-centered service plan indicate his or her preferences and needs.

Finally, modifications of some of the qualities required in provider-owned or controlled settings are allowed if those modifications are sufficiently supported and justified through the participant's person-centered service plan.

Comment 11: Several commenters expressed concern that residents being allowed to lock doors for privacy is unnecessary, may prevent providers from adequately monitoring or caring for residents, or encourage residents to isolate behind locked doors in an unhealthy manner.

Response 11: The federal requirement regarding doors at 441.301(c)(4)(vi)(B)(1) applies within a provider-owned or controlled setting and requires that the sleeping or living unit has entrance doors that are lockable; the rule also specifically allows for appropriate staff to have keys to any lockable doors. This would allow providers to safeguard and tend to the needs of their residents while allowing the resident to control, to some extent, access to their private living space.

Comment 12: One commenter requested clarification as to what it means to give a resident a choice of roommate and whether a Medicaid-funded waiver participant can thereby refuse a roommate in a setting. The commenter further requested clarification about whether Medicaid-funded waiver residents would then be allowed to reject a roommate when a non-Medicaid-funded participant in the same setting would not have that right.

Response 12: The Department of Health and Human Services will work with the Centers for Medicare and Medicaid Services to clarify choice of roommate provisions.

Comment 13: Several commenters expressed concerns that broad application of general rules will prevent providers from being able to focus on the individual needs of participants.

Response 13: The State notes that the new settings requirements are bounded in the federal regulation by "the needs of the individual as indicated in the person centered service plan" thus allowing individuals' needs to be addressed within the federal requirements.

Comment 14: One commenter expressed concern that the HCBS transition will mean that the Area Agencies will be replaced by managed care organizations.

Response 14: The federal HCBS settings requirements apply to Medicaid-funded HCBS settings provided under Medicaid waiver authorities regardless of the mechanism used to deliver waiver HCBS services.

Comment 15: One commenter requested that the transition plan take into account the positive benefits that assisted living has for residents and that residents not be thrust out into the community where they would receive services at a lower level.

Response 15: The new federal requirements prioritize participant needs and preferences driving which services the participant receives and from whom.

Comment 16: More than one commenter expressed concern that broad application of the new regulations would effectively limit the choices of participants who receive Waiver services, expressing that all people want to be able to choose how they spend their time and with whom they spend it and with whom they do not spend it; others wanted to know how the term isolation would be applied, indicating that some people do not want to be mandated to be included but rather want to be left alone.

Response 16: The regulation presumes that settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community are not desirable. It is a general standard that applies to the setting; it is not a mandate in and of itself requiring participants to be engaged in a way they do not wish to be.

Comment 17: One commenter asserted that one characteristic of a setting that is isolating – “the individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides services to them” would apply to every residential care home in the state and wondered if it was CMS’ intention to defund every such site.

Response 17: CMS has stated that, when coupled with other characteristics, the above characteristic might meet the criteria for having the effect of isolating individuals receiving Medicaid-funded HCBS, but not necessarily. A setting that, after assessment, is found to not meet home and community based requirements, can request that the State pursue the heightened scrutiny process and request CMS review evidence presented by the State and other stakeholders as to whether that setting can meet HCBS characteristics. However, the heightened scrutiny review process can only be pursued with the State’s agreement.

Comment 18: Many commenters requested clarification regarding whether particular requirements, i.e., the opportunity to seek employment and work in a competitive environment was a mandate that applied to all participants in all contexts.

Response 18: The regulations at issue require that the settings possess a number of qualities and opportunities that the participants may or may not access based on the needs of the participants as indicated in their person-centered service plans.

Miscellaneous

Comment 19: One commenter asked that the State consider future program changes in light of the new federal HCBS rule and to adopt a specific process for using the new rule as a benchmark any time a change is made in state rule or policy that would impact a waiver program, including budget directives.

Response 19: New Hampshire is required to comply with federal regulatory requirements and will consider its federal requirements whenever policy decisions are made at the state level.

Comment 20: One commenter asked where the federal requirements can be accessed.

Response 20: The federal requirements are found at 42 CFR 441.301(c)(4)(5) which can be accessed here: <https://www.federalregister.gov/articles/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider>

Comment 21: One commenter asked whether the four waivers which will be impacted by HCBS settings requirements are new or existing.

Response 21: Four 1915(c) waivers are currently operating in New Hampshire: Choices for Independence, Acquired Brain Disorder, Developmental Disabilities, and In-Home Supports.

Comment 22: One commenter asked how many adults in New Hampshire are receiving services through the developmental disabilities waiver.

Response 22: The client counts for each waiver are approximately:

DD waiver: 4,494

CFI waiver: 2,876

ABD waiver: 243

IHS waiver: 323

Comment 23: One commenter asked who will be responsible for person centered planning, how the State will ensure that each individual has a person centered plan and how the State will fund the development of these plans.

Response 23: The principle of person-centered planning is embedded within 441.301(c)(4)(5) and throughout state regulatory instruments governing home and community based service provision. The state will continue to use its regulatory and contracting processes to ensure these obligations are fulfilled.

Comment 24: One commenter asked how the State will define settings being integrated into the greater community.

Response 24: The State, with feedback from the Advisory Taskforce, will be assembling the examples provided by CMS and analyzing them in order to have a comprehensive understanding of federal definitions and thus have a functional definition in accordance with CMS' expectations and guidance.

Comment 25: One commenter asked how the State will define institutional settings given that the new CMS regulations indicate that HCBS funds cannot be used for these settings.

Response 25: After the assessment phase of the draft transition framework is complete and based on those results, the State will align services within the definitions provided by CMS to ensure that federal financial participation can be guaranteed.

Comment 26: With regard to staffed residences, one commenter asked how the State will support an individual's choice of staff member(s).

Response 26: The new federal requirements prioritize participant needs and preferences driving which services the participant receives and from whom. The State, together with the Advisory Taskforce, will explore through the inventory and assessment phases of the transition plan, how best to animate the requirement to support an individual's choice in the services received and the provider elected to provide them.

APPENDIX B
PROVIDER SURVEY/VALIDATION VISIT ASSESSMENT TOOL

Attachment B

NH Provider Self-Assessment of HCBS Community Settings

In March 2014, CMS finalized its HCBS Community Settings Rule that defines and sets criteria for what constitutes a community setting for services delivered under the Home and Community Based Services (HCBS) Waiver Program. The intent of the rule is to assure that individuals receiving services and supports through HCBS funded programs have full access to the benefits of community living and the opportunity to receive services in integrated settings including opportunities to seek employment and work in competitive integrated settings. The HCBS Settings requirements apply to both residential and non-residential settings for individuals who are receiving Medicaid funding for HCBS.

In order to meet the requirements of the new rule, states need to develop a Transition Plan, “detailing any actions necessary to achieve or document compliance with the setting requirements.” States will have up to 5 years to implement the approved plan.

An integral component of developing the Transition Plan is an assessment of existing settings to determine how closely they currently comply with the HCBS Settings Rule; and if they don’t comply with what is required, a plan to come into compliance. This self-assessment will assist in that process. Validation of responses will occur on a random basis with site visits and HCBS participant interviews.

The following questions will assist you in conducting a self-assessment. Please answer “yes”, “not yet”, “no” or “N/A” to each question.

- Answer “yes” when you believe the setting is in full agreement with the question.
- Answer “not yet” when you believe the setting meets the requirements of the question at times or efforts are underway to become in full agreement with the question.
- Answer “no” when you believe the setting does not currently meet the requirements of the question.
- Answer “N/A” in a situation where you are assessing a non-residential setting and the question is specific to residential only (i.e. Does the individual(s) have his/her own bedroom or share a room with a roommate of his/her choice?).

All questions must be answered. Please also provide comments, evidence of compliance or plans to do so when the answer is “no” or “not yet”.

It is not expected that all sites will be in compliance at this point in the process. However, we assume that you aspire to achieve the outcomes articulated in the HCBS Community Settings Rule over the next 5 years. Please be thoughtful and honest in your assessment.

Provider Name:

Provider Address:

Site Address:

Setting Type:

- Residential
- Non-residential

Type of Waiver Funding:

- NH DD
- NH ABD
- NH CFI
- Other State (please specify)

Date assessment completed:

| Question Category | Question | Response | | | Comments, Evidence of Compliance or Remedy |
|-----------------------------|--|----------|---------|--------|--|
| | | Yes | Not Yet | No N/A | |
| Choice of setting | Are individuals provided a choice regarding where to live (if residential setting) or receive services (if non-residential setting)? | | | | |
| | Are individuals afforded opportunities to choose with whom to do activities in or outside the setting or are individuals assigned only to be with a certain group of people? | | | | |
| | Are individuals provided a choice regarding the services, provider and settings and the opportunity to visit/understand the options? Were the options explained to them? | | | | |
| | Are individuals provided opportunities for regular and meaningful non-work activities in integrated community settings in a manner consistent with the individual's needs and preferences? | | | | |
| Participation in activities | Are individuals provided the opportunity for tasks and activities matched to individuals' skills, abilities and desires? | | | | |
| | Are the tasks and activities comparable to those of typical peers (without disabilities)? | | | | |
| Community participation | Do individuals regularly shop, attend religious services, schedule appointments, eat out with family and friends, etc. as they choose? | | | | |

| | | |
|---------------------------------|---|--|
| | <p>Are individuals provided opportunities and encouraged to have visitors, and is there evidence that visitors have been present at regular frequencies? <i>For example, are visiting hours unrestricted, or does the setting otherwise encourage interaction with the public?</i></p> | |
| | <p>Are individuals provided with contact information, access to and support or training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location?</p> | |
| | <p>Alternatively where public transportation is limited, are other resources provided for individuals to access the broader community, including accessible transportation for individuals with mobility impairments.</p> | |
| | <p>Are individuals offered opportunities that include non-disability-specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities?</p> | |
| Community | <p>Are individuals who want to work provided opportunities to pursue employment in integrated community settings?</p> | |
| | <p>Do (paid) employment settings provide individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times and leave and medical benefits with his/her employer to the same extent as individuals not receiving Waiver funded services?</p> | |
| Choice of housemate or roommate | <p>Does the individual(s) have his/her own bedroom or share a room with a roommate of his/her choice? Do individuals know how to request a change in roommate?</p> <p>Are married couples or couples in long term relationships provided with a shared or separate bedroom and living accommodation if they choose?</p> | |
| Own schedule | <p>Are individuals able to choose and control schedules that focus on their specific needs and desires and provide an opportunity for individual growth? <i>For example, can individuals identify preferred activities and participate when and where they choose?</i></p> | |

| | | |
|--------------------------------------|---|--|
| Access to personal funds | <p>In settings where money management is part of the service, are individuals provided the opportunity to have a checking or savings account or other means to have access to and control his/her funds. <i>For example, is it clear that the individual is not required to sign over his/her paychecks to the provider other than regulated benefits payments?</i></p> | |
| Choice related to meals/snacks | <p>Are individuals provided an opportunity to have a meal or snacks at the time and place of their choosing? <i>For instance, are individuals provided full access to a dining area with comfortable seating and opportunity to converse with others during break or meal times, affording dignity to the diners?</i></p> | |
| Individual choice | <p>Are opportunities for an alternative meal and/or private dining available if requested by the individual?</p> <p>Do individuals' have access to food at any time consistent with individuals in similar and/or the same setting who are not receiving Medicaid-funded services and supports?</p> <p>Does the residential or non-residential setting have policies, procedures and/or practices that ensure the informed choice of the individual?</p> | |
| Free from coercion | <p>Is information about filing any type of complaint available to individuals in an understandable format? Are individuals comfortable discussing concerns? Do individuals know the person to contact or the process to make an anonymous complaint?</p> <p>Are individuals informed of their treatment and service rights, and right to be free from restraint, seclusion, abuse, neglect, and exploitation?</p> <p>Are individuals prevented from engaging in legal activities (for example: voting)?</p> | |
| Role in person centered service plan | <p>Are individuals assured that they will be supported in developing plans to support their needs and preferences? Are Enhanced Family Care/direct support providers and others knowledgeable about the capabilities, interests, preference and needs of individuals involved in the plan development?</p> <p>Does the individual, and/or a person chosen by the individual,</p> | |

| | | | | |
|--|---|--|--|--|
| | | | | |
| <p>Access to environment</p> | <p>Do individuals have the freedom to move about inside and outside of the residential or non-residential setting as opposed to one restricted room or area within the setting?</p> <p>Is the setting physically accessible, including access to bathrooms and break rooms, and are appliances, equipment, and tables/desks and chairs at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting? If obstructions are present, are there environmental adaptations such as a stair lift or elevator to address the obstructions? If so, are they functional?</p> <p>Are there gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting? Is access to certain areas limited due to health and safety reasons?</p> | | | |
| <p>Physical environment</p> | <p>Does the physical environment meet the needs of those individuals who require supports? For those individuals who need supports to move about as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc.? If applicable, are appliances accessible to individuals (e.g. the washer and dryer are front loading for individuals who use wheelchairs)? Are tables and chairs at a convenient height and location so that individuals can access and use the furniture comfortably?</p> <p>Does the setting support individual independence and preference? Do individuals have full access to the kitchen, laundry, or living areas?</p> <p>Are personal items present and arranged as the individual prefers? Do the furnishings and décor reflect individual choice and preference?</p> | | | |
| <p>Integration and access to the community</p> | <p>Is the setting on the grounds of, or immediately adjacent to a public institution or facility?</p> <p>Is the setting located in a building that is also a publicly or privately operated facility that provides inpatient treatment?</p> | | | |

| | | | | |
|--------------------|--|--|--|--|
| | <p>the presence of other persons or in the presence of the individual as if s/he were not present?</p> <p>Is communication conducted in a language or manner that the individual understands? <i>(For example: non-English speakers, individuals who are deaf)</i></p> | | | |
| Settings agreement | <p>For residential settings, is there a legally enforceable agreement for the unit or dwelling where the individual resides. Does the individual have a lease or, for settings in which landlord tenant laws do not apply, a written residency agreement? Does the individual know his/her rights regarding housing and when s/he could be required to relocate? Does the individual know about resources that can assist in relocation?</p> | | | |

Comments:

APPENDIX C

PARTICIPANT SURVEY/VALIDATION VISIT ASSESSMENT TOOL

Attachment C

NH HCBS Participant Survey

WHO: We are seeking feedback from all participants who receive funding from the DD, ABD, or CFI Waivers.

You do not have to take this survey. Your decision to take or not take this survey will not affect your health insurance or your medical care. The answers you provide will be kept private and will be analyzed in aggregate, not individually, by the UNH Institute on Disability.

WHAT: This survey asks questions about the settings where you receive your services (residential and/or day/employment). Please choose the answer that best describes your experience overall and add any comments that you think would be helpful.

When you take this survey, it is important to remember that all individuals have the fundamental right to personal freedoms, and if your living situation or program/services are restricted in any way, it must be allowed by an approved individualized plan. If you do not have an individualized plan or don't know why your program/services or living situation has restrictions or limitations, please use the "Comments" section to let us know.

WHY: The Centers for Medicare and Medicaid Services (CMS) is requiring states to review and evaluate current Home and Community-Based Settings (HCBS). There are new rules to make sure that individuals who get Medicaid waiver services and supports have full access to the benefits of community living. The reports generated from the survey responses will be used to assist the New Hampshire Department of Health and Human Services (DHHS) respond to CMS.

If you have any questions about this survey, please contact Linda Bimbo at the UNH/Institute on Disability, Linda.Bimbo@unh.edu

This survey should take you approximately 15-20 minutes to complete. Thank you in advance for your assistance!

HOW TO SUBMIT YOUR SURVEY:

Use the online survey tool to submit your survey answers:

https://unh.az1.qualtrics.com/SE/?SID=SV_863QthEwB8d3lt3

- Mail the completed paper survey to:
UNH/Institute on Disability
56 Old Suncook Road, Concord, NH 03301
Attn: Susan Orr
 - FAX it to 603-228-3270 Attn: Susan Orr
-

Participant Name (Optional): _____

Site Address: _____

Services received at this site are: ___ Residential or ___ Non-residential (i.e. adult day, day/vocational, employment)

Type of Waiver Funding for your services: ___ DD ___ ABD ___ CFI

Do you have a guardian or Power of Attorney? ___ Yes ___ No

A. Choice of setting

1. Did you choose where you live (residential) or where to receive services (non-residential)?

___ Yes ___ No

Comments:

2. Did you visit your residence and/or day program before you began receiving services there?

___ Yes ___ No

Comments:

3. Do you like your home/where you live or receive other services?

___ Yes ___ No ___ Sometimes

Comments:

4. If you wanted to change, do you know how to request new housing or a non-residential service (day or employment services) site change?

___ Yes ___ No

Comments:

5. Are you allowed to use the phone and/or internet (if available) when you want to?

___ Yes ___ No ___ Sometimes

Comments:

B. Choice of housemate or roommate

6. Did you choose (or pick) the people you live with?

Yes No

Comments:

7. Do you know how to change your roommate if you want to?

Yes No

Comments:

8. Do you have the option of living/rooming with a spouse or partner if you want to?

Yes No

Comments:

9. Have you been moved to another room or made to room with someone without your consent?

Yes No

Comments:

C. Participation in activities

10. Do you participate in the planning and/or engage in meaningful non-work activities Do you participate in the planning of and/or engage in meaningful non-work activities (sports, leisure, social, volunteer, or other activities in the community) Yes

No Sometimes

Comments:

11. Are you supported when you want to do something that's not scheduled?

Yes No Sometimes

Comments:

D. Integration and access to the community

12. Is your home or where you receive services part of the community at large (and not institution-like or part of or adjacent to an institution – hospital, nursing home, mental health hospital etc.)?

Yes No

Comments:

13. Can you see your family or friends when you want to see them?

Yes No Sometimes

Comments:

14. Do you feel isolated in your home or day program/service?

Yes No Sometimes

Comments:

15. Do you regularly leave your home to go shopping, on errands, to a restaurant or coffee shop, or other activity in the community?

Yes No Sometimes

Comments:

16. When you want to go somewhere, do you have a way to get there? (For example, access to public transportation or other resources)

Yes No Sometimes

Comments:

E. Community Employment

17. Do you have a paid job in the community (if you want one)?

Yes No Sometimes

Comments:

18. If yes, are you working as much as you would like to?

Yes No Sometimes

Comments:

19. If you would like to work, is someone helping you with that goal?

Yes No Sometimes

Comments:

F. Own schedule

20. Do you decide on your daily schedule (like when to get up, when to eat, when to go to sleep)?

Yes No Sometimes

Comments:

21. Do you decide on how you spend your free time (when you are not working, in school or at a day program)?

Yes No Sometimes

Comments:

G. Access to personal funds

22. Do you have a bank account or way to control your personal resources?

Yes No Sometimes

Comments:

23. Do you have regular and easy access to personal funds? (For example, do you choose what you buy with your personal spending money?)

Yes No Sometimes

Comments:

H. Choice related to meals/snacks

24. Do you choose when and where to eat?

Yes No Sometimes

Comments:

25. Can you obtain different food if you don't like what is being served (unless you have specific dietary restrictions)?

Yes No Sometimes

Comments:

26. Do you have access to the kitchen and refrigerator when you choose (unless you have specific dietary restrictions)?

Yes No Sometimes

Comments:

I. Individual needs/preferences

27. Does your case manager/service coordinator ask you what you want?

Yes No Sometimes

Comments:

28. If you ask for something, does your case manager/service coordinator help you get what you need?

Yes No Sometimes

Comments:

J. Freedom from coercion

29. Are you comfortable discussing concerns (things that upset or worry you) with someone where you live or receive other services?

Yes No Sometimes

Comments:

30. Do you know who to contact to make a complaint?

Yes No

Comments:

31. Are you prohibited from participating in legal activities similar to typical peers (without disabilities) such as voting, having a girlfriend/boyfriend etc.?

Yes No Sometimes

Comments:

32. In your home or where you receive services, have you been placed in seclusion, physically restrained, or chemically restrained against your wishes? If yes, please comment.

Yes No

Comments:

K. Role in person centered service plan

33. Did you help make your service plan?

Yes No

Comments:

34. Does your service plan get updated when you express a desire to change the type, how often, or the provider of supports/services?

Yes No Sometimes

Comments:

35. Was the planning meeting scheduled at a time and place convenient to you , your family or anyone else you wanted to participate?

Yes No

Comments:

36. Did you receive a copy of your service plan?

Yes No

Comments:

L. Access to living environment

37. Can you move about freely inside and outside your home?

Yes No Sometimes

Comments:

38. If access is limited in your home, do you have an individual plan describing the reasons for the limitation?

Yes No

Comments:

39. Do you have full access to the kitchen, laundry, and other living spaces?

Yes No Sometimes

Comments:

40. Do you have your own keys to your house or your room?

Yes No

Comments:

M. Physical environment

41. Are there environmental accommodations (e.g. ramps, grab bars, graphic signage to support independence) available to you if you need them?

Yes No Sometimes

Comments:

42. Is the furniture in your bedroom or living space arranged as you like? It is according to your likes and taste?

Yes No Sometimes

Comments:

N. Dignity and privacy

43. Do you have enough privacy at home?

Yes No Sometimes

Comments:

44. Do you have a safe place to store your personal belongings?

Yes No Sometimes

Comments:

45. Can you close and lock the bedroom or bathroom door (if safe to do so)?

Yes No Sometimes

Comments:

46. Do people ask permission before coming into your home or bedroom?

Yes No Sometimes

Comments:

O. Communication

47. Are you treated with respect where you live or receive other services?

Yes No Sometimes

Comments:

48. Do the people who support you/your staff talk about you or your roommates in front of you?

Yes No Sometimes

Comments:

49. Do you feel empowered to make your own decisions?

Yes No Sometimes

Comments:

50. Are there communication accommodations (for example, use of non-English language, use of American Sign Language, assistive technology, etc.) available to you if you need them?

Yes No Sometimes

Comments:

P. Housing/rental agreement

51. Do you have a housing/rental agreement with your name on it?

Yes No Unknown

Comments:

52. If yes, does the written agreement outline your legal rights, protect you against unreasonable eviction and allow appeals of eviction or discharge?

Yes No Unknown

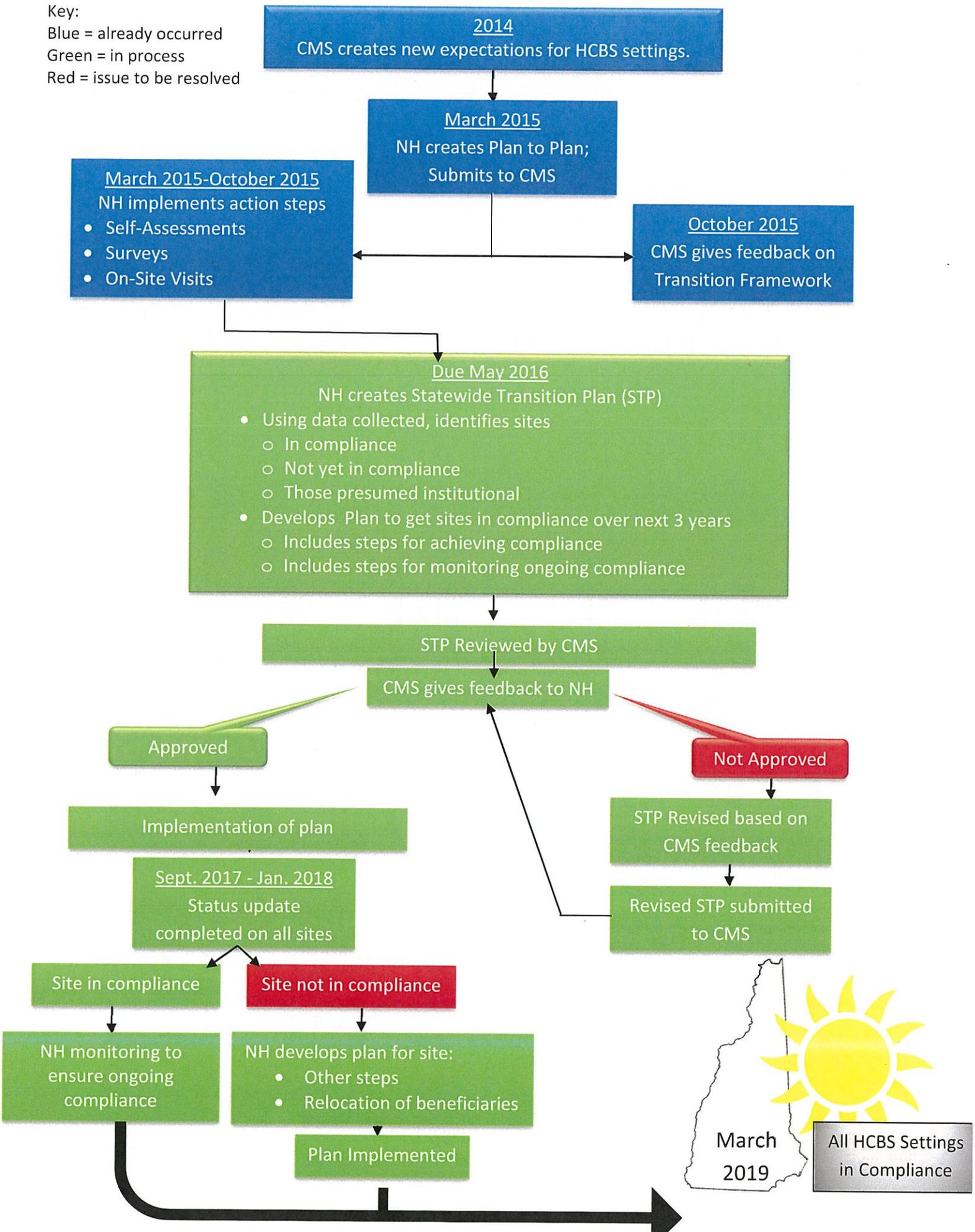
Comments:

Q. Additional Comments:

APPENDIX D
NEW HAMPSHIRE STP IMPLEMENTATION FLOW CHART

ATTACHMENT D - NEW HAMPSHIRE'S IMPLEMENTATION FLOW CHART

Key:
 Blue = already occurred
 Green = in process
 Red = issue to be resolved



APPENDIX E
REMEDIATION FORM

ATTACHMENT E - REMEDIATION PLAN FOR HCBS COMPLIANCE

Oversight Agency: _____

Provider: _____

Site Address: _____ Date of visit: _____

| TOPIC AREA | CONCERN | ACTION PLAN FOR FULL COMPLIANCE | DATE OF COMPLETION |
|------------|---------|---------------------------------|--------------------|
| | | | |
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- Provider is expected to complete form/steps within 21 days of site visit and return form to Waiver Transition Team.
- Waiver Transition Team will review the plan and complete a follow-up visit, as appropriate within five days of the submission date of the Remediation Plan Form.
- Waiver Transition Team will approve/disapprove plan.
- If plan is disapproved, provider will make edits and resubmit plan.

