

HOME & COMMUNITY- BASED SETTINGS FINAL RULE

MI Choice Waiver
HCB Settings Assessments

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Final CMS Rule – HCBS portion

- Took effect March 17, 2014
- To make sure that people receiving long-term services and supports through home and community based service Medicaid programs **are a part of the community in which they reside and that they have access to the same conveniences that people who are not in these programs do**
- All states expected to fully meet rule within 5 years or sooner = on or before March 17, 2019



What settings do we need to assess?

- Rules apply to all settings where home and community based services are delivered. This includes a participant's home (however, participant's homes are assumed to be in compliance and do not need to be assessed).
- All provider owned and operated Residential settings (e.g. Adult Foster Care, Homes for the Aged, Assisted Living) and Non-Residential settings (e.g. Adult Day Care programs) must be assessed.



What settings do we need to assess?

- Question: Do we only need to do assessments for licensed settings?
- Answer: No, all provider owned and operated settings must be assessed, whether they are licensed or not.
- Question : What qualifies as an assisted living? Does this include unlicensed assisted living where individual has their own apartment, but lives in a community with others?
- Answer: Any setting where an individual receives services that is “provider owned and/or operated” needs to be assessed. This includes those that do AND those that do NOT have a license.
- Question: Does it matter if the services provided are paid for by our participant as part of their “rent” or do these services need to be purchased by the Waiver program?
- Answer: If a participant is paying rent and receiving some services from their assisted living, but MI Choice is still providing other services in the same home setting, that setting needs to be assessed.
- Question: If there are no WA residents at the time of assessment (but there may be in the future), does another assessment need to be completed when a participant moves in?
- Answer: As long as all questions are asked and answered satisfactorily, another assessment does not need to be completed when the participant moves in.

Home and Community Based Settings Requirements

- Settings that are **NOT** Home and Community Based:
 - Nursing facility
 - Institution for mental diseases
 - Intermediate care facility for individuals with intellectual disabilities
 - Hospital
- Question: Does a survey need to be done in a nursing home?
- Answer: No. Nursing homes automatically will not qualify as home and community based.



Settings that are NOT Home and Community Based:



- Settings that are **PRESUMED NOT TO BE** Home and Community Based:
 - In a publicly or privately-owned facility providing inpatient treatment
 - On grounds of, or next to, a public institution
 - Settings that separate people receiving Medicaid home and community based services from people not receiving Medicaid home and community based services
- Question: If there are independent living condos on grounds of Nursing Facility but offer no services, do they need to be assessed?
- Answer: Yes, because they have a trait of the “Presumed Not To Be” category.

Settings that are **PRESUMED NOT TO BE** Home and Community Based:

- The State can make a case to CMS that a setting that appears to be included in the **PRESUMED NOT TO BE** Home and Community Based **does** meet requirements:
 - A state must submit evidence (**including public input**) showing that the setting **does** have the qualities of a HCB setting and not the qualities of an institution; AND
 - CMS finds, based on a **review** of the evidence, that the setting meets the requirements for HCB settings and does NOT have the qualities of an institution



Settings that are PRESUMED NOT TO BE Home and Community Based:

- *Residential, Section 2, Item 1: Is the residence located in the same building or on the same campus as an institutional treatment option?*
 - Question: Define “campus”.
 - Answer: Campus means on the same property. If the answer is yes, you should explain the set-up and proximity of the campus in the comments.
 - Question: Are settings on the grounds of or adjacent to "private" institutions considered not to be home and community-based (HCB)? Can a HFA be on the same campus as a Skilled Nursing Facility (SNF)?
 - Answer: It depends. Settings that are on the grounds of or adjacent to a private institution are not automatically presumed to have the characteristics of an institution. However, if the setting isolates the individual from the broader community or otherwise has the characteristics of an institution or fails to meet the characteristics of a home and community-based setting, the setting would not be considered to be compliant with the regulation.
- *Residential, Section 2, Item 2: Does the provider operate or manage multiple home settings which are (1) on the same campus, (2) located close together, or (3) offer a continuum of care?*
 - Question: In what proximity is “close”?
 - Answer: Next door or across the road would be considered “close”. Clustered.