Person responsible: _____

Contact information: Phone #: _____ Email Address: _____

WTT verification: _____

Completed by: _____ Date: _____

APPENDIX F-1
DD/ABD REGULATORY ANALYSIS
He-M 1001 & He-P 814

Attachment F-1

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

COMMUNITY LIVING FACILITY – COMMUNITY RESIDENCE (RSA 126-a:19, et seq., He-M 1001, and He-P 814)

This analysis is for both certified residences pursuant to He-M 1001 and licensed community residences pursuant to He-P 814.

126-A:19 Community Living Facilities

The commissioner shall develop a statewide program of community living facilities for persons with developmental disabilities or mental illnesses. The commissioner shall be responsible for the selection, certification, and monitoring of such community living facilities in accordance with rules adopted by the commissioner pursuant to RSA 541-A. The commissioner shall also be responsible for prior approval of all individual residential placements and shall adopt rules relative to monitoring the care, treatment, and habilitation provided to all residents of community living facilities. Rates for enhanced family care residents shall be set according to the severity of the resident's disability. Placements of children shall be consistent with RSA 170-A [Interstate Compact on the Placement of Children], 170-C [Termination of Parental Rights], and 170-E [Child Day Care, Residential Care, and Child Placing Agencies], as appropriate. Approval by the commissioner of an individual for placement in a community living facility shall be based on a finding by the commissioner that the community living facility is the least restrictive environment appropriate to the needs of the individual. "Least restrictive environment" means the facility, program, or service which least inhibits a person's freedom of movement, freedom of choice, and participation in the community, while achieving the purposes of habilitation and treatment.

126-A:24 Placement.

Community living facilities serving persons with developmental disabilities shall be considered a part of the service delivery system as defined in RSA 171-A.

He-M 517.04 Provider Participation

- (a) Except as allowed by (b) below, all community residences shall be certified pursuant to He-M 1001. Community residences that serve 4 or more people shall also be licensed by the bureau of health facilities administration in accordance with RSA 151:2, I, (e) and He-P 814.
- (b) A residence funded under the home and community-based care waiver that provides services to persons with acquired brain disorders and is licensed as a supported residential care facility or a residential treatment and rehabilitation facility under RSA 151:2, I, (e) shall not be required to be certified as a community residence pursuant to He-M 1001.

He-M 1001.02 Definitions

- (k) "Community residence" means either an agency residence or family residence, exclusive of any independent living arrangement, that:
- (1) Provides residential services for at least one individual with a developmental disability in accordance with He-M 503, or an acquired brain disorder in accordance with He-M 522;
 - (2) Provides services and supervision for an individual on a daily and ongoing basis, both in the home and in the community, unless the individual's service agreement states that the individual may be without supervision for specified periods of time;
 - (3) Serves individuals whose services are funded by the department; and
 - (4) Is certified pursuant to He-M 1001.

He-M 1001.03 Administrative Requirements.

- (a) A community residence shall have no more than 3 persons receiving paid services in the residence

Attachment F-1

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

without regard to payment source.

- (b) A community residence that was certified prior to September 1, 1994 for more than 3 individuals shall be exempt from (a) above. Such a residence shall not be recertified to serve more individuals than it was certified to serve on September 1, 1994.
- (c) Any community residence serving 4 or more individuals shall be licensed as required by RSA 151:2.
- (e) If a community residence serving persons who are 18 years of age or older intends to serve, or is serving, a person(s) who is under 18 years of age, it shall obtain written approval for such an arrangement from the guardian(s) of the person(s) under age 18 and the area agency.
- (f) A community residence that serves a person(s) who is under 18 years of age shall be licensed as a foster family home pursuant to RSA 170-E:31-32.

He-P 814.03 Definitions

(m) "Community residence" means a facility of 4 or more individuals that is both certified by the department under RSA 126-A and licensed by the department under RSA 151, and that is operating in accordance with He-M 1001 or He-M 1002. The term includes "home".

He-P 814.16 Required Facility and Individual Services

Each CR [community residence] shall provide, at a minimum, services and programs for the individuals they provide services to in accordance with He-M 1001 or He-M 1002.

| Community Living Facility-Community Residence | | |
|--|---|---------------|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| 42 CFR § 441.301(c)(4): Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: | No action required. The following rules are currently compliant – He-M 310.06(a)(7), 310.06(d), He-M 503.10(c), and He-M 1001.05(b) | |
| (i): The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. | | |

| Community Living Facility-Community Residence | | |
|---|---|-----------------|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (ii) 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 | He-M 310.06(a), 310.09(5)f. and He-M 503.10(c)(10) are currently compliant. He-M 503.10(c)(11) is currently silent regarding that the documentation is based on resource available for room and | Jan – June 2017 |

Attachment F-1

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

| | | |
|---|---|--|
| and for room and board. | board. This provision will be added to the regulation. He-M 522 is currently non-compliant with this requirement and will be amended to be the same as He-M 503.10(c)(10) and (11). | |
| NH Statute/Regulation and Analysis | | |
| Compliance Action Required | | |
| Timing | | |
| (iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | | |
| | No compliance action necessary. The following rules are compliant with this requirement: He-M 310.05(a),(c) and (d), 310.06(17), He-M 310.09(a)(4), He-M 1001.03(m) and He-M 1001.07. | |

| | | |
|---|---|--|
| Community Living Facility-Community Residence | | |
| NH Statute/Regulation and Analysis | | |
| Compliance Action Required | | |
| Timing | | |
| (iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | | |
| | The following rules are currently compliant: He-M 310.06(a)(7), 310.09(a)(5), He-M 503.07(b), and He-M 522.09(b). | |

| | | |
|---|---|--------------------|
| Community Living Facility-Community Residence | | |
| NH Statute/Regulation and Analysis | | |
| Compliance Action Required | | |
| Timing | | |
| (v): Facilitates individual choice regarding services and supports, and who provides them. | | |
| | He-M 503.08-503.10 meets this requirement. He-M 522 is currently compliant as well, but will be amended to include the same language as 503.08-503.10. He-M 310.06(a)(4) a. is currently non-compliant and will be amended to read: "Is directed by the individual or representative, where possible." | Jan – June 2017 |

Attachment F-1

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

| Community Living Facility-Community Residence | | |
|--|---|--|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met: | | |
| (A) 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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. | | |
| | New Hampshire landlord tenant law currently excepts these settings from the protections therein. A legal review will be conducted to determine what changes are necessary to NH statutes and/or rules to comply with this requirement. | Jan – June 2017 legal review will be complete and compliance steps will be identified. |
| (B) <u>Each individual has privacy in their sleeping or living unit:</u> (1) <u>Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</u> (2) <u>Individuals sharing units have a choice of roommates in that setting.</u> (3) <u>Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</u> | | |
| | He-M 310.09(a) is currently compliant. He-M 1001.03 is currently silent on items (1)-(3) He-M 1001.03 will be amended to provide: "An individual's rights in accordance with He-M 310.09 shall be protected." As noted above, a legal review will be conducted regarding | Jan – June 2017 Jan – June 2017; legal review will be complete and compliance steps will be identified. |

Attachment F-1

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

| | | |
|--|---|--|
| | changes necessary regarding "lease or other agreement." | |
|--|---|--|

| Community Living Facility-Community Residence | | |
|---|---|---------------|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | | |
| <u>Freedom and support to control their own schedules and activities:</u> | No compliance action necessary. The following rules are currently compliant: He-M 310.06(a)(7), 310.09(a)(5), He-M 503.07(b), and He-M 522.09(b). | |
| <u>Access to food at any time:</u> | No compliance action necessary. The following rules are already in compliance: He-M 310.09(5), and He-M 1001.06(k). | |

| Community Living Facility-Community Residence | | |
|---|---|---------------|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (D) Individuals are able to have visitors of their choosing at any time. | | |
| | No compliance action necessary. He-M 310.09(3)(c) complies with this requirement. | |

| Community Living Facility-Community Residence | | |
|--|---|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (E) The setting is physically accessible to the individual. | | |
| | No compliance action necessary. He-M 310.09(a)(2) is in compliance. | |

| Community Living Facility-Community Residence | | |
|---|---|---|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (F): Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service | | |
| | He-M 310.09(i) and He-M 503.10(i) and (j) are in compliance with this requirement. He-M 522 is silent on this | Jan – June 2017 Jan – June 2017, legal |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

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| | <p>requirement. It will be amended to include the language of He-M 503.10(i) and (j).</p> <p>As noted above, a legal review will be conducted regarding changes necessary regarding "lease or other agreement." Upon the completion of said review, changes can then be made.</p> | <p>review will be complete and compliance steps will be identified.</p> |
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APPENDIX F-2
DD/ABD REGULATORY ANALYSIS
He-P 807

Attachment F-2

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

RESIDENTIAL TREATMENT AND REHABILITATION FACILITIES

(RSA 151:2, I(e) & He---P 807)

The residential treatment and rehabilitation facility is a licensed setting.

RSA 151:2

I. The following facilities shall not be established, conducted, or maintained without acquiring a license under this chapter: . . .

(e) Residential care facilities, whether or not they are private homes or other structures built or adapted for the purpose of providing residential care, offering services beyond room and board to 2 or more individuals who may or may not be elderly or suffering from illness, injury, deformity, infirmity or other permanent or temporary physical or mental disability. Such facilities shall include those:

- (1) Offering residents home---like living arrangements and social or health services including, but not limited to, providing supervision, medical monitoring, assistance in daily living, protective care or monitoring and supervision of medications; or
- (2) Offering residents social, health, or medical services including, but not limited to, medical or nursing supervision, medical care or treatment, in addition to any services included under subparagraph (1).

Such homes or facilities shall include, but not be limited to, nursing homes, sheltered care facilities, rest homes, residential care facilities, board and care homes, or any other location, however named, whether owned publicly or privately or operated for profit or not.

Note: The RTRF licensing rule, He---P 807.01, incorrectly references RSA 151:2, I(d) as the governing statute. The Health Facilities Administration verified that the correct reference is RSA 151:2, I(e).

He---P 807.03 Residential Treatment and Rehabilitation Facilities

“Residential treatment and rehabilitation facility“(RTRF) means a place, excluding hospitals as defined in RSA 151---C:2, which provides residential care, treatment and comprehensive specialized services relating to the individual's medical, physical, psychosocial, vocational, educational and or substance abuse therapy needs.

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

| Residential Treatment and Rehabilitation Facility (RTRF) | | |
|---|--|---------------|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| <p>42 CFR § 441.301(c)(4): Home and Community-Based Settings. Home and community--based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person--centered service plan:</p> <p>(i): The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p> | <p>The following rules are currently compliant with all elements of this requirement– He-M 310.06(a)(7), 310.06(d), and He-M 503.10(c).</p> <p>He-P 807.14 (a) provides that the licensee shall comply with all relevant federal, state, and local laws, rules, codes, and ordinances as applicable. Thus, the licensee must comply with He-M 310 and He-M 503 as applicable, which are compliant with this requirement.</p> | |

| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| <p>(ii) 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>He-M 310.06(a) and He-M 503.10(c)(10) are currently compliant. He-M 503.10(c)(11) is currently silent regarding that the documentation is based on resource available for room and board. This provision will be added to the regulation. He-M 522 is currently non-compliant with this requirement and will be amended to be the same as He-M 503.10(c)(10) and (11).</p> | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (iii): Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | | |
| | No compliance action necessary. The following rules are compliant with this requirement: He-M 310.05(a),(c) and (d), 310.06(17), He-P 807.14 (n), and He-P 807.14(g)-(j). | |

| Residential Treatment and Rehabilitation Facility (RTRF) | | |
|---|---|---------------|
| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | No compliance action required. The following rules are currently compliant: He-M 310.06(a)(7), He-M 503.07(b), and He-M 522.09(b). He-M 807.14(n) requires the licensee to comply with RSA 151:21. RSA 151:21 complies with this requirement. | |
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| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (v): Facilitates individual choice regarding services and supports, and who provides them. | | |
| | He-M 503.08-503.10 meets this requirement. He-M 522 is currently compliant as well, but will be amended to include the same language as 503.08-503.10. | Jan - June 2017 for change to He-M 310 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

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| | <p>He-M 310.06(a)(4) a. is currently non-compliant and will be amended to read:</p> <p>“Is directed by the individual or representative, where possible.”</p> <p>He-P 807 currently requires a “care plan,” which is developed by a different process than He-M 503 and 522. A legal review will be conducted to determine whether any changes are necessary to this rule to comply with this requirement.</p> | <p>Jan - June 2017 legal review of He-P 807 will be complete and any compliance steps will be identified.</p> |
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| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| <p>(vi) In a provider---owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> <p>(A) 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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

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| | <p>New Hampshire landlord tenant law currently excepts these settings from the protections therein. A legal review will be conducted to determine what changes are necessary to NH statutes and/or rules to comply with this requirement.</p> | <p>Jan - June 2017, legal review will be complete and compliance steps will be identified</p> |
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| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NE Statute/Regulation and Analysis | Compliance Action Required | Timing |
| <p>(B) Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (2) Individuals sharing units have a choice of roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> | | |
| | <p>RSA 151:21, XV provides the resident with the right to the choice of roommate.</p> <p>RSA 151:21 and He-P 807 are silent with respect to requirements (1) and (3). He-P 807.14(p)(2) is currently non-compliant with requirement (2). A legal review will be conducted to determine whether any changes are necessary to this rule to comply with this requirement.</p> <p>As noted above, a legal review will be conducted regarding changes necessary regarding "lease or other agreement."</p> | <p>Jan - June 2017 legal review will be complete and any compliance steps will be identified.</p> <p>Jan - June 2017, legal review will be complete and</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

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| | | compliance steps will be identified |
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| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | | |
| <u>Freedom and support to control their own schedules and activities:</u> | No compliance action necessary. The following rules are currently compliant: He-M 310.06(a)(7), 310.09(a)(5), He-M 503.07(b), and He-M 522.09(b). | |
| <u>Access to food at any time:</u> | He-P 807 is not compliant with this requirement. A legal review will be conducted to determine whether any changes are necessary to this rule to comply with this requirement. | Jan - June 2017, legal review will be complete and any compliance steps will be identified. |

| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (D) Individuals are able to have visitors of their choosing at any time. | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

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| State uses to review/approve them. | No compliance action necessary RSA 151:21 complies with this requirement. | |
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| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (E) The setting is physically accessible to the individual. | | |
| | He-P 807.23(a) complies with this requirement. | |

| Residential Treatment and Rehabilitation Facility (RTRF) | | |
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| NH Statute/Regulation and Analysis | Compliance Action Required | Timing |
| (F): Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person--centered service plan. | | |
| | <p>He-M 503.10(i) and (j) are in compliance with this requirement. He-M 522 is silent on this requirement. It will be amended to include the language of He-M 503.10(i) and (j).</p> <p>As noted above, a legal review will be conducted regarding changes necessary regarding "lease or other agreement." Upon the completion of said review, changes can then be made.</p> <p>He-P 807 currently requires a "care plan," which is developed by a different process than He-M 503 and 522. A legal review will be</p> | <p>Jan - June 2017</p> <p>Jan - June 2017 legal review will be complete and compliance steps will be identified.</p> <p>Jan - June 2017 legal review will be complete and any</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for Individuals with Developmental Disabilities and Acquired Brain Disorders

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| | conducted to determine whether any changes are necessary to this rule to comply with this requirement. | compliance steps will be identified. |
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APPENDIX G-1
CFI REGULATORY ANALYSIS
He-P 813

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

**ADULT FAMILY CARE RESIDENCE
(RSA 151:9, VIII & He-P 813)**

The adult family care setting is a certified residential care facility.

RSA 151:2.

II. This chapter shall not be construed to require licensing of the following: . . . (b) Facilities maintained or operated for the sole benefit of persons related to the owner or manager by blood or marriage within the third degree of consanguinity.

IV. Rules for residential care facilities and supported residential care facilities, as defined in rules adopted by the department pursuant to RSA 541-A, which are licensed pursuant to RSA 151:2, I(e) or certified in accordance with RSA 151:9, VIII, shall permit such facilities to admit residents who have been determined eligible for nursing facility services under a Medicaid home and community-based care waiver for the elderly and chronically ill and who have been referred to such a facility as an alternative to placement in a nursing facility, provided that the clinical services and supports required by the person can be provided or obtained in the facility. No bed may be licensed in both the nursing facility and residential care facility categories at the same time.

RSA 151:9

VIII. The commissioner of the department of health and human services shall establish a program, by rule, to certify facilities that provide services to fewer than 3 individuals, beyond room and board care, in a residential setting, as an alternative to nursing facility care, which offers residents a home-like living arrangement, social, health, or medical services, including, but not limited to, medical or nursing supervision, medical care or treatment by appropriately trained or licensed individuals, assistance in daily living, or protective care.

151-E:2 Definitions.

VIII. "Residential care facility" means a facility, including a supported residential care facility, which provides services to 2 or more individuals, beyond room and board care, in a residential setting, as an alternative to nursing facility care, which offers residents home-like living arrangements, social, health, or medical services, including but not limited to, medical or nursing supervision, or medical care or treatment by appropriately trained or licensed individuals, assistance in daily living, or protective care. "Residential care facility" shall also include a facility certified in accordance with RSA 151:9, VIII.

He-P 813.03 Definitions

(d) "Adult family care (AFC)" means a housing option for eligible individuals under the New Hampshire choices for independence waiver program, which includes a combination of personal care, homemaking and other services that are provided to a person in the certified residence of an unrelated individual in accordance with a person-centered plan.

(e) "Adult family care residence (AFCR)" means the dwelling in which AFC is provided for one or 2 residents.

Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR)

| NH Statute/Regulation | Compliance Action Required | Timing |
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| <p>(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</p> <p>(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in</p> | | |

Attachment G-1

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|---|--|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. | <ul style="list-style-type: none"> • <i>Amend He-E 801.02(j) to read -</i> “Comprehensive care plan” means an individualized plan described in He-E 805.05 that is the result of a person-centered process that identifies the strengths, capacities, preferences, and desired outcomes of the participant.” <i>Amend He-E 805.05(b)(2) to read -</i> “(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas: <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney; h. Community participation, including the participant’s need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities; i. Desired setting where individual will reside; and j. Any other area identified by the participant as being important to his or | Jan – June 2017 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
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| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>her life”</p> <p><i>Amend He-P 813.04(h) to read-</i> “The family provider shall provide or arrange for the resident with access to community activities, including:</p> <ul style="list-style-type: none"> (1) Religious services; (2) Social and cultural events; (3) Educational activities; (4) Recreational activities; (5) Opportunities for the resident to visit with his or her family and friends; and (6) Employment activities.” | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(ii) 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>Amend He-E 805, the case management rule, to require identification and documentation of setting options and choice of setting in the CFI comprehensive care plan process.</p> <p><i>Amend He-E 805.05(b)(2) to read -</i> “(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas:</p> <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, | <p>Jan - June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|--|--|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>accessibility and safety;</p> <p>d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual;</p> <p>e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime;</p> <p>f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk;</p> <p>g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney;</p> <p>h. Community participation, including the participant's need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities;</p> <p>i. Desired setting where individual will reside; and</p> <p>j. Any other area identified by the participant as being important to his or her life"</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|--|---|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | <ul style="list-style-type: none"> Amend AFCR rules to make clear the resident's right to refuse care. <i>Amend He-P 813.04(c) to read –</i>“Family providers shall follow the orders of the licensed practitioner or other licensed professional with prescriptive authority for each resident and when a resident refuses care, ensure the resident understands the potential consequences of such an action.” | Jan – June 2017 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
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| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p align="center">Amend He-E 801.24 to read:</p> <p>(d) Any facility that provides residential or day services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients':</p> <p>(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B) for those CFI Waiver recipients who do not have a modification of this requirement in their personal care plan and consistent with New Hampshire fire safety regulations.</p> <p>(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.</p> <p>(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their choosing at any time, when visitors come during quiet time or outside of regular business hours, and without infringing on the rights of other residents.</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
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| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p> | <ul style="list-style-type: none"> <i>Amend He-P 813.15(a) to include, in addition to language already there – “The AFCR’s emergency and fires safety plan developed pursuant to He-P 813.20(d).”</i> | <p align="center">Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
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| NI Statute/Regulation | Compliance Action Required | Timing |
| (y) Facilitates individual choice regarding services and supports, and who provides them. | <ul style="list-style-type: none"> Amend He-P 813.03(ab) to read- "Person-centered" means a planning process to develop an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals." Ensure the AFCR allows the individual to be treated by his/her physician of choice. <i>Patient's Bill of Rights already requires this.</i> | Jan – June 2017 |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
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| NI Statute/Regulation | Compliance Action Required | Timing |
| <p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> <p>(A) 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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> | No changes required. | |
| <p>(B) Each individual has privacy in their sleeping or living unit:</p> <p>(1) Units have entrance doors lockable by the individual, with only</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>appropriate staff having keys to doors.</p> <p>(2) Individuals sharing units have a choice of roommates in that setting.</p> <p>(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> | <p><i>Amend He-P 813.19</i></p> <p>He-P 813.19 <u>Physical Environment.</u></p> <p>(b) The family provider shall protect the resident's right to privacy and shall only enter the resident's bedroom if:</p> <p>(1) Invited; or</p> <p>(2) For the purpose of providing necessary care and services</p> <p>(d) Each resident bedroom shall:</p> <p>(1) Contain no more than 2 beds;</p> <p>(2) Have its own separate entry to permit the resident to reach his or her bedroom without passing through the room of another resident;</p> <p>(3) Not be used as an access way to a common area or another bedroom or for any other purposes;</p> <p>(4) Be separated from halls, corridors and other rooms by floor to ceiling walls;</p> <p>(5) Have at least one operable window with a tightly fitting screen to the outside; and</p> <p>(6) Be lockable by the resident.</p> <p>(f) The certified home family provider shall provide the following for the resident's use:</p> <p>(1) A bed appropriate to the needs of the resident, including a mattress, pillow, linens and blankets;</p> <p>(2) Clean linens for personal care;</p> <p>(3) Furniture including, a bureau, mirror, and lamp;</p> <p>(4) Easily accessible closet or storage space for clothing and</p> | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|---|---|--------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | personal belongings; (5) Window blinds or curtains that provide privacy; (6) A lockable container for the storage of medications; and (7) A key to the resident's bedroom. | |
| (C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | | |
| (D) Individuals are able to have visitors of their choosing at any time. | | |
| (E) The setting is physically accessible to the individual. | Amend He-P 813.19(a) to read – (a) Living space and outdoor space shall be arranged and maintained as to provide for the health, safety and physical accessibility of all household members. | Jan – June 2017 |
| (F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: (1) Identify a specific and individualized assessed need. (2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan. (3) Document less intrusive methods of meeting the need that have been tried but did not work. (4) Include a clear description of the condition that is directly proportionate to the specific assessed need. (5) Include regular collection and review of data to measure the ongoing effectiveness of the modification. (6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated. | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Adult Family Care Residence (AFCR) | | |
|---|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (7) Include the informed consent of the individual. (8) Include an assurance that interventions and supports will cause no harm to the individual. | | |

APPENDIX G-2
CFI REGULATORY ANALYSIS
He-P 601, 809, & 822

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

**HOME SETTING – HOME HEALTH CARE PROVIDER, HOME CARE SERVICE PROVIDER, & OTHER QUALIFIED AGENCY
(RSA 151:2-b, RSA 161-I:2, & He-P 601, 809, & 822)**

The home health care provider and home care service provider are licensed agencies. The Other Qualified Agency is a certified agency.

RSA 151:2-b Home Health Care Provider and Individual Home Care Service Provider.

- I. "Home health care provider" means any organization, business entity, or subdivision thereof, whether public or private, whether operated for profit or not, which is engaged in arranging or providing, directly or through contract arrangement, one or more of the following: nursing services, home health aide services, or other therapeutic and related services which may include, but shall not be limited to, physical and occupational therapy, speech pathology, nutritional services, medical social services, personal care services, and homemaker services, which may be of a preventive, therapeutic, rehabilitative, health guidance or supportive nature to persons in their places of residence.
- II. Home health care providers which provide only homemaker services and no other health care services as listed in paragraph I of this section shall be issued a license limiting their services to homemaker services.
- III. Home health care providers that provide only personal care services and no other health care services as listed in paragraph I of this section shall be issued a license limiting their services to personal care services.

RSA 161-I:2

IX. "Other qualified agency" means those entities authorized to offer personal care services and/or intermediary services by the department in accordance with rules adopted pursuant to RSA 541-A.

He-P 601.03 Definitions

(q) "Other qualified agency (OQA)" means an entity certified in accordance with He-E 601 to offer personal care services and/or intermediary services.