Home and Community Based Settings Features



**The HCB settings should:
Be involved in and
support access to the
rest of the community.**

- *Non-Residential, Section 1, Item 6/Residential, Section 3, Item 3: Do individuals participate in any of the following activities of his/her choosing in the community?*
 - Question: What is the intent? Is this referring to time while at the ADC or in general?
 - Answer: The intent is to ensure access to community activities. Answer as it applies to individuals while they are in the setting.
 - Question: What if individuals do not want to participate in any activities?
 - Answer: That is fine. They just need to have the opportunity and choice to participate
- *Residential, Section 1, Item 9: Is the setting located among other residential buildings, private businesses, retail businesses, restaurants, doctor's offices, etc. that facilitates integration with the greater community?*
 - Question: To what extent? In same neighborhood, participants not fenced in and restricted to grounds, etc...
 - Answer: We just want to see that it is not segregated (walls, fences, gates, etc.) from the greater community. Is it located among the rest of the community?

Home and Community Based Settings Features



**The HCB settings should:
Make sure the person
receives services in the
community to the same
degree of access as people
not receiving Medicaid
home and community-
based services**

- *Residential, Section 3, Item 1: Are there options for using services and supports outside of the residence instead of onsite services?*
 - Question: What “services and supports” are intended to be offered “outside of the residence” (physician services, ADC, podiatrist)?
 - Answer: Any Waiver services that they are receiving in the setting should be available as an option outside of the setting. We’re trying to determine if residents are forced to use their setting’s provider or given a choice? If they had the means would they have options?
 - Question: Do participants have to have a choice of providers for all services? Some of our AFCs are very small and if the participant chooses an outside vendor to provide personal care, the AFC may not receive enough payment to make housing the individual possible. Currently, these residents are required to use their services for a couple of service types. What would need to be done for them to come into compliance?
 - Answer: The participant needs to be aware of that restriction and have agreed to it in writing and have it be part of their plan of care.

Home and Community Based Settings Features



- The HCB settings should: Protect a persons rights of privacy, dignity, respect, and freedom from influence and control

- *Residential, Section 4, Item 9: Does staff address individuals in the manner in which the individual would prefer to be addressed?*
 - Question: Should the way resident's want to be addressed be documented, or ask the residents?
 - Answer: No need to document as part of assessment.

Home and Community Based Settings Features



- The HCB settings should: Protect a persons rights of privacy, dignity, respect, and freedom from influence and control

- *Residential, Section 5, Item 14: Does the setting place restrictions on an individual's ability to come and go from the home setting?*
 - Question: In a setting, for example that has separate apartment units that meet the criteria, but then has one wing or floor for dementia residents who, because of cognition & safety issues, do reside in a locked access wing, could that setting still be in compliance?
 - Answer: The regulation requires that the setting must be accessible to the individuals living there and that residents have the freedom of movement. Do all of the residents eat meals together or are meals segregated (e.g., residents with dementia dine separately from the rest of the residents in the setting)? Do all the residents, include residents with dementia participate in activities (e.g., walks outside the setting or outings) together offered by the setting? Are residents with dementia segregated from activities with non-dementia residents? Residents with dementia cannot be segregated in their living arrangements or activities from non-dementia residents unless it is written in their plan of care. The assessment for plan of care must be done on an individual basis and not applied to all residents with the same condition (i.e., dementia). MDHHS staff will review the setting and make the final determination on whether setting complies with the final rule.

Home and Community Based Settings Features



- The HCB settings should: Protect a persons rights of privacy, dignity, respect, and freedom from influence and control

- *Section 5, Item 7: If there are cameras and visual/audio monitors present in the individual's bedroom or bathroom, was the equipment installed to meet an assessed or documented need for the individual?*
- Question: This is a follow-up question to Item 6. How should we answer if this is not-applicable?
- Answer: You can skip or write "N/A". We'll update the tool and repost with that as an option.

Home and Community Based Settings Features

- The HCB settings should:
 - Encourage and allow independence in making life choices



Home and Community Based Settings Features



- The HCB settings should:
 - Help a person choose services and supports, and who provides them

- *Residential, Section 4, Item 13: Do individuals have options within the setting to choose who provides their services and supports?*
 - Question: Define the types of “services and supports”. Is this related to ancillary supports or paid supports, such as choosing not to receive services from specific staff of the provider.
 - Answer: This applies to specific staff members of the setting. Individuals should have a choice, within reason, of staff who provides their services/supports.
 - Question: Does “who” refer to individuals working there or agencies?
 - Answer: In this question, “who” refers to the workers.

Additional Requirements in Provider-Owned/Controlled Settings



- The person has a lease or other legal agreement providing the same protections as persons not in provider owned and/or controlled settings have

- *Residential, Section 4, Item 1: Does each individual have a lease or residential agreement for the residential setting?*
 - Question: Should we get a copy of the lease to verify it is compliant? Or do we just take what staff says?
 - Answer: MDHHS does not need to see a copy of the lease. If your agency would like to view one in order to confirm it exists, that is up to you.
 - Question: Is the state expecting that a lease be signed that meets state landlord tenant law?
 - Answer: No, we realize this may not be possible. From CMS - For settings in which landlord tenant laws do not apply to such units or dwellings, we must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant that provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.

Additional Requirements in Provider-Owned/Controlled Settings



- The person has a lease or other legal agreement providing the same protections as persons not in provider owned and/or controlled settings have

- *Section 4, Item 6: Do individuals know the person to contact for completing an anonymous complaint?*
 - Question: Is this intended to inquire as to whether a resident is provided information as to how they may FILE an anonymous complaint?
 - Answer: Is there a comment box or drop-off for complaints and do residents know where it is? It is more about the process for filing an anonymous complaint than the “person” it goes to.
- Question: When asking if individuals knows who to contact for completing an anonymous complaint, should the resident be asked or take staffs word? Who do unlicensed assisted living residents contact?
- Answer: Whether they are licensed or unlicensed, there should be a way to file a complaint. And with all of these questions, the more input you get (from staff, residents, family), the better. If you are hesitant to take the provider’s word for it, definitely follow-up with other individuals.

Additional Requirements in Provider-Owned/Controlled Settings



- The person has privacy including lockable doors, choice of roommates, and freedom to furnish or decorate the unit
- Question: Regarding door locks, will there be some sort of competence test for clients with memory loss? Vendors were concerned about liability and safety.
- Answer: If a participant can not have locks due to a medical condition, this must be documented in the plan of care, but this should be on an individual basis and not apply to everyone setting. Each person has different needs.
- Question: Are the Licensing Consultants aware of these changes, especially regarding the locks? AFC owners were worried they would be written up for locks on bedroom and bathroom doors.
- Answer: BCAL has been involved in our workgroup and has reviewed the guidelines against licensing laws and has found no conflict.

Additional Requirements in Provider-Owned/Controlled Settings



- People have freedom and ability to control their schedules and activities, including access to food at any time
- *Residential, Section 5, Item 23: Is accessible transportation available for individuals to make trips within the community?*
 - Question: How accessible is “accessible transportation”?
 - Answer: Access to any transportation. Buses, vans, taxis, volunteers, etc.
- *Residential, Section 5, Item 25: If public transit is available, do individuals receive training or assistance with using public transit?*
 - Question: Do individuals have to ask for public transit training, or is it something everyone gets?
 - Answer: Not everyone has to get training, training or assistance just has to be available if they need it.
- *Residential, Section 5, Item 26: If public transit is limited or unavailable, do individuals have other resources to access the broader community?*
 - Question: This is a follow-up question, what to do about the one that is not-applicable?
 - Answer: Skip or NA. We will update the tool with an option to reflect this.

Additional Requirements in Provider-Owned/Controlled Settings



- People may have visitors at any time

- *Non-Residential, Section 1, Item 10: Does the setting encourage visitors or other people for the greater community (aside from paid staff) to be present, and is there evidence that visitors have been present at regular frequencies?*
 - Question: What if the answer to the first question is yes but second is no?
 - Answer: Look harder for evidence of visitors (logs, calendar of events, interviews with participants, etc.). This would include family. Participants can be used as resources. Posters advertising events that indicate everyone is welcome. If unsure, say "NO" and indicated unsure.
- *Residential, Section 3, Item 5: Can the MI Choice support coordinator visit at any time without permission?*
 - Question: When asking if a support coordinator can visit any time, what if there is no participant living there?
 - Answer: The idea behind this question is, does the setting try to limit the type of individuals who come in to visit? (They shouldn't) Note: You only need to assess those settings where you will have or will have participants living.