He-P 809.03 Definitions

(ab) "Home health care provider (HHCP)" means any organization or business entity, whether public or private, whether operated for profit or not, which is engaged in arranging or providing, directly or through contract arrangement, one or more of the following services: nursing services, home health aide services, or other therapeutic and related services, which can include but are not limited to, physical and occupational therapy, speech pathology, nutritional services, medical social services, personal care services and homemaker services which may be of a preventative, therapeutic, rehabilitative, health guidance or supportive nature to persons in their places of residence.

He-P 822.03 Definitions

(z) "Home care service provider agency (HCSPA)" means any organization or business entity, except as identified in He-P 822.02(e), whether public or private, whether operated for profit or not, which is engaged in providing, through its employees, personal care services and/or homemaker services which may be of a supportive nature to persons in their places of residence.

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|---|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</p> <p>(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the</p> | | |

Attachment G-2

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|---|--|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p> | <ul style="list-style-type: none"> Amend CFI rules to include a comprehensive care plan focus on supports for employment and regular participation in non-work activities, including volunteer activities, that is desired by the resident and outside of the residential setting. <p><i>Amend He-E 801.02(j) to read -</i> “Comprehensive care plan” means an individualized plan described in He-E 805.05 that is the result of a person-centered process that identifies the strengths, capacities, preferences, and desired outcomes of the participant.”</p> <p><i>Amend He-E 805.05(b)(2) to read -</i> “(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas: a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of</p> | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>attorney;</p> <p>h. Community participation, including the participant's need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities;</p> <p>Desired setting where individual will reside; and</p> <p>j. Any other area identified by the participant as being important to his or her life"</p> | |
| <p>(ii) 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><i>Amend He-E 805.05(b)(2) to read -</i></p> <p>"(2) Culminate in a written document that describes the participant's abilities and needs in the following areas:</p> <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant's in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney; | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|--|---|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | h. Community participation, including the participant's need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities; i. Desired setting where individual will reside; and j. Any other area identified by the participant as being important to his or her life" | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|--|--|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | <ul style="list-style-type: none"> Requirement is already met by RSA 151:21-b | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|--|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|--|---|--------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (v) Facilitates individual choice regarding services and supports, and who provides them. | <i>Amend He-P 809.03(k) to read –</i> "Care plan" means an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her | Jan – June 2017 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OOA) | | |
|--|---|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>preferences, strengths, capacities, needs, and desired outcomes or goals.</p> <p><i>Amend He-P 822.03(av) to read –</i> (av) “Service plan” means an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.”</p> <p><i>Amend He-P 601.03(t) to read –</i> “Person-centered” means a planning process to develop an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> <p><i>Amend He-E 805.02(q) to read –</i> “Person-centered” means a planning process to develop an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OOA) | | |
|---|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> <p>(A) 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</p> | | |

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

**Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting
Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency
(OQA)**

| NH Statute/Regulation | Compliance Action Required | Timing |
|--|----------------------------|--------|
| <p>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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> <p>(B) Each individual has privacy in their sleeping or living unit:</p> <ol style="list-style-type: none"> (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (2) Individuals sharing units have a choice of roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. <p>(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> <p>(D) Individuals are able to have visitors of their choosing at any time.</p> <p>(E) The setting is physically accessible to the individual.</p> <p>(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p> <ol style="list-style-type: none"> (1) Identify a specific and individualized assessed need. (2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan. | | |

Attachment G-2

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency (OQA) | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(3) Document less intrusive methods of meeting the need that have been tried but did not work.</p> <p>(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>(7) Include the informed consent of the individual.</p> <p>(8) Include an assurance that interventions and supports will cause no harm to the individual.</p> | | |
| | <p>Amend He-E 801.24 to read: (d) Any facility that provides residential or day services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients':</p> <p>(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B) for those CFI Waiver recipients who do not have a modification of this requirement in their personal care plan and consistent with New Hampshire fire safety regulations.</p> <p>(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.</p> <p>(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their</p> | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

**Choices for Independence 1915(c) Home and Community-Based Care Waiver - Home/Apartment Setting
Home Health Care Providers (HHCP), Home Care Service Providers (HCSP) & Other Qualified Agency
(OQA)**

| NE Statute/Regulation | Compliance Action Required | Timing |
|-----------------------|---|--------|
| | choosing at any time, when visitors come during quiet time or outside of regular business hours, and without infringing on the rights of other residents. | |

APPENDIX G-3
CFI REGULATORY ANALYSIS
He-P 804

Attachment G-3

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

ASSISTED LIVING RESIDENCE - RESIDENTIAL CARE

(RSA 151:2, I(e) & He-P 804)

The assisted living residence-residential care setting is a licensed setting.

RSA 151:2, I(e): Residential care facilities, whether or not they are private homes or other structures built or adapted for the purpose of providing residential care, offering services beyond room and board to 2 or more individuals who may or may not be elderly or suffering from illness, injury, deformity, infirmity or other permanent or temporary physical or mental disability. Such facilities shall include those:

- (1) Offering residents home-like living arrangements and social or health services including, but not limited to, providing supervision, medical monitoring, assistance in daily living, protective care or monitoring and supervision of medications; or
- (2) Offering residents social, health, or medical services including, but not limited to, medical or nursing supervision, medical care or treatment, in addition to any services included under subparagraph (1).

Such homes or facilities shall include, but not be limited to, nursing homes, sheltered care facilities, rest homes, residential care facilities, board and care homes, or any other location, however named, whether owned publicly or privately or operated for profit or not.

RSA 151:9, VII(a): The rules adopted under RSA 151:9, I for residential care facilities shall, in establishing licensure classifications, recognize the following licensure levels which correspond to a continuum of care requiring different programs and services to assure quality of life in the least restrictive environment possible:

- (1) Residential care, requiring a minimum of regulation and reflecting the availability of assistance in personal and social activities with a minimum of supervision or health care, which can be provided in a home or home-like setting.

151-E:2 Definitions.

I. "Assisted living facility" means a facility with individual living units where medical and social support services are provided on the basis of an individualized plan of care and which provides other common social support services.

VIII. "Residential care facility" means a facility, including a supported residential care facility, which provides services to 2 or more individuals, beyond room and board care, in a residential setting, as an alternative to nursing facility care, which offers residents home-like living arrangements, social, health, or medical services, including but not limited to, medical or nursing supervision, or medical care or treatment by appropriately trained or licensed individuals, assistance in daily living, or protective care.

He-P 804.03 Definitions

(j) "Assisted living residence-residential care" means a long term care residence providing personal assistance at the residential care level pursuant to RSA 151:9, VII(a)(1).

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>42 CFR § 441.301(c)(4): Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</p> <p>(i): The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to</p> | | |

Attachment G-3

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|---|---|------------------------|
| NI Statute/Regulation | Compliance Action Required | Timing |
| <p>seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p> | <ul style="list-style-type: none"> • <i>Amend He-E 801.02(j) to read -</i> “Comprehensive care plan” means an individualized plan described in He-E 805.05 that is the result of a person-centered process that identifies the strengths, capacities, preferences, and desired outcomes of the participant. <i>Amend He-E 805.05(b)(2) to read –</i> (2) Culminate in a written document that describes the participant’s abilities and needs in the following areas: <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney; h. Community participation, including the participant’s need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities; i. Desired setting where individual will reside; and j. Any other area identified by the participant | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|---|---|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>as being important to his or her life</p> <p><i>Amend He-P 804.16(b) to add the following to the language already there – Information on access to supports for employment or participation in community activities;</i></p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(ii) 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><i>Amend He-E 805.05(b)(2) to read –</i></p> <p>(2) Culminate in a written document that describes the participant's abilities and needs in the following areas:</p> <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant's in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney; h. Community participation, including the | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| | | |
|--|---|--|
| | <p>participant’s need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities;</p> <p>i. Desired setting where individual will reside; and</p> <p>j. Any other area identified by the participant as being important to his or her life</p> | |
|--|---|--|

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|---|----------------------------|--------|
| (iii): Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | | |

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|--|---|------------------------|
| (iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | <p><i>Amend He-P 804.16(b) to add the following to the language already there – Evacuation Drill requirements and procedures.</i></p> | <p>Jan – June 2017</p> |

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|--|---|------------------------|
| (v): Facilitates individual choice regarding services and supports, and who provides them. | <p><i>Amend He-E 804.03(k) to read –</i></p> <p>“Care plan” means an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> <p><i>Amend He-E 805.02(q) to read –</i></p> | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|-----------------------|---|--------|
| | <p>“Person-centered” means a planning process to develop an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> | |

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|---|----------------------------|--------|
| <p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> <p>(A) 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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> | | |

Attachment G-3

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|--|---|----------------------------|
| <p>(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> <p>(D) Individuals are able to have visitors of their choosing at any time.</p> <p>(E) The setting is physically accessible to the individual.</p> <p>(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan</p> | | |
| | <p><i>Amend He-E 801.24 to read –</i></p> <p>(d) Any facility that provides residential or day services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients’:</p> <p>(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B) for those CFI Waiver recipients who do not have a modification of this requirement in their personal care plan and consistent with New Hampshire fire safety regulations.</p> <p>(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.</p> <p>(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their choosing at any time, when visitors come during quiet time or outside of regular business hours, and without infringing on the rights of other residents.</p> | <p>Jan – June 2017</p> |

APPENDIX G-4
CFI REGULATORY ANALYSIS
He-P 805

Attachment G-4

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

**ASSISTED LIVING RESIDENCE – SUPPORTED RESIDENTIAL HEALTH CARE FACILITY
(RSA 151:2, I(e) & He-P 805)**

The assisted living residence-supported residential health care facility setting is a licensed setting.

RSA 151:2, I(e): Residential care facilities, whether or not they are private homes or other structures built or adapted for the purpose of providing residential care, offering services beyond room and board to 2 or more individuals who may or may not be elderly or suffering from illness, injury, deformity, infirmity or other permanent or temporary physical or mental disability. Such facilities shall include those:

- (1) Offering residents home-like living arrangements and social or health services including, but not limited to, providing supervision, medical monitoring, assistance in daily living, protective care or monitoring and supervision of medications; or
- (2) Offering residents social, health, or medical services including, but not limited to, medical or nursing supervision, medical care or treatment, in addition to any services included under subparagraph (1).

Such homes or facilities shall include, but not be limited to, nursing homes, sheltered care facilities, rest homes, residential care facilities, board and care homes, or any other location, however named, whether owned publicly or privately or operated for profit or not.

RSA 151:9, VII(a): The rules adopted under RSA 151:9, I for residential care facilities shall, in establishing licensure classifications, recognize the following licensure levels which correspond to a continuum of care requiring different programs and services to assure quality of life in the least restrictive environment possible: . . .

- (2) Supported residential health care, reflecting the availability of social or health services, as needed, from appropriately trained or licensed individuals, who need not be employees of the facility, but shall not require nursing services complex enough to require 24-hour nursing supervision. Such facilities may also include short-term medical care for residents of the facility who may be convalescing from an illness and these residents shall be capable of self-evacuation.

151-E:2 Definitions.

I. “Assisted living facility” means a facility with individual living units where medical and social support services are provided on the basis of an individualized plan of care and which provides other common social support services.

VIII. “Residential care facility” means a facility, including a supported residential care facility, which provides services to 2 or more individuals, beyond room and board care, in a residential setting, as an alternative to nursing facility care, which offers residents home-like living arrangements, social, health, or medical services, including but not limited to, medical or nursing supervision, or medical care or treatment by appropriately trained or licensed individuals, assistance in daily living, or protective care.

He-P 805.03 Definitions

(bi) “Residential board and care”, as defined in NFPA 101 of the fire code, means a facility where residents are provided with personal care and activities that foster continued independence and residents are trained and required to respond to fire drills to the extent they are able. These facilities are further grouped as “small”, 4-16 beds or “large”, over 16 beds.

(bj) “Residential care facility”, as defined in NFPA 101 of the fire code, means a long term care residence providing personal assistance at the residential care level pursuant to RSA 151:9, VII(a)(1).

(bu) “Supported residential health care facility (SRHCF)” means a long-term care residence providing personal assistance at the supported residential care level pursuant to RSA 151:9, VII(a)(2).residence providing personal assistance at the residential care level pursuant to RSA 151:9, VII(a)(1).

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>42 CFR § 441.301(c)(4): Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</p> <p>(i): The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p> | | |
| | <p><i>Amend He-E 801.02(j) to read -</i> “Comprehensive care plan” means an individualized plan described in He-E 805.05 that is the result of a person-centered process that identifies the strengths, capacities, preferences, and desired outcomes of the participant.</p> <p><i>Amend He-E 805.05(b)(2) to read -</i> “(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas:</p> <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|--|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>well as health, social or behavioral issues that may indicate a risk;</p> <p>g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney;</p> <p>h. Community participation, including the participant's need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities;</p> <p>i. Desired setting where individual will reside; and</p> <p>j. Any other area identified by the participant as being important to his or her life"</p> <p><i>Amend He-P 805.16(c) by adding the following to the language already in place –</i></p> <p>"Information on access to supports for employment or participation in community activities."</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(ii) 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><i>Amend He-E 805.05(b)(2) to read –</i></p> <p>"(2) Culminate in a written document that describes the participant's abilities and needs in the following areas:</p> <p>a. Biopsychosocial history;</p> <p>b. Functional ability, including activities of daily living and instrumental activities of daily living;</p> <p>c. Living environment, including the participant's in-home mobility, accessibility and safety;</p> | <p>Jan – June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|---|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual;</p> <p>e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime;</p> <p>f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk;</p> <p>g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney;</p> <p>h. Community participation, including the participant's need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities;</p> <p>i. Desired setting where individual will reside; and</p> <p>j. Any other area identified by the participant as being important to his or her life"</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|----------------------------|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (iii): Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. | | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|--|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. | | |
| | <i>Amend He-P 805.16(c) to add the following to the language already there – "Evacuation Drill requirements and procedures."</i> | Jan – June 2017 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|---|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (v): Facilitates individual choice regarding services and supports, and who provides them. | <p><i>Amend He-E 805.03(k) to read –</i> “Care plan” means an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> <p><i>Amend He-E 805.02(q) to read –</i> “Person-centered” means a planning process to develop an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> | Jan – June 2017 |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|----------------------------|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> <p>(A) 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 the document provides protections that address eviction processes and appeals comparable to those</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|---|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| provided under the jurisdiction's landlord tenant law. | No compliance action required. | |
| <p>(B) Each individual has privacy in their sleeping or living unit:</p> <p>(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> <p>(2) Individuals sharing units have a choice of roommates in that setting.</p> <p>(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> | <p><i>Amend He-E 801.24 to read –</i></p> <p>(d) Any facility that provides residential or day services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients’:</p> <p>(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B) for those CFI Waiver recipients who do not have a modification of this requirement in their personal care plan and consistent with New Hampshire fire safety regulations.</p> <p>(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.</p> <p>(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their choosing at any time, when visitors come during quiet time or outside of regular business hours, and without infringing on the rights of other residents.</p> | Jan – June 2017 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Assisted Living Residence-Supported Residential Health Care Facility (ALR-SRHCF) | | |
|--|--|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | | |
| (D) Individuals are able to have visitors of their choosing at any time. | | |
| (E) The setting is physically accessible to the individual. | <i>Amend He-P 805.24(a) to read –</i> “The physical environment shall be maintained, inside and outside, so as to provide for the health, safety, well-being and comfort of resident(s) and personnel, including reasonable accommodations for residents and personnel with disabilities to ensure access to a resident’s bedroom, all common areas, and all services provided by the SRHCF.” | Jan – June 2017 |
| (F): Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. | | |

APPENDIX G-5
CFI REGULATORY ANALYSIS
He-P 801.28

Attachment G-5

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

SUPPORTIVE HOUSING

(He-E 801.28)

Supportive housing is housing for older adults subsidized under HUD.

He-E 801.28 Supportive Housing Services.

(a) Supportive housing services shall be covered when provided by a home health care providers licensed in accordance with RSA 151:2 and He-P 809 and when provided to participants who live in federally subsidized individual apartments.

Note: BEAS provides that the federal subsidy is a HUD subsidy. The assumption made for this analysis is that this is “housing for older persons” as defined in RSA 161-J:2, III—

“Housing for older persons” means housing which provides or holds itself out as providing on-site personal assistance services over and above service coordination which is:

- (a) Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or
- (b) Intended for, and solely occupied by, persons 62 years of age or older; or
- (c) Intended and operated for occupancy by at least one person 55 years or older per unit.]

Note

Overall, the assumption is made here that this is a home-based care setting. Facts about this setting may show otherwise.

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Supportive Housing (SH) | | |
|--|--|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>42 CFR § 441.301(c)(4): Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</p> <p>(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p> | | |
| | <p><i>Amend He-E 805.05(b)(2) to read –</i></p> <p>“(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas:</p> <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney; h. Community participation, including the participant’s need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities; i. Desired setting where individual will reside; and j. Any other area identified by the participant as being important to his or her life” | <p>Jan – June 2017</p> |
| <p>(ii) The setting is selected by the individual from among setting options including non-</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Supportive Housing (SH) | | |
|---|---|------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>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> | <ul style="list-style-type: none"> “Amend He-E 805, the case management rule, to require identification and documentation of setting options and choice of setting in the CFI comprehensive care plan process. <i>Amend He-E 805.05(b)(2) to read –</i> <p>“(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas:</p> <ol style="list-style-type: none"> Biopsychosocial history; Functional ability, including activities of daily living and instrumental activities of daily living; Living environment, including the participant’s in-home mobility, accessibility and safety; Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; Self-awareness, or the degree to which the participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime; Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk; Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney; Community participation, including the participant’s need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities; Desired setting where individual will reside; and Any other area identified by the participant as being important to his or her life” | <p>Jan – June 2017</p> |
| <p>(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p> | <ul style="list-style-type: none"> No compliance action required; standard met by RSA 151:21-b | |
| <p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices,</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Supportive Housing (SH) | | |
|--|---|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| including but not limited to, daily activities, physical environment, and with whom to interact. | | |
| | <ul style="list-style-type: none"> No compliance action required; standard met by RSA 161-M:3 | |
| (v) Facilitates individual choice regarding services and supports, and who provides them. | <p><i>Amend He-P 809.03(k) to read –</i> “Care plan” means an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> <p><i>Amend He-P 822.03(av) to read –</i> (av) “Service plan” means an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> <p><i>Amend He-E 805.02(q) to read –</i> “Person-centered” means a planning process to develop an individual support plan that is directed by the person, his or her representative, or both, and which identifies his or her preferences, strengths, capacities, needs, and desired outcomes or goals.</p> | Jan – June 2017 |
| <p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> <p>(A) 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 the document provides protections that address eviction processes and appeals</p> | | |

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver - Supportive Housing (SH) | | |
|---|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>comparable to those provided under the jurisdiction's landlord tenant law.</p> <p>(B) Each individual has privacy in their sleeping or living unit:</p> <p>(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> <p>(2) Individuals sharing units have a choice of roommates in that setting.</p> <p>(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> <p>(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> <p>(D) Individuals are able to have visitors of their choosing at any time.</p> <p>(E) The setting is physically accessible to the individual.</p> <p>(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p> <p>(1) Identify a specific and individualized assessed need.</p> <p>(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</p> <p>(3) Document less intrusive methods of meeting the need that have been tried but did not work.</p> <p>(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.</p> <p>(5) Include regular collection and review of data to measure the</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

Choices for Independence 1915(c) Home and Community-Based Care Waiver - Supportive Housing (SH)

| NH Statute/Regulation | Compliance Action Required | Timing |
|--|----------------------------|--------|
| <p>ongoing effectiveness of the modification.</p> <p>(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p> <p>(7) Include the informed consent of the individual.</p> <p>(8) Include an assurance that interventions and supports will cause no harm to the individual.</p> | | |

APPENDIX G-6
CFI REGULATORY ANALYSIS
He-P 818

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

**ADULT DAY PROGRAMS (ADP)
(RSA 151:2, II (f) & He-P 818)**

The adult day program setting is a licensed setting.

LICENSING

RSA 151:2:

- I. The following facilities shall not be established, conducted, or maintained without acquiring a license under chapter: ...
 (f) Adult day care services offering medical supervision, care or treatment, or providing assistance in daily living

He-P 818.03 Adult Day Programs, Definitions

(g) "Adult Day Program (ADP)" means a program that provides one or more of the following services, for fewer than 12 hours a day, to participants 18 years of age and older:

- (1) Supervision;
- (2) Assistance with ADL;
- (3) Nursing care;
- (4) Rehabilitation;
- (5) Recreational, social, cognitive and physical stimulation; and
- (6) Nutrition.

MEDICAID COVERAGE

He-E 801.16 Choices for Independence Program, Adult Medical Day Services

(d) Adult medical day service providers shall comply with the provider . . . requirements specified in He-E 803 and He-P 818

He-E 803.02 Adult Medical Day Care Services, Definitions

(b) "Adult medical day program" means a program of service delivery conducted at a facility that is licensed under RSA 151 and He-P 818 as an adult day program and provides adult medical day services under Medicaid in accordance with the requirements contained in this rule.

He-E 803.06 Adult Medical Day Care Services,

- (a) The following adult medical day services shall be provided as required by the participant's care plan:
- (1) The services described in He-P 818.15 [administrative services, nursing services, recreational activity services, personal care services, health and safety services to minimize likelihood of accident or injury, social services, and dietary services];
 - (2) Maintenance level therapies;
 - (3) Medical supplies which are for general use or first aid purposes; and
 - (4) Transportation services in accordance with He-E 803.03(a)(7).

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|---|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>42 CFR § 441.301(c)(4): Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:</p> | | |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|----------------------------|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. | None required | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|--|-----------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| (ii) 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><i>Amend He-E 805.05(b)(2) to read –</i></p> <p>“(2) Culminate in a written document that describes the participant’s abilities and needs in the following areas:</p> <ul style="list-style-type: none"> a. Biopsychosocial history; b. Functional ability, including activities of daily living and instrumental activities of daily living; c. Living environment, including the participant’s in-home mobility, accessibility and safety; d. Social environment, including social/informal relationships and supports, activities and interests, such as avocational and spiritual; e. Self-awareness, or the degree to which the | Jan – June 2017 |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|---|--|--------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>participant is aware of his/her own medical condition(s), treatment(s), and/or medication regime;</p> <p>f. Risk, including the potential for abuse, neglect, or exploitation by self or others, as well as health, social or behavioral issues that may indicate a risk;</p> <p>g. Legal status, including guardianship, legal system involvement, and availability of advance directives, such as durable power of attorney;</p> <p>h. Community participation, including the participant's need or expressed desire to access specific resources, such as the library, educational programs, restaurants, shopping, medical providers, employment, and volunteer activities;</p> <p>i. Desired setting where individual will reside; and</p> <p>j. Any other area identified by the participant as being important to his or her life"</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|---|-------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(iii): Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p> | <p>Amend He-E 801.24 to read: (d) Any facility that provides residential or day services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients':</p> <p>(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B) for those CFI Waiver recipients who do not have a modification of this requirement in their personal care plan and consistent with New Hampshire fire safety regulations.</p> <p>(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the</p> | <p>Jan -- June 2017</p> |

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42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|--|--|
| | <p>option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.</p> <p>(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their choosing at any time, when visitors come during quiet time or outside of regular business hours, and without infringing on the rights of other residents.</p> | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(iv): Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p> | | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(v): Facilitates individual choice regarding services and supports, and who provides them.</p> | | |

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|--|-----------------------------------|---------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| <p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p> | | |

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

Choices for Independence 1915(c) Home and Community-Based Care Waiver

| NH Statute/Regulation | Compliance Action Required | Timing |
|---|----------------------------|--------|
| <p>(A) 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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p> <p>(B) Each individual has privacy in their sleeping or living unit:</p> <p>(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> <p>(2) Individuals sharing units have a choice of roommates in that setting.</p> <p>(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p> <p>(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p> <p>(D) Individuals are able to have visitors of their choosing at any time.</p> <p>(E) The setting is physically accessible to the individual.</p> <p>(F): Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan.</p> | | |

Attachment G-6

42 CFR 441.301(c)(4) Analysis-1915(c) Waiver Services for the Choices for Independence Waiver

| Choices for Independence 1915(c) Home and Community-Based Care Waiver | | |
|---|---|----------------------------|
| NH Statute/Regulation | Compliance Action Required | Timing |
| | <p>Amend He-E 801.24 to read: (d) Any facility that provides residential or day services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients’:</p> <p>(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B) for those CFI Waiver recipients who do not have a modification of this requirement in their personal care plan and consistent with New Hampshire fire safety regulations.</p> <p>(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.</p> <p>(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their choosing at any time, when visitors come during quiet time or outside of regular business hours, and without infringing on the rights of other residents.</p> | <p>Jan – June 2017</p> |

APPENDIX H
HEIGHTENED SCRUTINY REQUEST

Summary Request Form

Job Descriptions:

- A. Direct Support Associate/Direct Support Associate, Response Team
- B. House Manager/Residential Manager

Policies:

- A. Direct Support Staff Orientation Policy and supporting documentation:
 - 1. Sample orientation and training outline
 - 2. Community Based Services Policy Orientation Checklist
 - 3. Community Based Services Program Orientation Checklist
 - 4. Human Rights Acknowledgement
 - 5. Safeguarding Confidentiality Acknowledgement
 - 6. Motor Vehicle Supervision Acknowledgement
 - 7. Risk Acknowledgement
 - 8. Community Based Services Person Specific Orientation Form
- B. Direct Support Training Policy
- C. Management Training Policy
- D. Human Rights & Complaint Policy
- E. Employment Services Policy
- F. Behavior Management Services Policy
- G. Individual Service Plan Policy
- H. Confidentiality Policy
- I. Record Management Policy

Attachment H

EASTER SEALS HEIGHTENED SCRUTINY REQUEST

The state of New Hampshire would like to request heightened scrutiny for one site in Concord, New Hampshire, where services are provided by Easter Seals.