Additional Requirements in Provider-Owned/Controlled Settings



- Setting is physically accessible to the person

- *Non-Residential, Section 1, Item 14: Is the setting physically accessible including access to bathrooms and break rooms?*
 - Question: To what extent is accessibility to be determined? For example, what if someone is morbidly obese?
 - Answer: Accessibility is to be assessed for the average participant (ADA compliant as well), but if anyone is having a difficult time getting around, this should be documented and investigated.

Additional Requirements in Provider-Owned/Controlled Settings



- Setting is physically accessible to the person

- *Residential, Section 5, Item 17: Is the residence physically accessible to all individuals?*
 - Question: To what extent is accessibility measured?
 - Answer: Accessibility is to be assessed for the average participant, checking for inaccessible areas. Document if anyone living there is having issues.
 - Question: Will all HCB settings be expected to comply with Americans with Disability Act (ADA) guidelines for accessibility, even if they are already accessible to the individuals living there?
 - Answer: The regulation requires that the setting must be accessible to the individuals living there. This HCBS regulation does not affect obligations under the ADA. For specific requirements of the ADA, we recommend you contact the Department of Justice Civil Rights Division. Contact information is available at: <http://www.justice.gov/crt/contact/>

Additional Requirements in Provider-Owned/Controlled Settings



- Setting is physically accessible to the person

- *Section 5, Item 19: Are the household appliances within the setting physically accessible to all individuals?*
 - Question: Does physically accessible mean they have access, or appliances are handicap accessible?
 - Answer: This is referring to whether they are handicap accessible or if they are not, is there some sort of measure taken to work around that.

Additional Requirements in Provider-Owned/Controlled Settings

- Deviations from the requirements must be:
 - Supported by specific need
 - Explained in the person-centered service plan
 - Example might be limits on access to food or visitors
- The restrictions are required to meet the persons needs, not the setting's requirements.



Settings that May Isolate

- Settings that have the following two features alone might, but will not necessarily, meet the criteria for isolating people:
 - The setting is specifically for people with disabilities, and often even for people with a certain type of disability.
 - The people in the setting are mostly or only people with disabilities and on-site staff provides services to them.
- *Non-Residential, Section 1, Item 19: Does the setting only provide services to individuals with a specific type of diagnosis/disability?*
- Question: Does this refer to an AFC home specializing in TBI, MI, or Alzheimer's? Will CMS allow dementia-specific adult day care centers?
- Answer: The HCBS regulations do not prohibit disability-specific settings; as with all settings in which HCBS are provided or in which individuals receiving HCBS reside, the setting must meet the requirements of the regulation, such as ensuring the setting chosen by the individual is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, that individual's rights of privacy, dignity and respect and freedom from coercion and restraint are respected, etc.
- Question: What is the meaning of "non-disability-specific settings"? Does this requirement mean that the options must include settings in which other individuals with similar disabilities do not reside or receive services and support?
- Answer: "Non-disability-specific", 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.

Settings that May Isolate

- Settings that isolate people receiving home and community based services from the rest of the community may have any of the following features:
 - The setting is designed to provide people with disabilities services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities.
 - People in the setting have limited, if any, interaction with the rest of the community.
 - Settings that use and/or allow interventions and/or restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings like seclusion.



MI Choice HCB Assessments

- Each setting needs to be assessed ONCE for MDHHS waiver programs.
- In the beginning, waiver agencies may contact MDHHS to request whether a setting has already been assessed by another MI Choice agency or by another waiver program.
- In the future, a shared tracking system will be developed that will allow all waiver agencies to review the list of previously assessed settings and those in compliance with the rule.
- If multiple MI Choice waiver agencies use the same setting for participants, they should work together to determine who will conduct the on-site assessment.

MI Choice HCB Assessments

- Must be completed on-site of the residential or non-residential setting.
- Must be completed by the waiver agencies (setting may pre-fill survey, but waiver agency must confirm all answers on-site).
 - Question: Who at the waiver agencies should conduct these surveys? Housing Specialists?
 - Answer: Who conducts these surveys is up to the waiver agencies. This activity could fall under the Housing Specialists job description, but it is not required by MDHHS that they do it.
- ALL questions must be answered.
- When asked “If marked, why?” include as much extra/explanatory information as possible.

MI Choice HCB Assessments

- Once assessments have been completed, waiver agencies must submit results to MDHHS (to Cheryl Decker).
- MDHHS will make the final determination on which settings meet, do not meet, and could come into compliance with the requirements after a corrective action plan.
- MDHHS will send a letter to the setting/provider and will copy the MI Choice waiver agencies who submitted the survey.
- All settings should be assessed by 12/31/2015.