The documentation supporting the request for heightened scrutiny includes:

- state expectations for providers and the process for monitoring them,
- provider's job descriptions,
- provider policies, and
- New Hampshire's Summary Request Form

State Expectations:

Each Provider of services to individuals with Developmental Disabilities and/or Acquired Brain Disorders are expected to follow the requirements outlined in the following regulations:

| | |
|--|---|
| He-M 202 Rights Protection Procedures for Developmental Services | http://www.gencourt.state.nh.us/rules/state_agencies/he-m200.html |
| He-M 310 Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services in the Community | http://www.gencourt.state.nh.us/rules/state_agencies/he-m300.html |
| He-M 503 Eligibility and the Process of Providing Services | http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html |
| He-M 506 Staff Qualifications and Staff Development Requirements for Developmental Service Agencies | http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html |
| He-M 507 Community Participation Services | http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html |
| He-M 517 Medicaid –Covered HCBS for Persons with Developmental Disabilities and Acquired Brain Disorders | http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html |
| He-M 518 Employment Services | http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html |
| He-M 522 Eligibility Determination and Service Planning for Individuals with an Acquired Brain Disorder | http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html |
| He-M 1001 Certification Standards for Community Residences | http://www.gencourt.state.nh.us/rules/state_agencies/he-m1000.html |

Attachment H

EASTER SEALS HEIGHTENED SCRUTINY REQUEST

These regulations are specific to the site that is being reviewed and are not part of the expectations of the institution that is on the same grounds as this HCBS site.

The site is reviewed by the Office of Program Support which is the state's certification and licensing agency to ensure that the site is in compliance with the state regulations noted above. At each certification/licensing visit the surveyor (the person completing the site visit) completes a deficiency report (a report that outlines if there are areas of the regulations that the site is not in compliance). The provider develops a plan of correction outlining how they will fix the identified issue.

Each of the regulations has definitions within it to explain the service definitions that are relevant to the supports being offered.

Job Descriptions

The job descriptions outline the qualifications of the staff providing services to the participants at the site.

- A. Direct Support Associate/Direct Support Associate, Response Team (NH)
- B. House Manager/Residence Manager

Policies

The policies below outline the expectations of the staff at the site.

- A. Direct Support Staff Orientation Policy, and supporting documentation, including:
 - 1. Sample orientation & training outline
 - 2. Community Based Services Policy Orientation Checklist
 - 3. Community Based Services Program Orientation Checklist
 - 4. Human Rights Acknowledgement
 - 5. Safeguarding Confidentiality Acknowledgement
 - 6. Motor Vehicle Supervision Acknowledgement
 - 7. Risk Acknowledgement
 - 8. Community Based Services Person Specific Orientation Form
- B. Direct Support Training Policy
- C. Management Training Policy
- D. Human Rights & Complaint Policy
- E. Employment Services Policy
- F. Behavior Management Services Policy
- G. Individual Service Plan Policy
- H. Confidentiality Policy
- I. Record Management Policy

Summary Request Form for Heightened Scrutiny

The Summary Request Form contains the results of the review process that was done. The summary identifies each of the HCBS standards and the outcome based on the interviews of providers and participants, documentation and data review, and observations that were done.

Summary Request Form for Heightened Scrutiny
Site located at: 87 Pleasant St., Concord, NH
of Participants: 2

Review Process:

The review process involved a two person team. The team was comprised of a member of the Office of Program Support (the agency that completes certification and licensing reviews at sites around the state) and the project manager for the Statewide Transition Plan, from the Institute on Disability. For each on-site review, the participant(s) were interviewed, (if possible), staff were interviewed, observational data was obtained, a tour of the site occurred, and documentation was reviewed, including Service Agreements, behavior plans, Community Participation Services (CPS) schedules, daily notes, monthly progress notes for Residential services and CPS, (if applicable), incident reports, certification data, complaint data, and provider policies.

This residence is a two story home located in the middle of Concord. Each of the participants has a bedroom and living space on separate floors, and they share the kitchen and dining area. This allows for privacy for both of the men who live there.

HCBS Standard: *The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.*

- Due to the location of this home, it is presumed institutional because it is on the grounds of New Hampshire Hospital. Other than the location of the home, there is no relationship between New Hampshire Hospital and the provider of services. The home is a stand-alone building on the grounds of New Hampshire Hospital. There are no staff who work at New Hampshire Hospital and support the residents of this home.
- The home is located in the heart of Concord with the main street being just a few blocks away. Access to local businesses, restaurants, and theaters is within walking distance. Public transportation is available, but for the health and safety of the residents it is not currently used. Transportation is provided by staff.
- Both of the residents access the community on a regular basis with the support of their staff.
 - One participant has a behavior plan which is designed to ensure his safety and the safety of the community, so there are times when access to the community is restricted. The behavior plan is approved by the guardian as well as the Human Rights Committee of the area agency responsible for services.
 - One participant has health issues which impact his desire to go into the community on days when the weather is bad. On these occasions, staff alter the activities for the day based on the participant's preferences.
- Each of the participants have spending money and the amount varies by participant. Neither of the residents have a bank account. They both have Rep Payees who oversee their finances and ensure that all bills are paid. The provider ensures that the money they

Summary Request Form for Heightened Scrutiny

Site located at: 87 Pleasant St., Concord, NH

of Participants: 2

have is secure and available when it is needed. Financial records are kept and submitted to the Rep Payees for tracking.

- One of the residents is currently working part-time. The other resident is in the process of obtaining employment with the assistance of Vocational Rehabilitation services.

HCBS Standard: *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*

- Each of the participants in the home have guardians who assist with decision making. At this time, the Service Agreement does not document the setting options that were offered. The new service agreement template will include this information as outlined in the remediation plan, under General Implementation Strategy #1. Each participant will have this incorporated into their next Service Agreement.

HCBS Standard: *Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.*

- The participant's rights are explained annually at the service agreement meeting as per He-M 503, Eligibility and the Process of Providing Services. The participant's support team, including guardians ensure that the participant's rights are protected.
- Staff working in the program have annual training on rights of individuals receiving services in community residences.
- The review team was able to observe staff's interactions with the residents. Staff were very responsive to the needs of the residents. They were flexible in their support and reviewers saw schedules being changed due to the needs and desires of the participants.
- It was identified by staff that they treat the residents with respect and they knock on the door and/or ask permission before entering a residents' room.
 - One participant said that staff treat him with dignity and respect, however he did say that some staff knock on the door and others do not.
 - This is an area that the provider has been made aware of for follow up and additional training was completed with staff.

HCBS Standard: *Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.*

Summary Request Form for Heightened Scrutiny

Site located at: 87 Pleasant St., Concord, NH

of Participants: 2

- Both residents in the home have schedules that are based on their wants, needs and desires. The schedules are flexible and get updated often based on the resident's choices.
- The residents choose when to go to bed and when to get up. They identify what they want for meals and create a shopping list.
- The home and bedrooms are decorated according to the tastes of the residents. The rooms are personalized to their tastes.

HCBS Standard: *Facilitates individual choice regarding services and supports, and who provides them.*

- Each participant has their own schedule and it is flexible to their needs and preferences. The schedules were reviewed, as well as daily notes. The schedules are updated often. Daily notes outline the activities that occurred each day, as well as the location. The review team was able to see when activities identified on the schedule were changed to another option.
 - Each of the residents had weekly documentation that describes that activities that were done specific to their goals.
 - Monthly progress reports were completed identifying the progress being made on the goals, as well as general information about the services and supports provided during the month.

HCBS Standard: *In a provider-owned or controlled residential setting, in addition to the qualities specified above, the following additional conditions must be met:*

- *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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.*
 - The participants do not have a lease or tenancy agreement. This is a statewide issue and is addressed in the remediation plan, Topic Area Goal # 15 in the Statewide Transition Plan.
- *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, individuals sharing units have a choice of roommates in that setting and individuals have the*

Summary Request Form for Heightened Scrutiny
Site located at: 87 Pleasant St., Concord, NH
of Participants: 2

freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

- Each resident has their own room that is decorated according to their tastes.
- There are locks on the bathroom and bedroom doors, as appropriate. The locks can be opened by staff in case of an emergency. For health and safety reason, one of the resident's does not have a lock on their bedroom or bathroom door. This is based on an assessment and is included in their behavior plan which has been approved by the guardian and Human Rights Committee.
- The residents can enter their home by means of a key or the use of a code.
- The residents and guardians made the choice when deciding on living arrangements.
- *Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.*
 - All participants have control over their schedules and the activities in which they engage.
 - One participant enjoys volunteering at the local animal shelter, shopping, purchasing supplies for making items, going to fairs, fishing, going to coffee shops and growing vegetables in his vegetable garden. His behavior plan identifies how he will be supported when going into the community and if there are times when it is inappropriate to access the community based on his behavior.
 - The other participant enjoys swimming, using his IPAD and Wii, shopping, going out to eat, playing basketball, going out for coffee, exercising and going to the agricultural center.
 - Participants choose if and when they want to do activities and staff support them in their choices, as documented in the daily notes.
 - The residents can access food at any time.
- *Individuals are able to have visitors of their choosing at any time.*
 - Visitors are welcome to the home at any time, including mealtimes.
 - One of the participants identified that he has no family who visit him.
 - The other participant has family who come to visit as documented in his progress notes.

Summary Request Form for Heightened Scrutiny

Site located at: 87 Pleasant St., Concord, NH

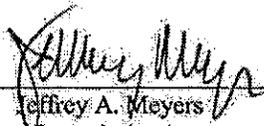
of Participants: 2

- *The setting is physically accessible to the individual.*
 - The home is accessible for the residents who live there. One individual has hearing and visual impairments and an unsteady gait. His bedroom is on the main floor of the home, and his bathroom has a walk-in shower, and grab bars to ensure his safety.
 - Due to the unsteady gait of one of the residents, there is a gate at the bottom of the stairs so that he cannot try to go upstairs without assistance. The other resident of the home can easily open the gate if/when he needs to go up or down the stairs. Appropriate approvals have been obtained for the gate.
 - To ensure the safety of one of the residents, there are chimes on the door and on the windows to alert staff if they have been opened. Appropriate approvals have been obtained for the chimes on the windows and doors.
 - There is no access for one of the residents to the basement because the steps are very steep and the resident has an unsteady gait. The laundry is located in the basement so the resident participates in all other aspects of doing laundry that he can do upstairs.

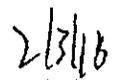
- **Recommendation:**
 - Based on the interviews, documentation review, and policy review, it is recommended that DHHS request heightened scrutiny with expectation that Easter Seals follow through on those areas of concern noted above. A plan will be developed by Easter Seals and submitted to DHHS within 30 days of the request submission.

Approve recommendation

Do not approve recommendation



Jeffrey A. Meyers
Commissioner



Date

HEIGHTENED SCRUTINY REVIEW FOLLOW UP PLAN

Site Address: 87 Pleasant St., Concord, NH

Oversight Agency: One Sky

Provider: Easter Seals

Site Address: 87 Pleasant St., Concord, NH (2 participants)

Person responsible for completing action plan: Jennifer Cordaro, Easter Seals

| | |
|-----------------------|--|
| HCBS STANDARD: | <i>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.</i> |
|-----------------------|--|

| | |
|--------------------------------|--|
| AREA NOT IN COMPLIANCE: | There is no documentation in the person-centered service plan identifying the participant's choice of setting. |
|--------------------------------|--|

| | |
|-------------------------|--|
| DESIRED OUTCOME: | The person-centered service plan will include the participant's choice of setting. |
|-------------------------|--|

| ACTION STEPS FOR ACHIEVING DESIRED OUTCOME | COMPLETION DATE |
|--|-------------------------------------|
| 1. The State will create a Service Agreement template to be used by all service providers. The template will include all HCBS expectations, as outlined in DD/ABD Topic Area Goal #5, step #2. Easter Seals will comply with all Service Agreement requirements. | TBD |
| 2. Easter Seals will ensure that staff will attend all required trainings on the new Service Agreement template offered by the state. | TBD |
| 3. Easter Seals will ensure that the participant's choice in setting is identified in the Service Agreement. | TBD |
| 4. Easter Seals will submit a copy of the Service Agreement with the choice of setting identified once the participants have a person centered planning meeting after the implementation of the Service Agreement template to the Waiver Transition Team, | Participant's SA agreement template |

HEIGHTENED SCRUTINY REVIEW FOLLOW UP PLAN

Site Address: 87 Pleasant St., Concord, NH

| | |
|-----------------------|--|
| HCBS STANDARD: | <p><i>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 the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</i></p> |
|-----------------------|--|

| | |
|--------------------------------|--|
| AREA NOT IN COMPLIANCE: | <p>The participant does not have a lease or tenancy agreement.</p> |
|--------------------------------|--|

| | |
|-------------------------|--|
| DESIRED OUTCOME: | <p>Participant have a lease or tenancy agreement in place.</p> |
|-------------------------|--|

| | ACTION STEPS FOR ACHIEVING DESIRED OUTCOME | COMPLETION DATE |
|--|---|------------------------|
| 1. The State will develop lease/tenancy agreement template for all residential sites as per DD/ABD Topic Area Goal #15. | | December 2017 |
| 2. Easter Seals will comply and ensure that the lease or tenancy agreement is in place for each participant and that all residential sites are in compliance with the updated settings agreements. | | TBD |
| 3. Easter Seals will submit copies of the lease/tenancy agreements to the Waiver Transition Team once they are in place | | TBD |
| | | |
| | | |
| | | |
| | | |

HEIGHTENED SCRUTINY REVIEW FOLLOW UP PLAN

Site Address: 87 Pleasant St., Concord, NH

The plan must be submitted to the Waiver Transition Team at mary.sifacques@unh.edu by May 18, 2016.

ACTION PLAN APPROVED: YES PARTIALLY NO

If all, or part of the plan is/are not approved, describe what needs to be revised:

Kathleen Dunn
Kathleen Dunn
Associate Commissioner and Medicaid Director

5/16/16
Date

Revisions to the plan must be made and resubmitted by _____, Date

+++++

Verification of the plan will occur within 30 days of the identified completion date. More than one visit for verification of steps may occur.

Verification visit occurred on _____. The action steps were were not implemented.

APPENDIX H – JOB DESCRIPTION
DIRECT SUPPORT ASSOCIATE/DIRECT SUPPORT ASSOCIATE,
RESPONSE TEAM (NH)



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Easter Seals New Hampshire

555 Auburn Street
Manchester, NH 03103-4800
603.623.8863 phone/tdd
603.625.1148 fax
www.eastersealsnh.org

Level: NE—3

Job Code: DSPAS, DSPASR, DSATL

Job Title: Direct Support Associate

Direct Support Associate, Response Team (NH)

Direct Support Associate Youth Transitional Services Program, Maine

Direct Support Associate Team Leader (Rochester NY)

Job Objective: Provide support and skill building training to individuals with disabilities in order to assist in increasing their level of independence.

Qualifications:

- ◆ High School education or GED
- ◆ Two (2) years' work experience
- ◆ Must be 18 years of age for NH positions (per He-M 506.03)
- ◆ Commitment to providing high quality services to individuals with disabilities in community and residential settings.
- ◆ Able to be medication certified for some programs
- ◆ Able to work flexible hours including nights, weekends and holidays.
- ◆ Valid driver's license and reliable transportation for use in regular transportation of program participants
- ◆ See **Addendum – Direct Support Associate Youth Transitional Services Program, Maine** for additional qualifications
- ◆ See **Addendum-Direct Support Associate Response Team (NH)** for additional qualifications

Competencies: See Appendix A

Background Checks: Motor vehicle record, Auto insurance (Agency limits apply), State criminal record
(For additional required background checks see Appendix B)

Essential Responsibilities:

1. Provide direct supervision to individuals in accordance with the treatment plan.
2. Demonstrate competencies in the following areas: Task Analysis, ISP Goal Development, Job Coaching/Teaching, Report Writing, and Behavioral Interventions, (NH & NY Programs).
3. Facilitate individual's independence in community/centered-based activities, job tasks or in residential activities.
4. Facilitate the development of appropriate social skills and encourage the establishment of social relationships.
5. Develop and coordinate schedules, which reflect integrated opportunities for individuals, geared toward increasing independence, community access and awareness.
6. Assist in development and revision of training plans, ISP objectives and fading plans, (NH & NY Programs).



555 Auburn Street
Manchester, NH 03103-4800
603.623.8863 phone/tdd
603.625.1148 fax
www.eastersealsnh.org

Direct Support Associate (DSPAS, DSPASR, DSATL)

Page 2

7. Implement approved training and fading plans, ISP objectives and behavior plans, (NH & NY Programs).
8. Observe behavior, skill levels, areas of interest etc. to provide objective information and formulate data based recommendations.
9. Assure quality control standards in accordance with employer and volunteer expectations as applicable.
10. Provide positive role modeling for individuals.
11. Maintain documentation and prepare reports as required according to approved formats and designated time lines.
12. Maintain documentation and authorization for dispensing medication as applicable.
13. Transport individuals to and from program activities and or appointments in personal vehicle and/or agency van.
14. Provide training in related skills i.e., self-care skills, money management, cooking, social interactions, transportation systems, etc. as approved by the treatment team.
15. Provide services to individuals with varied behavior issues, which may include physical aggression, verbal assault, inappropriate sexual comments, gestures and/or acts.
16. Assist individual with personal care needs when necessary.
17. Communicate pertinent information with the team and support system to allow the individual to receive the maximal benefit from the services offered.
18. Demonstrate appropriate judgement and understanding of client safety while supporting individuals.
19. Follow through with supervisory requests and seek supervision when unclear about expectations.
20. Perform and/or assist with routine household task including meal preparation, housekeeping and outdoor maintenance as applicable.
21. Participate in available training opportunities geared toward expanding knowledge of treatment methods. Twenty hours of training is required per year.
22. Follow all policies and procedures as outlined by the department and agency.
23. See Addendum – Direct Support Associate Team Leader (Rochester NY) for additional responsibilities
24. See Addendum – Direct Support Associate Response Team (NH) for additional responsibilities



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Direct Support Associate (DSPAS, DSPASR, DSATL)
Page 3

Non-Essential Responsibilities:

1. Perform additional duties as requested.

The preceding Essential and Non-Essential Responsibilities are not intended to be an exhaustive list of tasks and functions for this position. Other tasks and functions may be assigned as needed to fulfill the Agency mission.

Physical Requirements:

1. Direct Support Associate

My signature below is an acknowledgement that I have received and reviewed a copy of this job description.

Employee Name (clearly printed)

Employee Signature

Date

Developed: 8/03; Revised: 04/2011, 07/11, 6/2012, 1/2013, 4/15



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Direct Support Associate (DSPAS, DSPASR, DSATL)
Page 4

Addendum – Direct Support Associate, Team Leader (Rochester, NY)

Essential Responsibilities:

1. Review, monitor and participate in the development and implementation of program goals.
2. If applicable, assist in the development of integrated, community based employment and recreational activities.
3. Assist in the preparation of documentation for individualized service plans, and implement and monitor behavior plans.
4. Assist with scheduling and training staff.
5. Monitor documentation created by staff and provide corrective feedback.
6. Perform House Managers' duties in their absence.

The preceding essential and non-essential responsibilities are not intended to be an exhaustive list of tasks and functions for this position. Other tasks and functions may be assigned as needed to fulfill the Agency mission.

My signature below is an acknowledgement that I have received and reviewed a copy of this addendum.

Employee Name (clearly printed)

Employee Signature

Date



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Direct Support Associate (DSPAS, DSPASR, DSATL)
Page 5

Addendum – Direct Support Associate – Youth Transitional Services Program, Maine

Additional Qualifications:

- ◆ Must be Ed Tech III certified (90 credits in an educational field) or
- ◆ Ability to obtain certification

My signature below is an acknowledgement that I have received and reviewed a copy of this addendum.

Employee Name (clearly printed)

Employee Signature

Date

Dev 1/2012



Direct Support Associate (DSPAS, DSPASR, DSATL)
Page 6

Addendum – Direct Support Associate, Response Team (NH)

Additional Qualifications:

- ◆ Minimum three (3) years providing support to individuals with developmental disabilities or closely related experience
- ◆ Demonstrates competency to work with individuals requiring varying degrees of care, support and supervision, including but not limited to Preventative Services and individuals with behavior plans
- ◆ Demonstrates competency to work with multiple consumers in any given week
- ◆ Required to work flexible schedule, including nights, weekends and holidays
- ◆ Must be willing to work throughout the state of New Hampshire
- ◆ Must maintain Advanced MANDT/MOAB and Medication Certifications

Essential Responsibilities:

1. Provides on call coverage for Direct Support Associate emergency needs as requested

Other:

The first/last twenty (20) miles of commute is not eligible for reimbursement. Training mileage is not eligible for reimbursement.

The preceding essential and non-essential responsibilities are not intended to be an exhaustive list of tasks and functions for this position. Other tasks and functions may be assigned as needed to fulfill the Agency mission.

My signature below is an acknowledgement that I have received and reviewed a copy of this addendum.

Employee Name (clearly printed)
Dev 1/2013

Employee Signature

Date



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Direct Support Associate (DSPAS, DSPASR, DSATL)
 Page 7

Appendix A: Competencies

| | |
|--------------------------|--|
| COMPASSION | Genuinely cares about people; is available and ready to help; is sympathetic to the plight of others; demonstrates empathy with the others. |
| INTEGRITY/TRUST | Is seen as a direct, truthful individual; can present the truth in an appropriate and helpful manner; admits mistakes and does not represent him/herself for personal gain. |
| PATIENCE | Is tolerant with people and processes; listens and understands the people and the data before making judgements and acting; sensitive to due process and proper pacing. |
| PERSONAL LEARNING | Picks up the need to change interpersonal behavior quickly; seeks feedback; watches others for their reaction to his/her attempt to influence and perform. |
| PROBLEM SOLVING | Uses logic and methods to solve difficult problems with effective solutions; can see hidden problems; excellent at analysis; looks beyond the obvious and doesn't stop at the first answers. |
| SKILLED | Adheres to an appropriate and effective set of core values and beliefs during both good and bad times; acts in line with those values; rewards the right values and disapproves of others; practices what he/she preaches. |
| WORK/LIFE BALANCE | Maintains a balance between work and personal life; is not one dimensional; gets what he/she wants from both |



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Direct Support Associate (DSPAS, DSPASR, DSATL)
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Appendix B: Additional Background Checks

| | | | | | |
|-----------|---|--|---|--|---|
| <u>NH</u> | <input type="checkbox"/> Fingerprinting -Positions working with youth (ie YTS or School to Work and Camp) - Positions working in/ at Res/Ed/Childcare setting 5+ hrs/wk -All Billing/Accounting | <input type="checkbox"/> CCLU/ Household List - Positions working in/at Res/Ed/Childcare setting 5+ hrs/wk (not ISO/CCRR) | <input type="checkbox"/> BEAS - Positions working in Adult programs -ISO | <input type="checkbox"/> State Central Registry -ISO -Childcare Resource & Referral -STS | |
| <u>NY</u> | <input type="checkbox"/> OCFS Statewide Central Registry -All Positions | <input type="checkbox"/> Fingerprinting -Bronx: DOE/DOI -Valhalla, Monticello, Port Jervis, Sayville: OCFS -All positions working in/at DTC/ Res/Ed/CBS settings & Camp Colonie: Justice Center -Downstate: Voc & Devel n/a -All Veterans positions: n/a | <input type="checkbox"/> NYS Justice Center SEL -All Positions | <input type="checkbox"/> OMIG (Office Medicaid Inspector General) -All Positions | <input type="checkbox"/> OPWDD Mental Health Law 151/152 (staff hired beg. 6/30/13) -Res/Ed positions -In Home Respite positions |
| <u>ME</u> | <input type="checkbox"/> Fingerprinting -All positions working with children in a school setting | <input type="checkbox"/> CFS Abuse & Neglect - All positions working with children in a school setting | | | |
| <u>VT</u> | <input type="checkbox"/> Adult/Child Abuse Registry -All Positions | | | | |
| <u>RI</u> | <input type="checkbox"/> N/A | | | | |



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Direct Support Associate (DSPAS, DSPASR, DSATL)
 Page 9

Physical Requirement Form

Position: Direct Support Associate **Department:** Community Based Services

Definition of Terms:
NOT AT ALL - Employee never engages in activity.
OCCASIONALLY - Employee engages in this activity 1% to 33% of time.
FREQUENTLY - Employee engages in this activity 34% to 66% of time.
CONTINUOUSLY - Employee engages in this activity 67% to 100% of time

| 1. On an average day, staff are required to: | Not at all | Occasionally | Frequently | Continuously |
|--|------------|--------------|------------|--------------|
| A. Sit | () | () | () | (X) |
| B. Stand | () | () | () | (X) |
| C. Walk | () | () | () | (X) |
| D. Drive | () | () | () | (X) |
| E. Bend/Stoop | () | () | () | (X) |
| F. Climb (i.e.: Stairs) | () | () | () | (X) |
| G. Kneel | () | () | (X) | () |
| H. Balance | () | () | () | (X) |
| I. Squat | () | () | (X) | () |
| J. Crouch | () | () | (X) | () |
| K. Crawl | () | () | (X) | () |
| L. Hold | () | () | () | (X) |
| M. Carry | () | () | () | (X) |
| N. Assist individual in/out of vehicles | () | () | () | (X) |
| O. Transfer individual in/out of wheelchair | () | () | () | (X) |

| 2. On an average day, staff may be required to: | Not at all | Occasionally | Frequently | Continuously |
|---|------------|--------------|------------|--------------|
| Lift/Customer Handling | | | | |
| A. 0-10 pounds | () | () | () | (X) |
| B. 11-25 pounds | () | () | () | (X) |
| C. 26-35 pounds | () | () | () | (X) |
| D. 36-50 pounds | () | () | (X) | () |
| E. 51-100 pounds | () | () | (X) | () |
| F. over 100 pounds | () | (X) | () | () |

| Push/Pull | Not at all | Occasionally | Frequently | Continuously |
|--------------------|------------|--------------|------------|--------------|
| A. 0-10 pounds | () | () | () | (X) |
| B. 11-25 pounds | () | () | () | (X) |
| C. 26-50 pounds | () | () | () | (X) |
| D. 51-100 pounds | () | () | (X) | () |
| E. over 100 pounds | () | () | (X) | () |



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Direct Support Associate (DSPAS, DSPASR, DSATL)
 Page 10

| 3. On an average day staff are required to | | | | |
|---|------------|--------------|------------|--------------|
| Office | Not at all | Occasionally | Frequently | Continuously |
| A. Collate | () | () | (X) | () |
| B. Use Phone | () | () | (X) | () |
| C. File | () | () | (X) | () |
| D. Type | () | (X) | () | () |
| E. Schedule | () | () | (X) | () |
| F. Use Keyboard | () | (X) | () | () |
| G. Use Computer Monitor | () | (X) | () | () |
| Communication | | | | |
| | Not at all | Occasionally | Frequently | Continuously |
| A. Hear | () | () | () | (X) |
| B. Speak | () | () | () | (X) |
| C. Write | () | () | () | (X) |
| 4. Some positions require the use of behavioral intervention which may include: | | | | |
| | Not at all | Occasionally | Frequently | Continuously |
| A. Pursuing an individual | () | () | () | (X) |
| B. Lowering an individual to floor | () | () | () | (X) |
| C. Lifting individual from floor to standing | () | () | () | (X) |
| D. Lowering an individual to sitting position | () | () | () | (X) |
| E. Blocking/Deflecting (stop force of hit/punch) | () | () | () | (X) |
| F. Cushioning individual from a fall | () | () | () | (X) |
| G. Preventing/releasing hair pulls/bites | () | () | () | (X) |
| H. Restraining an individual | () | () | () | (X) |
| I. Receiving/Enduring physical aggression | () | () | () | (X) |

Comments:

APPENDIX H – JOB DESCRIPTION
HOUSE MANAGER/RESIDENCE MANAGER



555 Auburn Street
Manchester, NH 03103-4800
603.623.8863 phone/td
603.625.1148 fax
www.eastersealsnh.org

Level: E-2

Exempt Status: Administrative

Job Code: MGHOSK

Job Title: House Manager/Residence Manager

Job Objective: Recruit, train, supervise, evaluate and monitor community living residences and staffed programs as assigned.

Qualifications:

- ◆ Bachelor's degree in Human Services or related field
- ◆ Two years experience with person's with developmental and/or psychiatric disabilities
- ◆ Administrative and supervisory experience preferred
- ◆ Valid driver's license and reliable transportation.

Competencies: See Appendix A

Background Checks: Motor vehicle record, Auto insurance (Agency limits apply), State criminal record (For additional required background checks see Appendix B)

Essential Responsibilities:

1. Recruit, train, supervise, evaluate and monitor community living residences and staffed programs as assigned (including home visits a minimum of two times per month).
2. Implement and monitor program budgets.
3. Establish and maintain relationships with consultants who provide therapeutic services to residents.
4. Ensure compliance with state certification/licensing standards, agency policies, other governing agencies guidelines and contractual obligations.
5. Ensure compliance of documentation requirements as applicable (i.e. data, daily and monthly financial reports, monthly fire drills and other pertinent documentation).
6. Attend client-centered conferences, team meetings, agency and staff meetings and other meetings as requested.
7. Develop and monitor individual treatment plans to include scheduling and coordinating of appointments as necessary.
8. Provide emergency on-call services.
9. Ensure participation in integrated community activities on a regular basis for all consumers.
10. Provide direct care services in assisting residents in meeting all of their personal needs.
11. Provide services to individuals with varied behavior issues, which may include physical aggression, verbal assault, inappropriate sexual comments, gestures and/or acts.
12. Assist individuals with toileting and personal care needs when necessary.
13. Maintain all required data relative to program goals and objectives, resident activities, incidents, etc.



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House Manager (MGHOSK)

Page 2

Non-Essential Responsibilities:

1. Perform additional duties as requested.

The preceding Essential and Non-Essential Responsibilities are not intended to be an exhaustive list of tasks and functions for this position. Other tasks and functions may be assigned as needed to fulfill the Agency mission.

Physical Requirements:

1. House Manager

My signature below is an acknowledgement that I have received and reviewed a copy of this job description.

Employee Name (clearly printed)

Employee Signature

Date

Developed: 4/93, Revised: 3/94, 1/96, 3/96, 7/00, 1/01, 04/2011, 07/11, 4/15



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House Manager (MGHOSK)
 Page 3

Appendix A: Competencies

| | |
|-----------------------------------|---|
| COMPASSION | Genuinely cares about people; is available and ready to help; is sympathetic to the plight of others; demonstrates empathy with the others. |
| INTEGRITY/TRUST | Is seen as a direct, truthful individual; can present the truth in an appropriate and helpful manner; admits mistakes and does not represent him/herself for personal gain. |
| PATIENCE | Is tolerant with people and processes; listens and understands the people and the data before making judgements and acting; sensitive to due process and proper pacing. |
| PERSONAL LEARNING | Picks up the need to change interpersonal behavior quickly; seeks feedback; watches others for their reaction to his/her attempt to influence and perform. |
| PROBLEM SOLVING | Uses logic and methods to solve difficult problems with effective solutions; can see hidden problems; excellent at analysis; looks beyond the obvious and doesn't stop at the first answers. |
| SKILLED | Adheres to an appropriate and effective set of core values and beliefs during both good and bad times; acts in line with those values; rewards the right values and disapproves of others; practices what he/she preaches. |
| WORK/LIFE BALANCE | Maintains a balance between work and personal life; is not one dimensional; gets what he/she wants from both |
| CONFLICT MANAGEMENT | Steps up to conflict, seeing them as opportunities; reads situations quickly; good at focused listening; can settle disputes equitably; can find common ground and get cooperation with minimum noise. |
| CUSTOMER FOCUSED | Is dedicated to meeting the expectations of internal and external customers; gets first-hand customer information and uses it for improvements in products and services; acts with customers in mind; establishes and maintains effective customer relationships and gains their trust and respect. |
| FAIRNESS TO DIRECT REPORTS | Treats direct reports equitably; acts fairly; has candid discussions; doesn't have a hidden agenda; doesn't give preferential treatment. |
| LISTENING | Practices active listening; has the patience to hear people out; can accurately restate the opinions of others even when he/she disagrees. |
| MANAGING DIVERSITY | Manages all kinds and classes of people equitably; deals effectively with all races, nationalities, cultures, disabilities, ages and both sexes; hires variety and diversity with our regard to class; supports equal and fair treatment and opportunity for all. |
| ORGANIZING | Can marshal resources (people, funding, material, and support) to get things done; can organize multiple activities at once to accomplish a goal; arranges information and files in a useful manner. |



House Manager (MGHOSK)
 Page 4

Appendix A: Competencies continued

| | |
|------------------------------------|--|
| PEER RELATIONSHIPS | Can quickly find common ground and solve problems; can represent his/her own interests and yet be fair to other groups; can solve problems with peers; is seen as a team player and easily gains trust and support of peers. |
| TIMELY DECISION MAKING | Makes decisions in a timely manner; sometimes with incomplete information and under tight deadlines and pressure. |
| WRITTEN COMMUNICATION | Is able to write clearly and succinctly in a variety of communications settings and styles; can get messages across that have the desired effect. |
| APPROACHABILITY | Is easy to approach and talk to; spends the extra effort to put others at ease; is a good listener; is an early knower, getting informal and incomplete information in time to do something about it. |
| BUILDING EFFECTIVE TEAMS | Blends people into teams when needed; creates strong morale and spirit; shares wins and successes; defines success in terms of the whole team; creates a feeling of belonging. |
| COMPOSURE | Is cool under pressure; does not become defensive and can hold things together when times are tough; is not knocked off balance by the unexpected; is a calm influence in crisis. |
| DECISION QUALITY | Makes good decisions based on a mixture of analysis, wisdom, experience and judgement; sought out by others for advice and solutions. |
| DELEGATION | Clearly and comfortably delegates both routine and important tasks and decisions; shares both responsibility and accountability; trusts people to perform; lets direct reports finish their own work. |
| DIRECTING OTHERS | Is good at establishing clear directions; distributes the workload appropriately; lays out work in a well-planned organized manner; maintains two-way dialogue; is a clear communicator and brings out the best in people. |
| INTERPERSONAL SAVVY | Relates well to all kinds of people; builds constructive and effective relationships; uses diplomacy and tact; can diffuse high-tension situations comfortably. |
| MANAGING AND MEASURING WORK | Clearly assigns responsibility for tasks and decisions; sets clear objectives and measures; monitors process, progress and results; designs feedback loops into work. |
| PRIORITY SETTING | Spends his/her time and the time of others on what's important; quickly zeros in on the critical issues; can quickly sense what will help or hinder accomplishing a goal; eliminates roadblocks and creates focus. |
| NEGOTIATING | Can negotiate skillfully in tough situations with both internal and external groups; can settle differences with minimal noise; can be direct or diplomatic depending on the circumstances; has a good sense of timing. |
| SIZING UP PEOPLE | Is a good judge of talent; can articulate the strengths and limitations of people; can accurately project what people are likely to do across a variety of situations. |



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Manchester, NH 03103-4800
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House Manager (MGHOSK)
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Appendix B: Additional Background Checks

| | | | | |
|-----------|--|--|---|--|
| <u>NH</u> | <input type="checkbox"/> Fingerprinting -Positions working with youth (ie YTS or School to Work and Camp) - Positions working in/ at Res/Ed/Childcare setting 5+ hrs/wk -All Billing/Accounting <input type="checkbox"/> OCFS Statewide Central Registry -All Positions | <input type="checkbox"/> CCLU/ Household List - Positions working in/at Res/Ed/Childcare setting 5+ hrs/wk (not ISO/GCRR) | <input type="checkbox"/> BEAS - Positions working in Adult programs -ISO | <input type="checkbox"/> State Central Registry -ISO -Childcare Resource & Referral -STS |
| <u>NY</u> | | <input type="checkbox"/> Fingerprinting -Bronx: DOE/DOI -Valhalla, Monticello, Fort Jervis, Sayville: OCFS -All positions working in/at DTC/ Res/Ed/CBS settings & Camp Colonie: Justice Center -Downstate: Voc & Devel n/a -All Veterans positions: n/a | <input type="checkbox"/> NYS Justice Center SEL -All Positions | <input type="checkbox"/> OMIG (Office Medicaid Inspector General) -All Positions |
| <u>ME</u> | <input type="checkbox"/> Fingerprinting -All positions working with children in a school setting | <input type="checkbox"/> CFS Abuse & Neglect - All positions working with children in a school setting | | |
| <u>VT</u> | <input type="checkbox"/> Adult/Child Abuse Registry -All Positions | | | |
| <u>RI</u> | <input type="checkbox"/> N/A | | | |



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 Manchester, NH 03103-4800
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House Manager (MGHOSK)
 Page 6

Physical Requirement Form

Position: House Manager

Department:

Definition of Terms:

- NOT AT ALL** - Employee never engages in activity.
- OCCASIONALLY** - Employee engages in this activity 1% to 33% of time.
- FREQUENTLY** - Employee engages in this activity 34% to 66% of time.
- CONTINUOUSLY** - Employee engages in this activity 67% to 100% of time

| 1. On an average day, staff are required to: | Not at all | Occasionally | Frequently | Continuously |
|---|------------|--------------|------------|--------------|
| A. Sit | () | () | () | (X) |
| B. Stand | () | () | () | (X) |
| C. Walk | () | () | () | (X) |
| D. Drive | () | () | () | (X) |
| E. Bend/Stoop | () | () | () | (X) |
| F. Climb (i.e.: Stairs) | () | () | () | (X) |
| G. Kneel | () | () | (X) | () |
| H. Balance | () | () | () | (X) |
| I. Squat | () | () | (X) | () |
| J. Crouch | () | () | (X) | () |
| K. Crawl | () | () | (X) | () |
| L. Hold | () | () | () | (X) |
| M. Carry | () | () | () | (X) |
| N. Assist individual in/out of vehicles | () | () | () | (X) |
| O. Transfer individual in/out of wheelchair | () | () | () | (X) |
| 2. On an average day, staff may be required to: | Not at all | Occasionally | Frequently | Continuously |
| <u>Lift/Customer Handling</u> | | | | |
| A. 0-10 pounds | () | () | () | (X) |
| B. 11-25 pounds | () | () | () | (X) |
| C. 26-35 pounds | () | () | () | (X) |
| D. 36-50 pounds | () | () | (X) | () |
| E. 51-100 pounds | () | () | (X) | () |
| F. over 100 pounds | () | (X) | () | () |
| <u>Push/Pull</u> | Not at all | Occasionally | Frequently | Continuously |
| A. 0-10 pounds | () | () | () | (X) |
| B. 11-25 pounds | () | () | () | (X) |
| C. 26-50 pounds | () | () | () | (X) |
| D. 51-100 pounds | () | () | (X) | () |
| E. over 100 pounds | () | () | (X) | () |

APPENDIX H – SUPPORTING DOCUMENT
A. DIRECT SUPPORT STAFF ORIENTATION POLICY

DIRECT SUPPORT STAFF ORIENTATION POLICY

Policy: All direct support staff hired within the Community Based Services department will participate in a standardized orientation process.

Rationale: To ensure that all staff receive information and training in a timely manner.

Procedure: Easter Seals Community Based Services has a three-part orientation process.

The first part of the orientation is conducted by Human Resources and covers the following:

- * Personnel policies & procedures
- * Benefits
- * Hep-B
- * Blood Borne Pathogens

The second part of orientation is conducted by the hiring supervisor and/or Regional Director prior to delivering services to an individual and includes the following:

- * Completion of Program Orientation (see attached form)
- * Overview of Rights & Safety (complete critical acknowledgement)
- * Review of confidentiality (complete critical acknowledgement)
- * Review of motor vehicle supervision (complete critical acknowledgement)
- * Review of risk acknowledgment (complete critical acknowledgement)

The program orientation and critical acknowledgement must be submitted to the Quality Improvement Coordinator upon completion.

The third part of the orientation is conducted by Community Based Services department staff. Direct Support personnel and independent contractor will attend a six-day orientation /training series within the first six months. The training series includes the following: (see attached checklist)

- * Completion of Program Orientation (see attached form)
- * CPR/First Aid
- * Human Rights Training
- * Overview of the Service Delivery System
- * First Aid kit issued
- * Teaching Strategies
- * Quality Of Life
- * Empowerment
- * Health & Safety Training
- * Behavior Principles Training
- * MANDT
- * Confidentiality & HIPAA
- * Community Skill Building
- * Overview of Disabilities
- * Documentation

The Quality Improvement Coordinator is responsible for ensuring completion and compliance of orientation training. All training records critical acknowledgments and orientation logs will be submitted to Human Resources.

Adopted 7/96 Revised 1/99, 7/99, 8/02, 9/03, 8/04

APPENDIX H- SUPPORTING DOCUMENT

A1. SAMPLE ORIENTATION AND TRAINING OUTLINE

**EASTER SEALS DIRECT SUPPORT ASSOCIATE
ORIENTATION & TRAINING
Essential Learning Curriculum**

Day 1

Welcome to CBS Program Orientation
History of Disabilities
Disabilities Overview
9am – 3pm Bette Ouellette

Day 2

Health and Safety Management
9am-Noon Bette Ouellette
Policies and Procedures
12:30pm-1:30 Renee Fisher
Responding to the Health Needs of Individuals with DD;
1:30-3pm Bette Ouellette

Day 3

Assisting People with ID/DD in Choice Making;
General Documentation
9am-Noon Bette Ouellette
Specialized Documentation
12:30pm-2pm Sharon Sheridan
People Soft Mileage/Expense User Training
2pm-3pm Jennifer Krol

Day 4

MANDT I Behavior Management Certification
Basic Training
9am-5pm Diane Scribner/Tristan Daigle

Day 5

MANDT II Behavior Management Certification
Intermediate Training
9am-5pm Diane Scribner/Tristan Daigle

Day 6

Strategies for Teaching Individuals with Disabilities;
Supporting Quality of Life for Individuals with DD
Client Rights
9am-3pm Bette Ouellette

Day 7

Positive Behavioral Supports

9am-11am Behavioral Team

Dysphagia

11am-Noon Bette Ouellette

CPR/AED

12:30-3pm Bette Ouellette

Day 8

Supported Employment

9am-3pm Cindy Douidi

Day 9

Supported Employment

9am-Noon Cindy Douidi

Supporting Everyday Lives-Wrap up

12:30pm-3pm Bette Ouellette

Day10

Preventative Services

9am-3pm Jill Fitzgerald

APPENDIX H – SUPPORTING DOCUMENT

**A2. COMMUNITY BASED SERVICES POLICY ORIENTATION
CHECKLIST**



COMMUNITY BASED SERVICES POLICY ORIENTATION

The following policies were reviewed during the CBS Department Orientation

- | | |
|--|--|
| <input type="checkbox"/> Department Vision, Philosophy, Statement and Services Offered | |
| <input type="checkbox"/> Human Rights/Reporting/Investigation & Sign-off | |
| <input type="checkbox"/> Staff Training Policy | <input type="checkbox"/> Service Supervision |
| <input type="checkbox"/> Supervision | <input type="checkbox"/> Day Services Drop Off |
| <input type="checkbox"/> Home Visits | <input type="checkbox"/> Day Habilitation |
| <input type="checkbox"/> Individual Service Plan | <input type="checkbox"/> Risk Acknowledgement & Sign-off |
| <input type="checkbox"/> Emergency Response | <input type="checkbox"/> Recreational Safety |
| <input type="checkbox"/> Dress Standards | <input type="checkbox"/> Private Home Policy |
| <input type="checkbox"/> Shift Change | <input type="checkbox"/> Car Accident |
| <input type="checkbox"/> Confidentiality & Sign-off | <input type="checkbox"/> Incident Reporting |
| <input type="checkbox"/> Personal Safety Emergency | <input type="checkbox"/> Medical Emergencies |
| <input type="checkbox"/> Transportation | <input type="checkbox"/> Badges |
| <input type="checkbox"/> Motor Vehicle Supervision & Sign-off | |

I understand it is my responsibility to read and understand the remaining policies in the CBS Policy Manual. If I have any questions or need clarification regarding any policy, I will notify my Supervisor immediately.

Employee

Date

Orientation Staff

Date

APPENDIX H- SUPPORTING DOCUMENT

**A3. COMMUNITY BASED SERVICES PROGRAM ORIENTATION
CHECKLIST**



COMMUNITY BASED SERVICES PROGRAM ORIENTATION

| <u>ADMINISTRATIVE:</u> | <u>Yes/No</u> | <u>Review</u> |
|--|---------------|---------------|
| <u>Date</u> | | |
| Performance/Contract Expectations | _____ | _____ |
| Staff Meeting/Training Schedule | _____ | _____ |
| Unplanned Absence Expectation/Procedure | _____ | _____ |
| Job Reassignment | _____ | _____ |
| Respite Request Procedure | _____ | _____ |
| Evacuation Procedures | _____ | _____ |
| Emergency Procedures | _____ | _____ |
| Incident Weather Procedure | _____ | _____ |
| Documentation Expectations | _____ | _____ |
| Confidentiality | _____ | _____ |
| Roles & Responsibilities of Team Members | _____ | _____ |
| Human Rights & Reporting Procedures | _____ | _____ |
| Motor Vehicle Supervision | _____ | _____ |
| Time Sheets/Expense Reimbursement | _____ | _____ |
| Notification of Change in Home Composition | _____ | _____ |
| Keys Assigned | _____ | _____ |
| Pager Assigned/Usage Review | _____ | Number # |
| Cell Phone Assigned/Usage Review | _____ | Number # |

Open Door Policy

_____ >> _____ >> _____ >> _____ >> _____ >>

On-The-Job-Training (minimum of 18 hours): **Note employee name, date & # of hours shadowed*

Name: _____ Date: _____ # of Hours: _____

Name: _____ Date: _____ # of Hours: _____

Name: _____ Date: _____ # of Hours: _____

Employee/Contractor

Date

Program Manager

Date

APPENDIX H- SUPPORTING DOCUMENT
A4. HUMAN RIGHTS ACKNOWLEDGEMENT



HUMAN RIGHTS ACKNOWLEDGEMENT

The people that we serve have equal rights and will be treated with dignity and respect. It is your responsibility to uphold these rights and report any suspicion of abuse, neglect, exploitation or rights violation. Disciplinary action including contract or employment termination will be taken for not reporting or being founded for an abuse/neglect allegation.

Human Rights are divided into the following categories:

Notice of Client Rights:

- Programs will inform people of their rights
- Programs must post rights information
- State regulations must be kept at all sites

Fundamental Rights

- Will not be deprived of any legal right
- Free to practice religious preference
- Assistance in attending worship
- Register to vote
- Manage personal affairs
- Hold a contract
- Hold licenses
- Marriage
- Divorce
- Children
- Make a will
- Exercise civil rights
- Free from discrimination
- Receive legal assistance

Personal Rights

- Free from abuse, neglect or exploitation
- Free from verbal, nonverbal, mental, physical or sexual abuse
- Free from intentional use of force
- Free from financial/personal exploitation
- Privacy
- Confidentiality
- Access to their records
- Right to complain about rights violations
- Freedom from photographs, fingerprints without authorization
- Keep and spend their money

Treatment Rights

- Adequate and humane treatment
- Appropriate evaluations
- Quality treatment and services
- Services outlined in ISP
- Least restrictive environment
- Informed of risk
- Voluntary placement
- Refuse medication
- Referral for health care
- Second opinions
- Have guardians or others present during meetings
- Free from chemical, physical restraints and seclusion
- Integrated services

Community Residences

- Safe, sanitary & humane living environment
- Free and private communications
- Send and receive uncensored mail
- Reasonable access to telephone
- Receive and refuse visitors
- Engage in social activities
- Right to privacy
- Courtesies such as knocking on doors
- Free from searches of person and possessions
- Keep and wear clothing of their taste
- Reasonable space for personal belongings
- Keep and read materials of their choosing
- Not to work
- Compensation for any work performed
- Reimbursement for lost money by agency staff

I have read and understand the rights of the people we serve.

Printed Name _____

Signature _____

Date _____

APPENDIX H- SUPPORTING DOCUMENT

A5. SAFEGUARDING CONFIDENTIALITY ACKNOWLEDGEMENT



SAFEGUARDING CONFIDENTIALITY:
WHAT IT MEANS

1. A written consent from the guardian is required prior to disclosing any information.
2. Do not discuss confidential information in front of other customers.
3. Do not discuss any customers with Service Coordinators, Guardians, Staff, Home Care Providers or other parties who are not assigned to work with that person.
4. Do not leave any documents around the home or office- i.e. kitchen table, living room, fax, copier, etc.
5. Conversations regarding our customers need to happen in a private place where you will not be overheard.
6. Keep all customer related information out of view while in the community and at home.

I have read and understand the importance of and how to safeguard the confidentiality of the individuals receiving services from Easter Seals. Any person who violates our customer's right to confidentiality will be subject to disciplinary action up to and including termination.

My signature signifies that I will follow the guidelines as stated above.

Signature

Date

APPENDIX H- SUPPORTING DOCUMENT

A6. MOTOR VEHICLE SUPERVISION ACKNOWLEDGEMENT



MOTOR VEHICLE SUPERVISION ACKNOWLEDGEMENT

Individuals receiving services from Community Based Services will not be left unsupervised in a vehicle for any amount of time unless there is a signed consent from the guardian. This is to ensure the safety of the individuals served.

Any person who leaves an individual alone in a vehicle without written consent will be subject to disciplinary action including termination.

I have read and understand that I will not leave anyone in my care unsupervised in a vehicle.

Print Name

Signature

Date

APPENDIX H- SUPPORTING DOCUMENT

A7. RISK ACKNOWLEDGEMENT



RISK ACKNOWLEDGEMENT

As an employee of Easter Seals NH, Inc. I am aware and understand that some customers who receive services through Easter Seals can be physically aggressive, verbally abusive and sexually inappropriate towards themselves or others. It is Easter Seals responsibility to provide person specific training. If at any point during my employment I feel that I do not have adequate training or feel unsafe I am responsible to report my concerns to my supervisor immediately. If my supervisor is not responsive then I will use the chain of command until my concerns are resolved.

I understand and acknowledge the risk of supporting some individuals who receive services through Community Based Services. My signature signifies that I will follow the guidelines as stated above.

Signature

Date

APPENDIX H- SUPPORTING DOCUMENT

**A8. COMMUNITY BASED SERVICES PERSON SPECIFIC
ORIENTATION FORM**



Community Based Services Person Specific Orientation

| | |
|------------------|--------|
| Individual Name: | Date: |
| Completed by: | Title: |

List All Allergies (food/medication/other):

List Medical Conditions/Medical History:

List Routine Protocols Medical/Behavioral Supports:

Diagnosis:

ADL Needs:

Nutrition/Dietary Needs:

Hydration Needs:

Elimination Needs:

Food Preferences:

Food Aversions:

Ambulation Needs:

Communication Needs:

Behavior Supports:

Fire Safety Assessment:

Note Specific Level of Supervision:

Evacuation Procedures:

Emergency Procedures:

Current ISP Goal(s):

Important Notes/Information (likes, dislikes, activities of choice etc):

I have been trained on _____ specific information/needs. I was given the opportunity for questions and clarification regarding any information. I understand it is my responsibility to seek out additional training if necessary. I am also responsible to apply all of the information that I have been trained on specific to each individual.

| | | |
|-------------------|-------|--|
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
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| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |
| _____ | _____ | <input type="checkbox"/> Trained ISP Goals/Data Collection |
| Print Name /Title | Date | |

APPENDIX H- SUPPORTING DOCUMENT
B. DIRECT SUPPORT TRAINING POLICY

DIRECT SUPPORT TRAINING POLICY

Policy: All staff will receive training in accordance with the He-M 506 & He-M 1001 standards and regional contract expectations.