MI Choice HCB Assessments

- Question: Once the survey has been submitted to the state, what is the timeframe that the AFC/HFA/Waiver Agency will be notified that the AFC/HFA is approved or not?
- Answer: Depends on the volume. Only two surveys have been submitted so far. It took less than a day to send the determination. MDHHS will try to do it as quickly as possible.
- Q: If a state determines that a current HCB setting is not compliant with the new regulation, does it have to stop providing services in that setting immediately?
- A: No. If a state determines that HCBS are currently being provided in settings that do not provide opportunities for participants to engage in community life, control personal resources, and access the community to the same degree of access as individuals not receiving Medicaid HCBS, or if individuals receiving HCBS are not residing in settings that meet the HCB settings requirements, the state has until March 2019 to bring its HCBS programs into compliance with the rule, consistent with its State Transition Plan. States can claim for federal matching funds for these services during the transition period.
- Q: Can you send the approval/denial letter to both waiver agencies in the area? You have our Provider Lists, you can refer to them.
- A: That is a lot of additional work for MDHHS. If the assessment states which agencies work with the provider, MDHHS can send the letter to both. Otherwise, the other agency will need to go to WSA to view which providers have been done.

Corrective Action Plans

- Providers will be required to self-disclose remediation plans with timelines to come into compliance. Those corrective action plans will be sent to the MI Choice waiver agency.
- Providers will be required to submit periodic status updates on remediation progress to MI Choice waiver agencies who will forward information to the MDHHS.
- Once in compliance, providers must submit documentation that proves compliance. Another site visit by the waiver agency may be necessary to confirm compliance.

Settings not in compliance

- If a setting is found to not meet and unable to meet the requirements in the future, these providers will be notified by MDHHS that they will be removed from the provider pool.
- Participants living in these settings will be notified that their residential setting does not meet requirements and will be given options on how to either remain in the setting or continue on the waiver program.

New Future Settings

- Waiver agencies must ensure that all future provider owned or operated settings are assessed to be home and community based prior to providing services. Those **not** in compliance should not be considered until they are in compliance.
- MDHHS will also incorporate the HCB settings requirements into the statewide provider monitoring tool for each waiver agency to use as part of their regular monitoring activities.

Statewide Transition Plan – MI Choice Waiver Items

Action Item	Description	Start Date	End Date	Status
Review state policies, procedures and standards	MDCH will review current policies, procedures, standards, and contracts and identify any needed changes for full alignment with HCBS settings requirements as well as target dates for the necessary revisions.	09/01/14	09/30/15	In process
Develop a list of settings based upon current compliance status	MDCH will develop a list of those settings that are: <ul style="list-style-type: none">- assumed to be in compliance- out of compliance (but may come into compliance)	12/1/2014	5/31/2016	In process

Statewide Transition Plan – MI Choice Waiver Items

Action Item	Description	Start Date	End Date	Status
Establish requirements for new providers	MDCH will include language in the contracts of waiver entities to ensure that all new providers are assessed for HCB settings prior to providing services. Upon enrollment in the waiver program, providers who offer HCBS will be provided technical assistance on HCBS setting requirement by MDCH and waiver entities. This activity will be ongoing.	1/1/2015	3/17/2019	In process
Have all HCBS settings assessed by waiver agencies	MI Choice waiver agencies contract directly with providers. Waiver agencies will be required to conduct on-site assessments of each provider setting to determine compliance to new rule or need for corrective action. This will include collecting feedback from participants. MSA will oversee the process. Waiver agencies will report this data to MSA. The statewide tool will be used for the assessment.	4/1/2015	12/31/2015	In process

Statewide Transition Plan – MI Choice Waiver Items

Action Item	Description	Start Date	End Date	Status
Compile, analyze, and review assessment data. Report findings to stakeholders.	MDCH will compile the data from providers and beneficiaries to determine those HCBS services providers who meet, do not meet, and could come into compliance with HCBS guidance. MDCH will present the results of the assessment data to stakeholders and post results for 30 days.	10/1/2015	3/31/2016	To do
Update MDCH policies, procedures, standards, contracts as necessary	MDCH will develop and adopt revised policies, procedures, standards, and contracts to address ongoing compliance and monitoring, including adding requirement of using assessment tool as part of provider monitoring, self-assessment, survey tools as well as the site review protocols. These updates may include legislation, administrative rules, and contracting procedures.	10/1/2015	3/1/2017	To do
Develop statewide protocols and procedures for site specific reviews	MDCH will develop protocols and procedures to address ongoing monitoring and compliance.	10/1/2015	9/30/2016	To do