Rationale: To ensure that staff are properly trained to provide high quality services to individuals served.

Procedure: Staff will be required to adhere to the following training schedule, unless proof of prior attendance is provided. Staff will complete a training development record for any attended training. The development record will be forwarded to the Quality Improvement Coordinator and/or designee who will send the record to Human Resources.

First Day of Employment:

- * Human Resources Orientation
- * Lifting
- * Blood Borne Pathogens

Prior to Service:

- * Completion of Program Orientation
- * Overview of Rights & Safety
- * Review of confidentiality
- * Review of motor vehicle supervision
- * Review of risk acknowledgment

Within 6 months:

- | | |
|---|--|
| * CPR/First Aid (recertified annually) | * Health & Safety |
| * Human Rights | * Behavior Principles |
| * Overview of the Service Delivery System | * MANDT (recertified annually) |
| * Confidentiality & HIPAA | * Documentation |
| * Teaching Strategies | * Community Skill Building |
| * Quality Of Life | * Overview of Disabilities |
| * Empowerment | * Completion of Department Orientation |
| * Medication Administration (as needed, recertified annually) | |

Within 6 months:

- * Defensive Driving (every three years)

Annually:

- * Human Rights
- * Participate in the development of staff training plan
- * 20 hours of additional training

APPENDIX H- SUPPORTING DOCUMENT
C. MANAGEMENT TRAINING POLICY

MANAGEMENT TRAINING POLICY

Policy: All Community Based Services management staff will receive training in accordance with He-M 506, He-M 507, He-M 1001 & He-M 1201 standards, regional contract and Agency expectations.

Rationale: To ensure that management staff is properly trained to oversight and leadership to programs.

Procedure: A training plan will be developed with the Regional Director and Quality Improvement within one week of hire. The Regional Director and Quality Improvement Coordinator will ensure the following trainings will occur:

Within Two Months:

- * Six-day training series
- * Medication administration training

Within Three months:

- * Home Visits
- * Overview of Regulations
- * Contract Expectations
- * Fiscal Management
- * Policy & Procedures
- * Certification Standards
- * Development of Treatment Plans & Goals
- * Personnel Management
- * Behavioral Services
- * Nursing Services
- * Documentation Requirements
- * Defensive Driving

Annually:

- * Human Rights
- * Participate in the development of staff training plan
- * 40 hours of additional training
- * MANDT recertification
- * Medication Administration recertification
- * CPR recertification
- * Certification Standards

Every three Years:

- * Defensive Driving
- * First Aid

Management staff will complete a training development record for any attended training. The development record will be forwarded to the Quality Improvement Coordinator and/or designee who will send the record to Human Resources.

Adopted 8/04

APPENDIX H- SUPPORTING DOCUMENT
D. HUMAN RIGHTS AND COMPLAINT POLICY

Human Rights & Complaint Policy

Policy: Individuals who receive services from Easter Seals will have equal rights and will be treated with dignity and respect.

Rationale: All staff and independent contractors will understand and respect the rights of people receiving services.

Procedure: Individual's served and/or their guardian will receive their human rights on their first day at Easter Seals and yearly thereafter or following a change in service. The Program Manager and/or designee will work in conjunction with the funding Area Agency to ensure that human rights are reviewed with the individual and/or their guardian. Documentation of rights notification will be kept in the individuals' record. Each program will conspicuously post rights information. Copies of the He-M 310 regulations will be kept in each office and made available to individuals receiving services as requested.

Staff and Independent Contractors will receive Human Rights training during department orientation and will sign a critical acknowledgement form. This will be reviewed annually thereafter.

Any staff or independent contractor who is suspected of violating an individual's rights will be reported to BEAS and BDS for further investigation. The program manager and/or designee will report the allegation to the individual's Service Coordinator, Guardian (if applicable). Staff and independent contractors may be placed on an unpaid administrative leave until the investigation is completed. If the investigation is determined unfounded, staff and/or independent contractors may or may not be reinstated. If the investigation is determined founded, staff and/or independent contractors will be subject to disciplinary action up to and including termination. Each individual's situation may vary.

Easter Seals designee will respond in writing to any Complaint Investigation Report submitted to the agency within 21 days in order to follow recommendations to ensure individual rights and safety. Easter Seals designee will work with program managers regarding recommendations and plans of correction.

Every person employed or contracted by Easter Seals is expected to immediately report any suspicion of abuse, neglect, exploitation, or rights violations. Disciplinary action up to and including contract or employment termination will be taken for not reporting incidents of abuse, neglect, exploitation, or rights violations.

Human rights are divided into the following categories:

Notice of Client Rights:

Programs will inform people of their rights
Programs must post rights information
State Regulations must be kept at all sites

Fundamental Rights:

Will not be deprived of any legal right
Free to practice religious preference
Assistance in attending worship
Register to vote
Manage personal affairs
Hold a contract
Hold licenses
Marriage
Divorce
Children
Make a will
Exercise civil rights
Free from discrimination
Receive legal assistance

Personal Rights:

Free from abuse, neglect, or exploitation
Free from verbal, nonverbal, mental, physical or sexual abuse
Free from intentional use of force
Free from financial/personal exploitation
Privacy
Confidentiality
Access to their records
Right to complain about rights violations
Freedom from photographs, fingerprints without authorization

Treatment Rights:

Adequate and humane treatment
Appropriate evaluations
Quality treatment and services
ISP and services outlined in ISP
Least restrictive environment
Informed of risks
Voluntary placement
Refuse medications
Referrals for health care
Second opinions
Have guardian or others present during meetings
Free from chemical, physical restraints and seclusion
Integrated services

Community Residences:

Safe, sanitary & humane living environment
Free and private communication
Send and receive uncensored mail
Reasonable access to telephone
Receive and refuse visitors
Engage in social activities
Right to privacy
Free from searches of person and possessions
Keep and wear clothing of their taste
Reasonable space for personal belongings
Keep and read materials of their choosing
Keep and spend their money
Not to work
Compensation for any work performed
Reimbursement for lost money by Agency staff

APPENDIX H- SUPPORTING DOCUMENT

E. EMPLOYMENT SERVICES POLICY

EMPLOYMENT SERVICES POLICY

Policy: Individuals who receive day habilitation services through Easter Seals have the right to paid employment.

Rationale: To provide equal access and opportunity to all individuals served.

Procedure:

The program manager will obtain guardian permission, I-9 information and relevant work history before making a referral to the Job Placement Specialist. A formal referral for job placement services will be made by completing the designated placement form.

The Job Placement Specialist will work in conjunction with the program manager to secure suitable employment for individual referred. The program manager will assign a Direct Support Associate to manage the work site. The Direct Support Associate will spend a minimum of two shifts at the work site without the individual served. The Direct Support Associate will gain the knowledge of work performed, co-workers, supports available, and company culture. The Direct Support Associate will also develop a training plan for the individual to learn the job skills.

Direct Support Associates will maintain proper dress and work behavior as outlined by the employer's policy. Work hours and holiday schedule will be outlined by the employer. The individual served will be provided support to report to work during inclement weather unless the employer closes.

The program manager will be responsible for completing site visits at a minimum of one time per week during the first month of employment. Site visit frequency may be reduced to monthly if placement is stable. Visit frequency should be increased when problems arise.

Any employment site where Easter Seals bills the employer (Production Employees) the manager is responsible to coordinate a signed contract between the employer and Vice President of Community Based Services. The contract will outline services, financial responsibility and statement of confidentiality.

The guardian and representative payee will approve paid employment to ensure that the person retains their Medicaid eligibility. Program managers are responsible for the completion of time studies. Any person who is not earning minimum wage will be subject to sub-minimum wage provision in the Department of Fair Labor Standards Act (FLSA).

Volunteerism will not substitute for paid employment and the guidelines established by the Department of Labor will be strictly followed.

APPENDIX H- SUPPORTING DOCUMENT
F. BEHAVIOR MANAGEMENT SERVICES POLICY

BEHAVIOR MANAGEMENT SERVICES POLICY

Policy: All behavior management strategies will comply with Easter Seals and Area Agency human rights standards and policies.

Rationale: To ensure safe, effective, and least restrictive behavior management practices.

Procedure: The Community Based Services department accesses behavioral services through staff and consultants. Managers are responsible for making formal referrals for behavioral services. The Behavior Specialist conducts a file review, observations, and interviews to develop a protocol or plan. A positive, non-aversive approach is used with the emphasis being placed on staff and independent contractor training, environmental changes and positive programming.

Every Area Agency has behavioral guidelines, which Easter Seals, is required to follow. The guardian and Area Agency Human Rights Committee approve all plans before implementation.

The Behavioral Specialist will train staff and independent contractors on the implementation of the protocol/plan. The Behavior Specialist may delegate training to the manager if proper training is provided and the manager demonstrates the competencies to train staff/independent contractor. The Behavior Specialist must observe one training session before delegation. Delegation of training must be put in writing by the behavior specialist and filed in the individual's record. Managers must ensure that the plan is consistently implemented and that only trained staff/independent contractors are working with that individual. Documentation of trained authorized staff or independent contractors will be maintained in the individual's record. The Behavior Specialist must be notified if the plan is not working. Managers are not authorized to alter or discontinue a plan.

There are times when physical interventions are required to gain rapid and safe control of a situation. Staff or independent contractors are required to attend MANDT when providing supports to individuals who may require physical intervention.

APPENDIX H- SUPPORTING DOCUMENT
G. INDIVIDUAL SERVICE PLAN POLICY

INDIVIDUAL SERVICE PLAN POLICY

Policy: An individual planning meeting is held on an annual basis to coordinate services, develop short-term goals, and facilitate long term planning.

Rationale: To ensure that each person and/or their guardian has input on the services being delivered and that those services are meet the needs of the individual.

Procedure: The first thirty days of the program will focus on identifying strengths and growth areas. The Manager will ensure that comprehensive notes are taken during this assessment period and a report (see attached) will be generated that proposes areas for staff/independent contractors to address and anticipate any services that are needed. The planning meeting will occur after the first 30 days and at least annually thereafter. The planning documents should include the following unless a waiver from DMHDS is granted:

- *Review of progress
- *Discussion of concerns
- *Identification of needs and services to be provided
- *Measurable objectives w/implementation plans
- *Signatures of individuals in attendance
- *Guardian's approval
- *Future statement
- *Level of supervision
- *Client rights notification
- *Review of guardianship status

The Service Coordinator will schedule the annual planning meeting, if the person does not have a Service Coordinator then the Easter Seal's Program Manager will coordinate the meeting. Easter Seals staff must ensure that the meeting is scheduled as it is required for state certification. The person responsible for coordinating the meeting will be responsible for typing the planning document and disseminating to team members.

Easter Seals program manager must complete the Support Intensity Scale (SIS) prior to the Service Planning Meeting. The SIS must be completed by the program manager and a minimum of two other support members who have known the individual served for a minimum of 3 months. The SIS will serve as the basis for goal development, and the results will be shared with team.

Easter Seals program managers and/or designee will prepare documents outlined in ISP checklist (see attached). In the event that the program manager can not attend the planning meeting, an approved representative from Easter Seals must attend the meeting on his/her behalf.

Revised: 8/97, 7/99, 8/02, 8/04, 12/05

APPENDIX H- SUPPORTING DOCUMENT
H. CONFIDENTIALITY POLICY

CONFIDENTIALITY POLICY

Policy: Easter Seals staff and Independent Contractors will maintain confidentiality at all times.

Rationale: To preserve our customers right to privacy.

Procedure: All information regarding individuals served and their family is confidential. This information will only be released to individuals and agencies when the legal guardian has given written consent.

Easter Seals Community Based Services management staff is responsible for obtaining appropriate releases for every individual on their caseload. Releases are valid for one year, they must be renewed at the annual planning meeting or as needed throughout the year.

Easter Seals will require all new staff and independent contractors to review the confidentiality policy to protect the confidential information, which will be shared with them. Staff and independent contractors will sign a confidentiality acknowledgement.

All conversations regarding the individuals who receive services must be conducted in a private secure place. Any person who breeches confidentiality will be subject to serious disciplinary action which may include employment or contract termination.

All staff and independent contractors will attend HIPAA (Health Insurance Portability and Accountability Act) training and comply in accordance with federal and agency policies.

Revised 1/99, 7/99, 8/02, 8/04

APPENDIX H- SUPPORTING DOCUMENT
I. RECORD MANAGEMENT POLICY

RECORD MANAGEMENT POLICY

Policy: Community Based Services will maintain individual case records for each person served. Records will be managed in accordance with He-M 502, He-M 507, He-M 1001 and HIPAA legislation. Records will meet all standards and regulations.

Rationale: To ensure thorough, accurate and confidential record keeping practices.

Procedure:

General Guidelines:

1. Blue or black ink is the only acceptable method to document information.
2. White out is not acceptable. When a mistake is made, a single line is drawn through the error, initial and date the error and continue writing.
3. Original copies are always kept in the individual's file.
4. Confidential documentation will be shredded and disposed per DMHDS regulations and HIPAA compliance.
5. Any person who enters an individual record will sign and date on the designated form. Signatures will include the staff/independent contractor's first, middle initial and complete last name and title.
6. The responsible manager will counter sign all intern/volunteer signatures.
7. Falsification of any documentation is grounds for immediate termination.
8. Managers are required to ensure that information in the record is current and accurate.
9. CBS has a chart index that will be used to organize the record.
10. Records will be kept in a locked, secure area.
11. Forms will not be altered or implemented without approval from CBS management team.

Minimum Required Individual Record Contents:

1. Name, address, telephone, social security #, marital status, physical description, and date of birth of individual served.
2. Photograph
3. Primary language or communication means and level.
3. Name, address and telephone of guardian and other emergency contacts.
4. Name, address and telephone of Service Coordinator, complaint investigator, medical, dental, psychiatric & home providers.
5. Medical information including diagnosis (es), history, status, medications, allergies, physical exam.
6. Results of diagnostic evaluations
6. Daily attendance logs
7. Monthly or quarterly progress notes as indicated in the service plan
8. Current Service Plan w/approved revisions
10. Implementation strategies and teaching plans for all service goals
10. Data collection on goals and objectives
11. Medication orders and medication administration logs in accordance with He-M 1201
12. Relevant current and historical assessments
13. Approved individual safety assessment and plan (if left unsupervised)
14. Residential and daily notes
15. Incident Reports
16. Weekly schedule including the days and times of activities (day hab)

Confidentiality:

All information contained in the record is considered confidential. This information will only be released to people/agencies that the legal guardian has authorized through written consent. When entering an individual's record they must sign and date the file access record located at the front of the chart. Releases will be kept in the individual's record. Any staff or independent contractor who breeches confidentiality will receive serious disciplinary action including employment or contract termination.

Records may be released to guardians upon request. Copies will be made and released within 48 hours upon request. Any documents released from the record for any purpose will be accounted for on the designated disclosure log form located in the individual's record. Information from the record may not be released to a third party unless written consent is obtain by the original author. Original records may not leave Easter Seals premises.

Maintenance/Storage:

Prior to the annual planning meeting, the Manager will complete all annual paperwork. If the individual does not have an annual planning meeting, July 1st will be the date used to renew and update the record.

Individual's records will be stored and locked in a secure area.

Historical Records:

DAY SERVICES

A historical file will be made within 15 days following the annual planning meeting. Everything will be removed from the chart and placed into the historical file, with the exception of the following:

1. Medical or psychiatric evaluations
2. Behavioral or Forensic evaluations
3. Employment or residential assessments
4. Guardianship papers & Medicaid card etc.
5. Previous treatment plan/ISP
6. Previous physical

Historical information will be placed in a binded manila folder locked in a cabinet labeled in chronological order. Six years of historical information will be stored on site for each individual served. Easter Seals will maintain historical information for at least 6 years after the person is discharged from services.

RESIDENTIAL SERVICES

Historical files are made within 15 days of the annual planning meeting or more often if the individual moves to a new residence. Historical records are to be maintained and locked at an Easter Seals facility. A copy of the historical file will be kept on the residential premises for the previous year. The Community Living Manager will be responsible for appropriately discarding the duplicate historical file. The Community Living Manager must retrieve the files from the residence on the day the individual moves out of the home. House Book information will be maintained in the same fashion as the individual records.

APPENDIX I

DD/ABD ISOLATION MONITORING PROCESS

**Attachment I
DD/ABD ISOLATION MONITORING PROCESS**

| DD/ABD ISOLATION MONITORING PROCESS | | | |
|---|---|-----------------------------------|--|
| Process: Develop and implement systems to ensure participants are not being isolated from the broader community. | Verification/Validation | Timeline | Entity Responsible |
| 1. Deliver training for providers regarding HCBS expectations, including access to and participation in the broader community, as outlined in General Implementation Strategy #6, steps #5-7 found on page 32. | <ul style="list-style-type: none"> • Training attendance | Ongoing | DHHS-LTSS |
| 2. Monitor the training requirement during the certification/licensing visits, as outlined in General Implementation Strategy #2, step #6 found on page 30 and General Implementation Strategy #6, step #8 found on page 33. | <ul style="list-style-type: none"> • Certification/licensing data | Ongoing | Office of Program Support |
| 3. Revise contracts with providers to include all of the HCBS expectations, including access to and participation in the broader community, as outlined in DD/ABD Topic Area Goal #1, steps #1 and 2 found on page 37. <ul style="list-style-type: none"> a. Revise Area Agency's templates for services provided in family homes under He-M 521, He-M 524, and He-M 525, as outlined in DD/ABD Topic Area Goal #1, step #1a to include the expectation of access to and participation in the 37. | <ul style="list-style-type: none"> • Updated contracts • Updated contracts be submitted to DHHS-LTSS • Area Agency's template for contracted services include this requirement | <p>June 2017</p> <p>June 2017</p> | <p>DHHS-LTSS Providers</p> <p>DHHS-LTSS, Providers</p> |
| 4. Quarterly Satisfaction Form be revised to include access to and participation in the broader community, as outlined in DD/ABD Topic Area Goal #1, step #5 found on page 38. | <ul style="list-style-type: none"> • Revised Quarterly Satisfaction form | January 2017 | Waiver Transition Team |
| 5. Review the statewide complaint data to identify if there are any issues related to isolation, as outlined in DD/ABD Ongoing Monitoring Goal #9, found on page 122-123. | <ul style="list-style-type: none"> • Data reports | Every six months | DHHS-LTSS, Waiver Transition Team |
| 6. Quarterly Satisfaction data be analyzed and follow up actions taken as outlined in DD/ABD Ongoing Monitoring Goal #8, steps #4 through 6 found on page 122. | <ul style="list-style-type: none"> • Data reports | Ongoing | Providers Waiver Transition Team |
| 7. Monitor all HCBS expectations during certification/licensing visits as outlined in General Implementation Strategy #2, step # 6, (found on page 30) and once the regulations have been revised, as outlined in | <ul style="list-style-type: none"> • Data reports | Ongoing | Providers Waiver Transition Team |

Attachment I
DD/ABD ISOLATION MONITORING PROCESS

| | | | |
|--|---|--|---|
| DD/ABD General Implementation Strategy #3, steps #6 and 7 found on page 31. | | | |
| 8. Additional site visits will occur as per DD/ABD Ongoing Monitoring Goal #6, step #2 found on page 120. | <ul style="list-style-type: none"> • A list of additional site visits will be kept | Ongoing | DHHS-LTSS Office of Program Support Waiver Transition Team |
| 9. At any time if a site is identified as potentially being isolating, an on-site visit will occur and will include: <ul style="list-style-type: none"> a. An interview with the participant b. An interview with the provider c. Review of documentation d. Observation | <ul style="list-style-type: none"> • Summary of on-site visit | Ongoing | DHHS-LTSS Office of Program Support Waiver Transition Team |
| 10. An ad hoc committee of stakeholders is formed to determine next steps | <ul style="list-style-type: none"> • Ad Hoc Committee | Ongoing | Waiver Transition Team, Stakeholders |
| 11. The summary of information gathered is used to determine if follow up measures are necessary. Follow up may include: <ul style="list-style-type: none"> a. Remediation Plan b. Implementation of the Heightened Scrutiny Process found on page 133 c. Implementation of the DD/ABD Relocation Process found on page 136 d. No further action | <ul style="list-style-type: none"> • Identification of next steps | Ongoing | Waiver Transition Team |
| 12. If a remediation plan is initiated, the Remediation Form (see Attachment E) will be completed with timeframes and the process outlined in DD/ABD Ongoing Monitoring Goal #6, steps #3 through 8, found on pages 120-121, will be followed. | <ul style="list-style-type: none"> • Remediation form | Within 21 days of the identification of concerns | Provider |
| 13. If it is determined that Heightened Scrutiny will be requested, the Heightened Scrutiny process found on page 133 will be implemented. | <ul style="list-style-type: none"> • Heightened Scrutiny Request Form | Ongoing | DHHS-LTSS |

APPENDIX J
CFI ISOLATION MONITORING PROCESS

Attachment J
CFI ISOLATION MONITORING PROCESS

| CFI ISOLATION MONITORING PROCESS | | | |
|--|--|------------------------|---|
| Process: Develop and implement systems to ensure participants are not being isolated from the broader community. | Verification/Validation | Timeline | Entity Responsible |
| 1. Deliver training for providers regarding HCBS expectations, including access to and participation in the broader community, as outlined in CFI General Implementation Strategy #4, step #10 found on pages 77. | <ul style="list-style-type: none"> • Training outline created | Feb. – March 2017 | Workgroup |
| 2. Quality monitoring process be developed for Adult Day settings as outlined in CFI Ongoing Monitoring Goal #6, found on pages 127 and 128 which will include HCBS expectations, including access to the broader community. | <ul style="list-style-type: none"> • See goal for details | Outlined in goal | See goal for details |
| 3. Quality monitoring process be developed for Assisted Living Settings as outlined in CFI Ongoing Monitoring Goal #7, found on page 128 and 129, which will include HCBS expectations, including access to the broader community. | <ul style="list-style-type: none"> • See goal for details | Outlined in goal | See goal for details |
| 4. Quarterly Satisfaction data be analyzed and follow up actions taken as outlined in CFI Ongoing Monitoring Goal #11, steps #9 and #11 found on pages 131. | <ul style="list-style-type: none"> • Data report • Follow up Action Plan | Ongoing Ongoing | Providers, Waiver Transition Team DHHS-LTSS, Waiver Transition Team, Providers |
| 5. Review the statewide complaint data to identify if there are any issues related to isolation, as outlined in CFI Ongoing Monitoring Goal #9, found on page 130. | <ul style="list-style-type: none"> • See goal for details | Outlined in goal | See goal for details |
| 6. Monitor all HCBS expectations during licensing visits as outlined in CFI General Implementation Strategy #6, steps #5 and #6, found on page 78. | <ul style="list-style-type: none"> • Data Report | Ongoing | Office of Program Support, Waiver Transition Team |
| 7. Additional site visits will occur as per CFI Short-Term Monitoring Goal #12, found on page 132. | <ul style="list-style-type: none"> • See goal for details | Outlined in goal | See goal for details |
| 8. At any time if a site is identified as potentially being isolating, an on-site visit will occur and will include: <ol style="list-style-type: none"> a. An interview with the participant | <ul style="list-style-type: none"> • Summary of on-site visit | Ongoing | DHHS-LTSS, |

Attachment J
CFI ISOLATION MONITORING PROCESS

| | | | |
|--|--|--------------------------------------|---|
| <ul style="list-style-type: none"> b. An interview with the provider c. Review of documentation d. Observation | | | Office of Program Support, Waiver Transition Team |
| <p>9. An ad hoc committee of stakeholders is formed to determine next steps</p> | <ul style="list-style-type: none"> • Ad Hoc Committee | Ongoing | Waiver Transition Team, Stakeholders |
| <p>10. The summary is used to determine if follow up measures are necessary. Follow up may include:</p> <ul style="list-style-type: none"> a. Remediation Plan b. Implementation of the Heightened Scrutiny Process found on page 133 c. Implementation of the Relocation Process found on page 136 d. No further action | <ul style="list-style-type: none"> • Identification of next steps | Ongoing | Waiver Transition Team |
| <p>11. If a remediation plan is initiated, the Remediation Form (see Attachment E) will be completed with timeframes and the process outlined in CFI Short-Term Monitoring Goal #1, steps #3 through 8, found on page 125-126 will be followed.</p> | <ul style="list-style-type: none"> • Remediation form | Within 21 days of receiving the form | Provider |
| <p>12. If it is determined that Heightened Scrutiny will be requested, the Heightened Scrutiny process found on page 133 will be implemented.</p> | <ul style="list-style-type: none"> • Heightened Scrutiny Request From | Ongoing | DHHS-LTSS |

APPENDIX K
DD/ABD GOALS SUMMARY

Attachment K
DD/ABD GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|---|----------------------|---|
| Regulatory Goal #1 | 19-20 | Regulatory Revision & Training |
| Regulatory Goal #2 | 20-21 | Update all policies related to the transition process so they correspond to the HCBS expectations |
| General Implementation Strategy #1 | 28-29 | Create standardized service agreement template for use by all providers |
| General Implementation Strategy #2 | 29-30 | Implement HCBS Education Tool to be used during certification/licensing visits while the regulatory revisions are being made. Once the regulations are revised, General Implementation Strategy #3 will be followed and issues with HCBS expectations will be considered deficiencies |
| General Implementation Strategy #3 | 30-31 | Update Certification/Licensing Process <ul style="list-style-type: none"> • Includes new expectations for monitoring of HCBS compliance • Will include implementation of a critical deficiency system where some deficiencies are identified as being more serious than others |
| General Implementation Strategy #4 | 31 | Revise the applicable provider contracts to include compliance with HCBS expectations |
| General Implementation Strategy #5 | 32 | Revise Medicaid enrollment process for DD/ABD providers <ul style="list-style-type: none"> • Ensuring enrollment identifies compliance with HCBS expectations |
| General Implementation Strategy #6 | 32-33 | Additional training on HCBS and state expectations for providers |
| General Implementation Strategy #7 | 33 | Develop HCBS Toolkit for providers and participants <ul style="list-style-type: none"> • Compile resources for providers and participants relating to HCBS expectations |
| Topic Area Goal #1 | 37-38 | Enhance opportunities for activities, community participation and community integration in order to prevent isolation <ul style="list-style-type: none"> • HCBS expectations are that individuals participate in local community activities and are part of the broader community, including integrated work sites, volunteer activities, etc. |
| Topic Area Goal #2 | 40 | Enhance knowledge about employment and its impact on benefits <ul style="list-style-type: none"> • Includes development of training and guide |
| Topic Area Goal #3 | 40-41 | Continue to enhance the opportunities for participants to find meaningful employment |
| Topic Area Goal #4 | 42-43 | Identify options for easy access to funds for participants <ul style="list-style-type: none"> • Include discussion at Service Agreement about spending money and how that process will occur |

Attachment K
DD/ABD GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|--------------------------------------|----------------------|--|
| Topic Area Goal #5 | 46 | Enhance the participants input into the decision making about their choice of setting <ul style="list-style-type: none"> • Include the choice of setting in the Service Agreement and the options that were offered |
| Topic Area Goal #6 | 48-49 | Update individual rights booklet & create training for participants to include all regulatory and HCBS expectations |
| Topic Area Goal #7 | 49-50 | Develop a process for any modifications to the residential expectations of Home and Community Based Settings (e.g., access to food at any time, locks on bedroom doors, etc.) to ensure that modifications are identified, documented and approved as per HCBS and state expectations. |
| Topic Area Goal #8 | 50-51 | Update Policy for obtaining, storing and sharing health information |
| Topic Area Goal #9 | 53-54 | Ensure that there are locks on all bedroom and bathroom doors for privacy <ul style="list-style-type: none"> • Includes meeting with the Fire Marshal's office |
| Topic Area Goal #10 | 55-56 | Enhance participants ability to make their own decisions, even when they have a guardian <ul style="list-style-type: none"> • Empower the voice of the individual |
| Topic Area Goal #11 | 59-60 | Identify a process to be used if there is limited access to the environment to ensure that all options and resources have been explored for the participant to have full access if possible <ul style="list-style-type: none"> • To identify if there are ways for the individual to have full access to a site, such as environmental modifications, ATEC evaluation, etc. |
| Topic Area Goal #12 | 60 | Develop process for participants to have keys or alternative option for accessing their homes |
| Topic Area Goal #13 | 62 | Update provider policies regarding informed choice |
| Topic Area Goal #14 | 63-64 | Enhance the Person Centered Service Planning Process <ul style="list-style-type: none"> • Individual receive a copy of SA even if they have a guardian |
| Topic Area Goal #15 | 66-67 | Develop Settings Agreements for all residential sites <ul style="list-style-type: none"> • Lease or tenancy agreement for those HCBS participants in a residential setting |
| Topic Area Goal #16 | 68-69 | Identify choice of roommate in Person Centered Planning Process <ul style="list-style-type: none"> • Documentation of the choice of roommate be included in the Service Agreement |
| Short-Term Monitoring Goal #1 | 117-118 | Re-evaluate the status of the state's compliance with the HCBS expectations <ul style="list-style-type: none"> • Beginning in September 2017 • Using survey and data analysis obtained through process |
| Short-Term Monitoring Goal #2 | 118 | To ensure transparency of the transition process provide annual reports to stakeholder groups regarding status of Waiver Transition Plan <ul style="list-style-type: none"> • Reports compiled in October of 2016, 2017 and 2018 • Posted on DHHS website |

Attachment K
DD/ABD GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|--------------------------------------|----------------------|---|
| Short-Term Monitoring Goal #3 | 118-119 | Re-designation process for Area Agencies be used for monitoring during the transition period |
| Short-Term Monitoring Goal #4 | 119-120 | Enhance the efficiency of the certification/licensing process by standardizing the forms used by providers <ul style="list-style-type: none"> • Standardizing forms will decrease the amount of time that certification/licensing visits will take |
| Ongoing Monitoring Goal #5 | 120 | Ongoing oversight by Advisory Task Force, ensuring transparency of the process and the progress being made <ul style="list-style-type: none"> • ATF to meet quarterly • ATF members to be part of the processes, as appropriate |
| Ongoing Monitoring Goal #6 | 120-121 | Complete additional site visits <ul style="list-style-type: none"> • New sites • Sites where concerns are identified • Random selection |
| Ongoing Monitoring Goal #7 | 121 | Develop certification expectations for He-M 518, Employment Services, so that monitoring can be done through the certification process to ensure that HCBS expectations are met |
| Ongoing Monitoring Goal #8 | 121-122 | Use the quarterly satisfaction process required in He-M 503, Eligibility and the Process of Providing Services and He-M 522, Eligibility, Determination and Service Planning for Individuals with an Acquired Brain Disorder to ensure ongoing compliance with HCBS expectations <ul style="list-style-type: none"> • Quarterly satisfaction form will include HCBS expectations so that participants are aware of them and they can give feedback |
| Ongoing Monitoring Goal #9 | 122 | Analyze statewide complaint data to monitor trends, identify focus areas and action plan |
| Ongoing Monitoring Goal #10 | 122-123 | Analyze statewide employment data to monitor the status of New Hampshire's efforts regarding employment as it relates to the HCBS expectations |
| Ongoing Monitoring Goal #11 | 123-125 | Develop a monitoring system that identifies if there is a direct link between complaints and employees that have waivers. |

APPENDIX L
CFI GOALS SUMMARY

Attachment L
CFI GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|---|----------------------|--|
| Regulatory Goal #1 | 21 | Regulatory Revision & Training <ul style="list-style-type: none"> • Revise regulations and provide training to stakeholders |
| Regulatory Goal #2 | 22 | Update all policies related to the transition process so they correspond to the HCBS expectations. |
| General Implementation Strategy #1 | 75 | Establish a workgroup of CFI waiver providers to lead the efforts toward HCBS compliance |
| General Implementation Strategy #2 | 75-76 | Develop standardized forms and policies for CFI providers |
| General Implementation Strategy #3 | 76 | Revise Medicaid enrollment process for CFI providers |
| General Implementation Strategy #4 | 76-77 | Develop training on HCBS and state expectations |
| General Implementation Strategy #5 | 77 | Develop a standardized tool for licensing visits <ul style="list-style-type: none"> • Create tool for licensors to use that includes HCBS expectations |
| General Implementation Strategy #6 | 78 | Update Licensing Process <ul style="list-style-type: none"> • Includes new expectations for monitoring of HCBS compliance • Will include implementation of a critical deficiency system where some deficiencies are identified as being more serious than others |
| General Implementation Strategy #7 | 78-79 | Develop HCBS Toolkit for providers and participants <ul style="list-style-type: none"> • Place to have resources for providers and participants that relate to HCBS expectations |
| General Implementation Strategy #8 | 79 | Formalize the complaint process for CFI participants |
| Topic Area Goal #1 | 83-84 | Enhance opportunities for activities, community participation and community integration in order to prevent isolation <ul style="list-style-type: none"> • Identify resources and opportunities for providers to support participants to get out into the community more frequently |
| Topic Area Goal #2 | 84 | Investigate opportunities to pilot innovative options for community participation and integration in order to prevent isolation <ul style="list-style-type: none"> • Work with DD/ABD providers for ideas for collaborative efforts that will support community access |
| Topic Area Goal #3 | 85 | (Employment) Not an area of concern for those receiving services under the CFI waiver at this time. |
| Topic Area | 87 | Identify ways that participants can have access to funds |

Attachment L
CFI GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|----------------------------|----------------------|--|
| Goal #4 | | <ul style="list-style-type: none"> • Discussion about money to occur at person centered planning meetings |
| Topic Area Goal #5 | 90 - 91 | Enhance the participants input into the decision making about their choice of setting <ul style="list-style-type: none"> • Identify options that would make it more inclusive and put options and choice made in care plan. |
| Topic Area Goal #6 | 91 | To enhance the choices for participants, adopt and implement the philosophy of least restrictive setting when identifying the options available regarding where to live <ul style="list-style-type: none"> • Look at options similar to the DD/ABD participants, such as Adult Foster Care |
| Topic Area Goal #7 | 93-94 | Develop training for participants, their families and guardians regarding rights and HCBS expectations <ul style="list-style-type: none"> • Workgroup to work on training for stakeholders |
| Topic Area Goal #8 | 94-95 | Create a process to use for any modifications to the expectations of Home and Community Based Settings <ul style="list-style-type: none"> • For residential settings only; if there are modifications to the expectations, there are requirements that need to be in the person centered plan |
| Topic Area Goal #9 | 95-96 | Update policy for obtaining, storing and sharing health information |
| Topic Area Goal #10 | 98-99 | Ensure that the opportunity is available for locks on bedroom and bathroom doors <ul style="list-style-type: none"> • Includes meeting with the Fire Marshal's office |
| Topic Area Goal #11 | 100 | Enhance participants ability to make their own decisions <ul style="list-style-type: none"> • Discuss role of guardian and guardianship options that would increase the ability of the participant to make choices |
| Topic Area Goal #12 | 104 | Develop process for participants to have the opportunity for keys to their homes and/or rooms |
| Topic Area Goal #13 | 105 | Implement a process to identify and document when access is limited in provider setting <ul style="list-style-type: none"> • To identify if there are ways for the individual to have full access to a site (evaluations, etc.) |
| Topic Area Goal #14 | 106 | Update provider policies regarding informed choice |
| Topic Area Goal #15 | 108-109 | Enhance process for implementation of care plans/person centered planning to ensure optimal input of participant <ul style="list-style-type: none"> • To include all HCBS expectations • Individual receive a copy of their person centered plan even if they have a guardian |

Attachment L
CFI GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|--------------------------------------|----------------------|--|
| Topic Area Goal #16 | 110-111 | Update Settings Agreements for all residential sites, to be sure all HCBS expectations are met <ul style="list-style-type: none"> To include all HCBS expectations |
| Short-Term Monitoring Goal #1 | 125-126 | Re-evaluate the status of the state's compliance with HCBS expectations <ul style="list-style-type: none"> Beginning in September 2017 Using survey and data analysis obtained through process |
| Short-Term Monitoring Goal #2 | 126 | Analyze the rates paid to providers under the CFI waiver to ensure that there continues to be options for participants <ul style="list-style-type: none"> Workgroup identified Look at current process Identify options for change |
| Short-Term Monitoring Goal #3 | 126 | To ensure transparency of the transition process provide annual reports to stakeholder groups regarding status of Statewide Transition Plan <ul style="list-style-type: none"> Reports compiled in October of 2016, 2017 and 2018 Posted on DHHS website |
| Short-Term Monitoring Goal #4 | 127 | Implement contracts/agreements between CFI Providers and DHHS for service provision <ul style="list-style-type: none"> Include HCBS expectations |
| Ongoing Monitoring Goal #5 | 127 | Ongoing oversight by Advisory Task Force, ensuring transparency of the process and the progress being made <ul style="list-style-type: none"> ATF to meet quarterly ATF members to be part of the processes, as appropriate |
| Ongoing Monitoring Goal #6 | 127-128 | Develop quality monitoring process for Adult Day Services settings <ul style="list-style-type: none"> Workgroup formed to develop process |
| Ongoing Monitoring Goal #7 | 128-129 | Develop quality monitoring process for Assisted Living Settings <ul style="list-style-type: none"> Workgroup formed to develop process |
| Ongoing Monitoring Goal #8 | 129-130 | Implement ongoing quality monitoring process for Case Management Agencies <ul style="list-style-type: none"> Implementation of process on a regular basis |
| Ongoing Monitoring Goal #9 | 130 | Analyze statewide complaint data to monitor trends, identify focus areas and action plan <ul style="list-style-type: none"> Develop process |
| Ongoing Monitoring Goal #10 | 130-131 | Enhance the Risk Identification Mitigation and Planning (RIMP) Process <ul style="list-style-type: none"> Workgroup to review and revise RIMP process |
| Ongoing Monitoring Goal #11 | 131 | Develop a quarterly satisfaction process to monitor CFI participant experience in HCBS settings |

Attachment L
CFI GOALS SUMMARY

| PROCESS TYPE | Page # in STP | PROCESS |
|--|--------------------------|--|
| Ongoing Monitoring Goal #12 | 132 | Complete additional site visits <ul style="list-style-type: none">• New sites• Sites where concerns are identified• Random selection |

APPENDIX M
RESPONSE TO CMS OCTOBER 2015 FEEDBACK

Attachment M

To: Centers for Medicare and Medicaid Services
From: Kathleen Dunn, Associate Commissioner & Medicaid Director
Date: May 30, 2016
Re: New Hampshire's Statewide Transition Plan for the Settings Requirement

Below is an outline delineating where to find the information you requested in your letter dated October 1, 2015 in response to New Hampshire's Transition Framework, submitted to CMS on March 11, 2015.

The Centers for Medicare & Medicaid Services (CMS) has completed its review of New Hampshire's Statewide Transition Plan (STP) to bring state standards and settings into compliance with new federal home and community based settings requirements. New Hampshire submitted its STP to CMS on March 11, 2015. In October, 2015 CMS requested additional detail with regard to assessment processes and outcomes, remedial action processes, and monitoring. According to the STP, New Hampshire will complete an updated and revised STP by April 5, 2016, which provides a three year period for the state to achieve full compliance. CMS agrees that this is an adequate amount of time for New Hampshire to comply, but requests further clarification regarding the issues that are summarized below.

Covered Settings:

Please include all settings that are covered by the state's waivers in the STP, to ensure a comprehensive accounting of locations in which home and community-based services are provided.

- *The state of New Hampshire's Transition Plan outlines the settings covered by the waivers in Inventory of eligible sites/covered settings found on pages 13 and 14.*

Systemic Assessments:

New Hampshire describes the process by which the systemic assessment of the state standards is being conducted. The schedule indicates that some outcomes of that assessment are available.

However, the state did not include outcomes of its assessment in the STP, specifically the list of providers and the state standards inventory completed in December 2014. Please include this information, along with the specific state regulations that were analyzed, and the specific aspect of each regulation found to be compliant, non-compliant or silent. Please indicate any changes that must be made to each regulation to bring it into compliance. The STP also included a third party legal review as part of the assessment. Please describe how that review is done. New Hampshire should provide the outcomes to date and the additional details of the systemic assessment, including a crosswalk for each quality of the federal settings regulation against the sections of the state regulations to inform the state's assessment.

- *Please see Attachments F (DD/ABD analysis) and G (CFI analysis) in the Appendix for complete details on the legal review of the state's regulations.*

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- *The process for the third party review of the regulations was completed by a staff attorney for the UNH Institute on Disability as part of the project management agreement for NH DHHS. The staff attorney conducted the initial review of all state rules, regulations, and policies related the HCBS Settings compliance. The final review, remediation steps and timelines were completed by NH DHHS staff attorneys as outlined in Attachments F (DD/ABD analysis) and G (CFI analysis).*

Site-specific Assessments:

- The state does not provide estimates of how many residential and non-residential settings fully comply with the settings requirements, could comply with modifications, cannot comply, or are presumed to be institutional.
 - *Please see Data analysis and results, on page 26 for detailed information on the number of sites that comply with the settings requirements, could comply with modifications, or cannot comply.*
 - *For those sites presumed institutional, please see Settings Not in Compliance on pages 133.*

The STP does not include any details on the site specific assessment process or composition of the Transition Framework Team and the Advisory Taskforce.

- *Please see Validation Visits on pages 24 and 25 for details on the site specific process.*
- *Please see the Acknowledgements on page 2 for the composition of the Waiver Transition Team.*
- *Please see Advisory Task Force on pages 22 and 23 for a description of the role and composition of the Advisory Task Force.*

The Taskforce will review the assessment activities, including the development of the provider and participant assessment tools, and the sample validation plan. Please include information that will substantiate that the composition of these groups is free from conflict of interest concerns. And please include details in the STP on how site-specific assessments will be conducted.

- *Please see Advisory Task Force on pages 22 and 23 for a description of how the composition of the task force is free from conflict of interest concerns.*
- *Please see Validation Visits on pages 24 and 25 for a detailed description*

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of the site visit process.

- Please include information regarding how the state will respond if a provider does not complete a self-assessment.
 - *New Hampshire determined that completing the self-assessment would not be mandatory. For those providers who refused to participate in an on-site validation visit, the Waiver Transition Team contacted the Office of Program Support, (the state's certification and licensing agency), and they completed unannounced visits to the sites for the purposes of the on-site review.*
- Please explain how the participant assessments are linked to specific settings/sites.
 - *Each participant survey reflected in the data reported was conducted during the validation site visit and tied directly to that site. In addition, we gathered other feedback from participants, although it was not site specific it adds to the overall assessment of compliance.*
- Please provide additional information on the field validation process, including how the process will be conducted and the entities which will complete the validation.
 - *Please see Validation Visits and Validation Team Members Selection and Training Process on pages 24-26 for a detailed explanation of the visit process and the qualifications of the team members who completed the on-site visits.*

Monitoring and Oversight:

- Please provide more details on the specific oversight and monitoring process, including a timeline with milestones and a description of the staff who will conduct the monitoring.
 - *The Statewide Transition Plan is broken down into two sections; one section for the Developmental Disability/Acquired Brain Disorder waiver and one for the Choices For Independence waiver. The plan outlines three types of remediation based on data analysis, input from the Advisory Taskforce and the Waiver Transition Team. The remediation includes:*
 - ***General Implementation Strategies** which are steps to be taken which impact all areas of the HCBS expectations.*
 - ***Topic Area Goals** which are specific to each HCBS Standard and the each topic area within the standard.*
 - ***Ongoing Monitoring Goals** which identify how the state will ensure that there are systems in place to assure compliance is maintained. These are broken down into short-term and ongoing*

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monitoring measures.

- The STP indicates that it will provide training and education for providers during enrollment and orientation; please explain how the state will address training for existing providers.
 - *Please see DD/ABD General Implementation Strategy # 6 on pages 32 and 33, as well as CFI General Implementation Strategy #4 on pages 76 and 77 for a detailed process on the training for providers.*
 - *Additionally, it is the state's expectation that each provider incorporate training into staff's orientation and annually, as appropriate, as outlined in the processes in the remediation plan.*
 - *The state will also have a Toolkit which will offer resources and training strategies as per DD/ABD General Implementation Strategy #7 on page 33 and CFI General Implementation Strategy #6 on page 78.*
- Please provide information on the Advisory Taskforce monitoring process and the Taskforce's role and meeting frequency.
 - *The Advisory Task Force has been meeting monthly. The plan is for the Advisory Task Force (ATF) to meet on a quarterly basis upon submission of the plan. The ATF will monitor the progress on the strategies and goals outlined in the STP. ATF members will participate in various work groups identified in the STP. It is the expectation of the state that the Advisory Task Force continue its oversight and participation in the state's efforts toward full compliance. The expectations are outlined in the DD/ABD Ongoing Monitoring Goal #5 on page 120 and the CFI Ongoing Monitoring Goal #5 on page 127.*
- Please explain how the state will ensure that any consumer satisfaction surveys used for monitoring are linked to individual provider settings/sites.
 - *He-M 503, Eligibility and the Process of Providing Services for those receiving services under the DD waiver, and He-M 522, Eligibility Determination and Service Planning for Individuals with an Acquired Brain Disorder both have a requirement of quarterly satisfaction surveys. The process outlined in the DD/ABD Ongoing Monitoring Goal #8 on pages 121 and 122 identifies the process that will be developed. The surveys are specific to the participant and the site(s) that provide services. This information will be included on the form and used during the analysis of the information.*

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- *The development of a quarterly satisfaction form will be implemented for those on the CFI waiver and is the process outlined in CFI Ongoing Monitoring Goal #11 on page 131. Those surveys will be specific to the participant and the site that provides services. This information will be included on the form and used during the analysis of the information.*

Remedial Actions:

- Please include a specific remediation strategy for the state's rules and regulations found to be out of compliance with the federal settings requirements.
 - *The plan outlines two goals related to regulatory compliance/remediation for both the DD/ABD and CFI waivers. The goals can be found on pages 19 through 22.*
- Please clarify whether licensing, credentialing, and policy revisions will be completed by the time the state submits the revised STP in March 2016. If the systemic remediation will not be complete, please include the timeframe when it will be complete.
 - *The policy/regulatory review has been completed, but revisions to the regulations must follow the state's Administrative Procedures Act as identified in the DD/ABD Regulatory Goal #1, step #5 found on page 20, and the CFI Regulatory Goal #1, step #3, found on page 21.*
- Please include a specific remediation strategy for those settings and sites found to be out of compliance. In the absence of an estimate of the possible number of non-compliant settings, it cannot be determined whether the state will have adequate time to complete its remedial actions. Therefore, please clarify the site-specific remedial actions, including interim milestones for the three year period from April 2016 – March 2019 for the settings to transition into compliance.
 - *At this time the state has no sites that are in full compliance with all of the HCBS expectations. The state's plan is to implement systemic processes, monitoring efforts and training for both the DD/ABD and CFI providers and participants as outlined in detail in the transition plan. The state will focus its efforts in these areas and will complete a re-evaluation beginning in September of 2017. The purpose of the re-evaluation will be to identify the status of sites based on the implementation of all of the remediation steps, analysis of data and additional site visits. The process is outlined in detail in the DD/ABD Short-Term Monitoring Goal #1 found on pages 117 and 118, and CFI Short-Term Monitoring Goal #1, found on pages 125 and 126. Attachment D in the Appendix is a copy of New Hampshire's STP Implementation Flow Chart which outlines our transition process.*

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Relocation of Beneficiaries:

There is no reference to relocation of beneficiaries as a possible outcome of New Hampshire's assessment and transition plan. In the absence of an estimate of possible non-compliant settings, it cannot be determined whether the state will have adequate time to relocate beneficiaries if necessary. Therefore, CMS is requesting additional information on the timeline for the relocation of beneficiaries.

Please provide additional detail on the following aspects of the relocation process:

- How will the state provide reasonable notice and due process;
- The estimated number of beneficiaries impacted;
- A description of the process to ensure beneficiaries can make an informed choice among alternate settings; and
- How all needed services and supports will be available to beneficiaries at the time of relocation.
 - *The state's detailed Relocation Process can be found on pages 136 and 137 for the DD/ABD participants and on page 137 and 138 for the CFI participants.*

Heightened Scrutiny:

The state should clearly lay out its process and timeframes for identifying settings that are presumed to be institutional in nature. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based and do not have the qualities of an institution. If the state determines it will not submit information on settings meeting the scenarios described in the regulation, the presumption will stand and the state must describe the process for informing and transitioning the individuals involved either to compliant settings or settings not funded by Medicaid HCBS.

Settings presumed to be institutional include the following:

- Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- *The state has identified those sites that would be considered institutional based on their location under both the DD/ABD and CFI waivers. The list of these sites can be found under Section V. Settings Not in Compliance, on page 133 of the transition plan.*
 - *The state will be requesting Heightened Scrutiny for the site under the DD/ABD waiver. The information being submitted for heightened scrutiny determination can be found in Attachment H in the Appendix.*

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- *The state is reviewing its options regarding those sites presumed institutional under the CFI waiver.*
- *The state's Heightened Scrutiny Process can be found in the section titled Request for Heightened Scrutiny on pages 133-136.*
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.
 - *The state has developed an Isolation Monitoring Process for both DD/ABD participants and CFI participants. The process outlines what steps the state will be implementing to educate providers, monitor the efforts that are being made and how the state will handle sites that are identified as being isolating. The Isolation Monitoring Process for DD/ABD is Attachment I in the Appendix and the CFI Isolation Monitoring Process is Attachment J in the Appendix,*
 - *The state will be completing a re-evaluation in beginning in September 2017 using surveys, data analysis, certification/licensing data and participant feedback to identify if there are issues of isolation that might initiate the need for either Heightened Scrutiny or Relocation.*

If you have additional questions about our statewide transition plan, please direct your questions to Deb Fournier. She can be reached at deborah.fournier@dhhs.state.nh.us or 603.271.9434. Thank you for your consideration.

APPENDIX N
PUBLIC COMMENT AND RESPONSE

Attachment N

PUBLIC COMMENT AND RESPONSE

Responses to Comments on New Hampshire Statewide Transition Plan May 2, 2016

Transparency and Stakeholder Engagement

Comment 1: Several commenters identified that the 30 day period for public notice and comment (February 5, 2016 – March 5, 2016) was not long enough to review the Draft Statewide Transition Plan (STP) and that the Advisory Task Force had insufficient time to review the draft STP prior to the opening of the public comment period.

Response 1: The State was sensitive to this concern and extended the public notice and comment period for an additional 25 days, so that the period ran from February 5, 2016 until March 30, 2016. The State held an additional public hearing during that extended time period, bringing the total public hearings regarding the draft statewide transition plan to 5.

Comment 2: Several commenters asserted that the Advisory Task Force should have included parents and/or family members of participants receiving services through Home and Community Based Care Services (HCBS) funding. One commenter wanted more consideration regarding the interpretation and implementation of the STP to be given to parents and family and people with special needs and people living with people with special needs, where appropriate and reasonable.

Response 2: The State recognizes the need for consumer representation in the Advisory Task Force and included consumers and family members as members of the Advisory Task Force from its beginning in mid-2015. In fact, consumers were provided a stipend to ensure their participation on the Advisory Taskforce.

Comment 3: Several commenters asked whether there would be opportunities to give public input into requests for Heightened Scrutiny, even if the state becomes aware that it may need to request Heightened Scrutiny for a site or set of sites after the close of the STP public notice and comment period.

Response 3: Yes. Consistent with the Heightened Scrutiny process outlined by the Centers for Medicare and Medicaid Services (CMS), the State will seek public comment for any setting for which it requests Heightened Scrutiny.

Comment 4: Commenters expressed dissatisfaction that feedback of some of the providers on the Advisory Task Force had not been accepted into the first draft Statewide Transition Plan and one commenter expressed concern that Advisory Task Force members had been asked to hold the first draft of the STP as confidential until the beginning of the public notice and comment period.

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PUBLIC COMMENT AND RESPONSE

Response 4: The State takes its obligations to solicit public comment and the opportunity to gather stakeholder engagement seriously. It created an Advisory Task Force to advise state personnel on the development of the Statewide Transition Plan throughout the last year to ensure that it heard from stakeholders. A collaborative process does not, however, dictate a consensus outcome on every matter. The request of advisory taskforce members to treat the draft STP as embargoed until the beginning of the public notice and comment period was meant to give the advisory task force a preview of what had been put forward to DHHS prior to the opening of public comment.

Requirements and Broad Application of 42 CFR 441.301(c)(4)

Comment 5: Several commenters asserted that the state should not apply the federal settings requirements to HCBC services. Commenters described the federal regulations as impractical, overly prescriptive, and inappropriate [to meet the needs of people receiving such services.] Commenters asserted that the rules are inflexible and a “one size fits all” approach will not produce the desired result. Moreover, numerous commenters asserted that broad application of the regulations will be: unfeasible, will produce settings that are unsafe for participants, will limit choice of available residential settings rather than improving it, will impose additional financial burden on providers, and the additional administrative cost and burden will drive providers out of business. Several commenters observed that application of these requirements would have unintended consequences that frustrate the purpose of residential care; and that moreover the regulations will result in increased bureaucracy that interferes with the high-quality care currently provided.

Response 5: New Hampshire seeks to ensure that it preserves Medicaid funding for Home and Community Based Services to the greatest extent possible by complying with the federal settings requirements. To that end, New Hampshire seeks to work with providers and participants to educate them further about the general requirements found at 42 CFR 441.301(c)(4) and, where practicable, find mutually agreeable approaches to satisfying those requirements. The state also notes that the 42 CFR 441.301(c)(4) requirements are bounded by “ the needs of the individual as indicated in their person-centered service plan.” That qualification provides some flexibility to ensure a balance between safety and well-being of the individual and the requirements outlined in the regulation. Modifications to the requirements in provider-owned or controlled settings are permissible if those modifications are sufficiently supported and justified through the participant’s person-centered service plan, through the modification process described at 42 CFR 441.301(c)(4)(vi)(F).

Comment 6: Several commenters expressed concerns that the requirements of 42 CFR 441.301(c)(4) should only apply to the developmentally disabled. Many commenters expressed the concern that the settings requirements are not appropriate for those with acquired brain disorders or senior citizens with dementia, other cognitive impairments or physical limitations

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because the safety and acuity needs of the elderly and/or physically disabled are too distinct from the developmentally disabled to require providers to provide services under the same expectations as those who provide service to the developmentally disabled.

Response 6: It is New Hampshire's understanding that 42 CFR 441.301(c)(4) applies to those Home and Community Based settings that are funded through Medicaid, regardless of the characteristics of the participants who receive them. To the extent that the settings requirements are not appropriate for a participant, modifications to the requirements in provider-owned or controlled settings are permissible, if those modifications are sufficiently supported and justified through the participant's person-centered service plan as described at 42 CFR 441.301(c)(4)(vi)(F). Finally, New Hampshire seeks to ensure that it preserves Medicaid funding for Home and Community Based Services to the greatest extent possible by complying with the federal settings requirements. To that end, New Hampshire seeks to work with providers and participants to educate them further about the general requirements found at 42 CFR 441.301(c)(4) and, where practicable, find mutually agreeable approaches to satisfying those requirements.

Comment 7: Commenters opposed the proposed regulatory amendment to the licensing regulations of all New Hampshire Assisted Living Facilities and New Hampshire Supported Residential Health Care Facilities – regardless of whether they accepted Medicaid HCBC funded participants or not - to reflect the settings requirements that were not already addressed. Those commenters requested that the language be applied only to beds serving CFI waiver participants and not to all facilities.

Response 7: In response to this set of concerns, the state modified its proposal and proposes incorporating the federal HCBS settings standards that are absent from existing regulation into He-E 801, the regulation that governs the Choices For Independence (CFI) waiver rather than in the regulations that govern Assisted Living Residence Facilities (He-P 804) and/or Supported Residential Health Care Facilities (He-P 805).

Comment 8: In response to this amendment to the draft proposal, additional commenters expressed concern that targeting the settings requirements to the CFI waiver recipient beds only and not applying them broadly to all institutions will result in fewer providers choosing to accept Medicaid-funded participants.

Response 8: The state is sensitive to this concern but will pursue the proposed regulatory change as determined.

Comment 9: Commenters expressed concern that New Hampshire's continuum of care for long-term supports and services would be lost as a result of compliance with the settings requirements and that participants would be forced to leave assisted living facilities and end up in nursing homes.

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Response 9: New Hampshire seeks to avoid unintended consequences of moving people into more restrictive environments.

Comment 10: Commenters expressed concern that a program being run on the grounds of a public institution would automatically be terminated.

Response 10: Heightened Scrutiny requested for programs run in particular settings is a process to allow for settings that could be construed as institutional to be evaluated on the merits of the setting and not evaluated on its proximity to a particular public setting.

Comment 11: Commenters expressed great desire for flexibility to depart from the settings requirements.

Response 11: Modifications from the settings requirements in provider owned and controlled settings are possible, per the process outlined at 42 CFR 441.301(c)(4)(vi)(F).

Comment 12: Commenters expressed desire for guidance about integrating practical safety considerations for affording participants who have criminal backgrounds, histories of violence, and/or are registered as sex offenders, the ability to choose who provides services, where services are provided and where one resides.

Response 12: The state is sensitive to these concerns and will work closely with providers to appropriately address these complex issues.

Lockable Doors

Comment 13: Numerous commenters expressed the concern that requiring lockable doors for all people receiving waived services in a provider-controlled or owned setting was fundamentally unsafe for those participants. Commenters stressed that they felt this puts participants' wellbeing at risk, reduces ability of staff to do safety checks in the usual course of business, and compromises the ability of the staff to evacuate the premises in the event of an emergency, such as a fire. Finally, commenters expressed the concern that this requirement would be extremely expensive to implement.

Response 13: To the extent that the settings requirements are not appropriate for a participant, modifications to the requirements in provider-owned or controlled settings are permissible if those modifications are sufficiently supported and justified through the participant's person-centered service plan as described at 42 CFR 441.301(c)(4)(vi)(F). Moreover, the state acknowledges that the safety of participants is of paramount importance and that their safety needs, as well as existing regulations, need to be considered during implementation of this requirement. Please see proposed Amendment to He-E 801.24 after c:

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“(d) Any facility that provides residential services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients’...

(i) right to have a lockable door, as provided for under 42 CFR 441.301(c)(4)(vi)(B), for those CFI Waiver recipients who do not have a modification of this requirement in their person centered plan and consistent with New Hampshire fire safety regulations.”

The state acknowledges the potential expense to providers and will explore whether providing lockable doors could be construed as an environmental modifications that could be reimbursed in part under the waivers.

Access to Food at Any Time

Comment 14: Numerous commenters expressed the concern that the settings requirements appears to demand that all participants have full and unfettered access to all kitchens (and their respective cooking utensils and heating elements) and that requiring facilities to make kitchens fully accessible to all participants is fundamentally unsafe and prohibitively expensive. Moreover, commenters expressed the concern that for many participants, giving them access to food at any time was in opposition to their needs and would be harmful to the participant. Finally, many commenters expressed that this requirement, if carried out to allow participants to order any meal at any time day or night, was impractical and expensive.

Response 14: New Hampshire approaches this requirement in a balanced and reasonable way. To the extent that the settings requirements are not appropriate for a participant’s particular needs, modifications to requirements in provider-owned or controlled settings - including the lockable door requirement - are allowed if those modifications are sufficiently supported and justified through the participant’s person-centered service plan as described at 42 CFR 441.301(c)(4)(vi)(F). Moreover, the state’s proposed regulatory solution for access to food provides a balanced approach for facilities to develop policies that ensure this right. See proposed Amendment to He-E 801.24 after (c):

“(d) Any facility that provides residential services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients’...

(ii) access to food, as provided for under 42 CFR 441.301(c)(4)(vi)(C). The policy shall describe the process by which a CFI recipient may: have a meal at a time and place different from when scheduled meals are provided, including the option to eat privately or in a seat that is not assigned; and request an alternative meal from the meal that is served during scheduled meals.”

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Visitors of Their Choosing at Any Time

Comment 15: Numerous commenters expressed the concern that the element of the settings requirement that requires that participants be allowed visitors of the participant's choosing at any time would result in a cascade of unintended consequences: it would permit visitors to come in the middle of the night, would encourage unwanted business solicitation or unwanted family interactions at the site, and would encourage illicit behavior to take place at the site, related to drug use or intimate activities.

Response 15: The state has proposed a balanced approach to the implementation of this requirement, as noted below, to foster both common courtesy in its implementation and underscore the participant's role in managing visitors who are of their choosing:

"(d) Any facility that provides residential services to Choices for Independence (CFI) Waiver recipients shall develop and adopt a policy relative to CFI Waiver recipients'...

(iii) access to visitors of their choosing, as provided for under 42 CFR 441.301(c)(4)(vi)(D). The policy shall describe the process by which a CFI recipient has: access to visitors of their choosing at any time particularly when visitors come during quiet hours or outside of regular business hours, and how this is managed without infringing on the rights or quiet enjoyment of other residents."

Choice of Roommate

Comment 16: Commenters expressed concern that providing a choice of housemate is extremely difficult in settings with large numbers of residents. Concern was raised about the scenario in which a hospital calls and asks if there is a bed available and the participant appears to be a good match – how would the provider ensure choice of housemate?

Response 16: The choice of roommate provision is meant to provide the participants with a choice of roommate, not housemate, in the event a room is shared. If there is only one bed available, the participants needs to decide if that one bed is acceptable or if he or she needs to consider another setting.

Settings Requirement Limits Choice of People Living with Disabilities

Comment 17: Several commenters expressed concern that the federal settings regulations will limit or remove the choice of participants who choose to live with other people who also have disabilities, or socialize in disability specific settings, or to live in settings that meet the safety needs of participants.

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Response 17: Guidance from CMS indicates that the rule is not meant to prohibit peers from being served together but rather to ensure that opportunities for housing and services, beyond those that are disability specific, are offered to the participant. In particular: “ a non-disability-specific setting, in the context of this regulation means that *among the options available, the individual must have the option to select* a setting that is not limited to people with the same or similar types of disabilities. This could include services based out of a private home or a provider-controlled setting that includes people with and without disabilities. People may receive services with other people who have either the same or similar disabilities, *but must have the option* to be served in a setting that is not exclusive to people with the same or similar disabilities.”

Moreover, the state is sensitive to the concern that the scope of what is available will be narrowed even further by overly broad interpretations of this rule and confusion with billing practices for community participation services and will work with vendors to clarify the distinctions between the two.

Comment 18: Some commenters expressed concern that the settings requirements will force people with disabilities into the community against their will or force them to be more isolated because disability specific settings are prohibited.

Response 18: Disability-specific settings are not prohibited, they need to not be the only option available to the participant.

State Resources to Monitor and Enforce Compliance

Comment 19: Commenters expressed concern that the state would not have sufficient resources in the Office of Program Support to monitor and enforce compliance with the regulations as proposed in the Statewide Transition Plan.

Response 19: The State is aware of the need for resources in OPS to carry out these compliance activities. There is an awareness of the need for OPS to increase its capacity.

Comment 20: Commenters inquired whether waiver services could be funded by another source that exempted them from the settings requirements.

Response 20: The state is open to exploring this option.

Comment 21: Several commenters commended the STP for identifying that the low rates paid to CFI providers needed to be reviewed, in the context of giving providers sufficient resources to meet the settings requirements identified at 42 CFR 441.301(c)(4). Many commenters

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expressly pointed out that the daily rate for a recipient of CFI waiver services is significantly lower than the daily rate for DD/ABD waiver recipients.

Response 21: The State is aware that additional resources are desirable and is open to looking at options available to support the needs of those on the CFI waivers.

Comment 22: One commenter suggested that an analysis of the cost burden of implementing the settings requirements should become part of the STP; and that if CMS approves the plan, that the Department educate state lawmakers about the potential cost and support a request to increase appropriations to defray the costs on providers

Response 22: Developing cost analysis of the impact on private market providers is complex. However, the State is aware of the desire for additional resources to defray potential implementation costs for providers and is open to further discussions regarding resources.

Comment 23: Commenters expressed concern that any increase in rates should be paid to direct care staff.

Response 23: The state recognizes how important direct staff care is and is aware that additional resources are needed.

Substantive Comments on the STP

Comment 24: A commenter asked whether the questions in the provider self-assessments and participants' surveys will be revised from the original assessments conducted.

Response 24: Yes, Short-Term Monitoring Goal, on pages 117 and 118 for the DD/ABD waiver pages 125-126 for the CFI waiver identifies that the assessment tools will be revised.

Comment 25: Commenters expressed concern that the State Wide Transition Plan relied too much on self-assessment by providers and there needed to be additional input from participants.

Response 25: The STP relied on both provider self-assessments and participant surveys, the results of which were validated by more than 400 on-site field visits.

Comment 26: Commenters expressed concern that the "concern form" identified in Regulatory Goal #1 should not be implemented before any regulatory changes occurred because it would be holding providers to expectations that were not yet enacted at the state level. Commenters also expressed that the concern form results should not be made public. Still more concerns

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were raised about whether the “concern form” would be used for all providers, even those who do not accept Medicaid reimbursement.

Response 26: The State modified its proposal to use the concern form and will now use an educational tool to assist the State in educating providers about the settings regulations. The use of the education tool will not foster corrective action plans from providers at this time. The education tools will provide the state with information about relative compliance of providers. Once the regulatory changes are enacted through the JLCAR process, the HCBS expectations will be part of the standardized certification and licensing tools will be utilized to track status of compliance. None of the results gleaned from the education tool will be made public. Finally, this education tool will be used only with those providers who have CFI-funded beds.

Comment 27: Commenters expressed concern that provisions of the STP would be implemented prior to State rule changes or approval by CMS.

Response 27: The state will wait to implement provisions of the STP until it receives CMS approval. New Hampshire will pursue regulatory changes through the traditional Joint Legislative Committee on Administrative Rules (JLCAR) process.

Comment 28: Commenters asked whether settings would be identified as isolating by 2018 and whether there was enough time to assess and make changes to setting prior to the re-evaluation of sites planned in the STP in 2018. Commenters also questioned whether there was sufficient time between the approval of the STP and the re-assessment planned for 2018, whether each provider will have received education about the issues in their facilities that need to be addressed? Commenters expressed desire to see more detail about how to ensure compliance by 2019.

Response 28: Trainings, tool kits and small workgroups will be available to providers very shortly after the approval of the STP by CMS. The State will work to ensure providers have sufficient information from licensing and certification to address the issues in their facilities. In late 2017 a re-assessment of sites will be conducted to identify the state’s compliance.

Comment 29: Commenters expressed concern that a legal analysis relating to landlord tenant law had not been completed.

Response 29: Topic area goal #15 for the DD/ABD waivers and Topic area goal #16 for the CFI waiver include timeframes for the completion of this goal. Given the sensitivity of this issue and its potential impact on current funding mechanisms, the state is looking to work with providers to try, where practicable, to reach a mutually agreeable approach to this issue.

Comment 30: Commenters expressed concern that He-P 804 and He-P 818 regulations had not been included in the regulatory review.

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Response 30: The State has revised the STP and included reviews of both of these regulations.

Comment 31: Commenters expressed concern that the Heightened Scrutiny process the State plans to use does not include gathering information from stakeholders with relevant information about a particular setting.

Response 31: The State recognizes the importance of public stakeholder input. In response to this concern, the Isolation Monitoring process has been revised to include ad hoc committees for both the CFI and DD/ABD waivers to give feedback for the Isolation Monitoring/Heightened Scrutiny Process the state will pursue in late 2017. Moreover, any Heightened Scrutiny requests will be subject to public notice and comment.

Comment 32: Commenters expressed concern that some of the tasks do not contain a corresponding timeline for completion, including regulatory changes, monitoring of isolation process (Heightened Scrutiny requests), timeline for reviewing statewide complaint data, or relocation process.

Response 32: The regulatory process lacks timeframes because the state must follow the JLCAR process and the state cannot control the timeframes of legislative matters. The statewide complaint data will be reviewed every six months as identified in DD/ABD ongoing goal #9 and CFI ongoing goal #9. The relocation process must be individualized for each participant and the timeline will be determined by the participant's needs as well as his or her support team. Heightened Scrutiny requests and whether they are granted are ultimately up to CMS. The state cannot put a timeframe on the completion of the monitoring of isolation process as a result.

Comment 33: Commenters expressed concern that the STP does not ensure participants will be provided sufficient notice, appeals rights and appropriate discharge planning.

Response 33: The Relocation Process outlines the steps to be taken for participants to be transitioned to an alternate setting if the site is unable to come into compliance by the deadline. Notification and discharge planning development is part of the Relocation Process.

Comment 34: Concern was expressed that the STP places responsibility for relocation primarily on the participant's service coordinator and that the state may want to consider involving other agencies.

Response 34: The state will follow a relocation process that is individualized for each participant.

Comment 35: Concern was raised that the STP does not provide training to participants about remediation or how to file a complaint and use of the concern form (now called the education

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tool). Further, commenters stressed that participants should be educated about what constitutes an appropriate level of community integration and what the implications of staying in a non-compliant setting will mean.

Response 35: Topic Area Goal #7 (CFI) and Topic Area Goal #6 (DD/AD) specifically address education of participants regarding rights and the settings requirement. Existing regulations already require that participants are made aware of their rights and how to file a complaint. The state will not prioritize remediation training for participants at this time as providers are responsible for remediation, not participants. The appropriate level of community integration will be specific to each participant and will be reflected by their needs and desires. The Relocation Process has been revised to include a fact sheet including information about implications of remaining in a non-compliant setting.

Comment 36: Several commenters suggested standardized forms for CFI providers should be a component of the STP.

Response 36: The STP was revised to include the development of standardized forms for CFI Providers.

Comment 37: Some commenters indicated that the proposal to adopt the use of Human Rights Committees for CFI waiver recipients wasn't necessary, noting that the Ombudsman office in particular would be providing duplicative services if the Human Rights Committee provision was employed.

Response 37: In response to these comments, the state revised the STP to remove the Human Rights Committee function for CFI waiver recipients.

Comment 38: One commenter inquired how the educational components of the STP would be provided and suggested that the toolkit should be available online to alleviate cost, and that the information should include information about how to file complaints. Another commented suggested that the STP should include a goal around formalizing the CFI complaint process.

Response 38: The Statewide Transition Plan relies heavily on workgroups to develop systems that would support providers to receive the educational information they need. Toolkits will be available online to make accessing the information easier for staff. Additionally, in response to these comments, the state revised the STP to include a goal around formalizing the CFI complaint process. Moreover, the toolkits will include information sheets relative to how to file complaints under either waiver.

Comment 39: One commenter indicated that the STP should include a comprehensive assessment of the service and settings gaps for those who are eligible to receive waiver services, specifically: gaps indicated by those CFI recipients who felt they did not had a choice

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of setting – which may signal a lack of housing options; gaps around lack of transportation and provider access to facilitate community integration; and guardian participation that may have presented a barrier to further community integration.

Response 39: The state will be looking at all options to assist providers with access to community for the participants they support. Moreover, the STP has a training identified in the plan to educate guardians on the authority legally granted to them and other options that may be helpful to the guardians in supporting participants to have a greater voice in their care. The most common reason participants felt they lacked a choice about their options were as a result of being unable to make the choice or that the participant’s guardian made the choice for them.

Comment 40: Commenters asked for clarity about the role of licensing in monitoring compliance with the federal settings requirements.

Response 40: The Office of Program Support, (OPS) through licensing and certification staff, will be instrumental in ensuring New Hampshire reaches compliance with the settings requirement. The State is aware that additional resources within OPS have been identified as a source of concern. The STP also identifies additional ways in which the state will be monitoring its progress toward full compliance.

Comment 41: Commenters questioned how participants were selected for on-site interviews, how they were offered privacy and protection from retaliation, or how the participants who were assisted by case managers in filling out their surveys actually filled out the surveys.

Response 41: More than 400 on-site validation visits were performed to ensure the state received genuine participant feedback. The state did not have knowledge about how participants’ surveys were handled. A description of the on-site validation process is in Section 4 of the STP, which includes information about how participants were selected at each site.

Comment 42: Concern about the plan indicating that participants may have understood questions were raised by commenters.

Response 42: The questions about being in proximity to a public institution may have generally been misunderstood – the state received many responses that settings were in proximity to a public institution, but the public institution was a public school or post office. The STP has been revised to clarify the issue.

Comment 43: Concern was raised that the STP does not have a list of providers in compliance.

Response 43: New Hampshire’s methodology for ascertaining compliance was to complete evaluations of a significant percentage of impacted settings in order to obtain the necessary information to complete the STP, which was an option provided for by CMS. In late 2017 the

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state will do a re-assessment of all settings and level of compliance at that time, after the STP provisions have been put into effect.

Comment 44: A commenter wanted to know whether the Community Support Network was supportive of the plan.

Response 44: CSNI has been on the Advisory Task Force; it submitted a letter with comments. It is posted with these comments and should be read.

Comment 45: Multiple comments expressed the need for assistance when a CFI participant's needs increase and alternatives are needed. Many questioned whether case managers should be part of this process.

Response 45: The State is sensitive to this issue and will work with appropriate parties to address this.

Comment 46: Several commenters expressed concern about how the implementation of a lease or residency agreement would impact the funding of the most common service model used for providing services under the DD and ABD waivers.

Response 46: The state will work collaboratively with stakeholders to try to create a mechanism for meeting the lease/tenancy provisions of the settings requirements while maintaining the current funding mechanism.

Comment 47: Commenters questioned why the In-Home Supports waiver services are described as home-based?

Response 47: IHS services are based out of the participant's private home, regardless of the type of service that is being provided.

Comment 48: Commenters wanted clarification about what the settings expectations around employment are.

Response 48: The settings requirements anticipate participants are provided the opportunity to seek competitive employment if they would like that opportunity.

Comment 49: Commenters expressed interest in knowing how ten assisted living sites on the grounds of nursing homes would be evaluated.

Response 49: The presumption of institutionality is triggered by proximity to a public institution. A privately owned facility is not a public institution. As a result, those assisted living sites would not be presumed institutional.

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Comment 50: Commenters expressed concern about educational components in the STP being provided to in language that is easily understandable by participants and offered to assist with fulfilling this.

Response 50: The state will make every effort to ensure that toolkit items are accessible and understandable to all users.

Miscellaneous

Comment 51: One commenter expressed concern that the community-based support system for individuals with disabilities would be replaced by a managed care organization that is a for-profit entity.

Response 51: The settings requirements at 42 CFR 441.301(c)(4) are expected to be responded to in any health care delivery system, whether it is fee-for-service, full-risk capitated arrangements, or other alternative payment models.

Comment 52: Commenters asked whether the settings regulation applies only to residential settings.

Response 52: The settings regulations include day services under the state's 1915(c) waivers.

Comment 53: Several commenters expressed concern over LNAs not being able to take their children out into the community.

Response 53: Effective July 1, CMS has determined that LNAs will be able to provide care out in the community as well as in a residential setting.

Heightened Scrutiny

Comment 54: A commenter asserted that nine settings for which the state had requested heightened scrutiny because the sites had been identified as presumed institutional because they were located on the grounds of an institution had been incorrectly identified for Heightened Scrutiny. The settings were not in fact located adjacent to a public institution, but rather a private one.

Response 54: The state acknowledges that the settings did not meet the criteria for heightened scrutiny due to location and that those requests were unnecessary. As a result, the STP has been revised to withdraw those requests. If, during the transition process, however,

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any setting meets other criteria outlined by CMS identifying a setting as being non- HCBS, the state will initiate Heightened Scrutiny processes.

Comment 55: One commenter inquired what would happen if both the state and CMS approve a site through the heightened scrutiny process, what happens when managed care comes online and the MCO “changes their mind”?

Response 55: Only the state can request Heightened Scrutiny, and only CMS makes determinations regarding whether a site passes the Heightened Scrutiny process.

Comment 56: A commenter expressed concern that when additional sites are identified for heightened scrutiny review due to tendency to isolate, that there is no provision for public comment, nor is there provision for public comment if the state should significantly change assessment or monitoring tools.

Response 56: The state will follow the Heightened Scrutiny process outlined at Step #8, which follows the CMS rules regarding Heightened Scrutiny and public comment. CMS has not identified any requirement to reflect changes to assessment or monitoring tools through a public notice and comment period.

Comment 57: Several commenters expressed concern that the Statewide Transition Plan activities and the new settings requirements would deprive their children or family members of the supports within the LTSS delivery system they currently enjoy and which are effective for those individuals. Many expressed this concern in the context of worrying that the new regulations placed too much emphasis on independence and autonomy and insufficient emphasis on safety, security, and maintenance of services and/or settings in which residents or participants are thriving.

Response 57: The state appreciates the time and energy these family members took to comment on the STP process and are encouraged to hear that elements of the current LTSS delivery system are providing safe and effective supports for participants.

Comment 58: Commenters expressed concern that legal guardians did not have to give their consent for heightened scrutiny visits to occur in settings in which their family members were residents or participants.

Response 58: The State determined consent from guardians was not necessary to conduct the heightened scrutiny visits. However, the State did inform the legal guardians of each impacted resident that such a visit was taking place and provided each guardian the opportunity to speak with representatives of the state regarding these visits by providing a dedicated staff person’s direct email and direct phone number to address these concerns. The state received 3 phone calls from guardians related to the heightened scrutiny visits.