Statewide Transition Plan – MI Choice Waiver Items

Action Item	Description	Start Date	End Date	Status
Conduct ongoing monitoring of compliance	MDCH will incorporate HCBS settings requirements into quality reviews, provider monitoring, and consumer satisfaction surveys to identify areas of non-compliance. This activity will be ongoing.	10/1/2015	3/17/2019	To do
Design statewide remediation strategy	MDCH will design a remedial strategy for settings found to be noncompliant. The strategy includes education and outreach in the form of site surveys, technical assistance and consultation, and corrective action plans.	12/1/2015	6/30/2016	To do
Revise statewide transition plan if necessary	MDCH will develop a modified statewide Transition Plan if necessary. Revisions to the transition plan will be informed by the assessment and site survey data which establish a plan for addressing all components of compliance with the HCBS rule.	1/1/2016	5/30/2016	To do

Statewide Transition Plan – MI Choice Waiver Items

Action Item	Description	Start Date	End Date	Status
Transition of participants in non-compliant settings	MDCH will provide choice to participants in provider controlled and owned residential settings to transition to a new residential or non-residential setting that meets requirement or disenroll from the waiver program.	1/1/2016	3/17/2019	To do
Notify providers who do not and cannot meet the HCB setting requirements. Notify any affected participants of these providers.	MDCH will notify providers who are found to not meet and are unable to meet the Federal requirements. These provider types include nursing facilities, hospitals, institutes for mental diseases, and intermediate care facilities for individuals with intellectual disabilities. These providers are ineligible to participate in the program. Participants will also be notified that their provider cannot meet requirements.	6/1/2016	12/31/2016	To do

Statewide Transition Plan – MI Choice Waiver Items

Action Item	Description	Start Date	End Date	Status
Notify CMS of any presumptively non-home and community-based settings that do have qualities of home and community-based settings for heightened scrutiny	For settings that are presumed not to be home and community-based, MDCH will compile a list of settings that do have the qualities of home and community-based settings and do not have the characteristics of an institution. MDCH will submit this list and any corresponding evidence to CMS for the heightened scrutiny process.	6/1/2016	12/31/2016	To do
Develop and implement corrective action plans for individual non-compliant settings	MDCH and its contractors will ensure individual provider settings become compliant with the new rule. MDCH and its contractors will work with individual non-compliant settings to develop and implement corrective action plans Providers will be required to submit periodic status updates on remediation progress to MDCH. MDCH will allow reasonable timeframes for large infrastructure changes with the condition that the providers receive department approval and provide timely progress reports on a regular basis. Updates will be provided to CMS as needed.	10/1/2016	9/30/2018	To do

Additional Questions

- Question: Do we complete these tools based upon the individual in the setting with the most restrictions (e.g. severe competency deficiencies) or least restrictions (mainly independent).
- Answer: Look at all individuals. If restrictions are documented as acceptable and approved in the plan of care, then the setting may still be in compliance. You should be concerned about restrictions that are in place that are NOT supported by a plan of care. Also carefully review comparative treatment of and restrictions imposed upon Medicaid recipients versus non-Medicaid recipients. If disparity in treatment exists the setting must be reviewed cautiously.

Additional Questions

- Question: Can existing sites be “grandfathered” in under the Home and Community-Based settings standard?
- Answer: CMS answered this in their own Q&A - No, a state cannot choose to continue to provide Home and Community-Based Services in non-compliant settings under a “grandfathering” approach. The final regulations allow states up to five years to bring their HCBS programs into compliance with the HCB settings requirements, pursuant to a transition plan that will be reviewed publicly and approved by CMS. The transition plan could include, for example, requiring existing providers to modify programs as needed to comport with HCB settings standards or assisting individuals to relocate to compliant settings.

Additional Questions

- *Non-Residential, Section 1, Item 3: Complete the table below to indicate the population characteristics of participants within the setting. Each person should be only listed once in the most appropriate category.*
 - Question: The table states that only numbers of Medicaid recipients should be counted...what does that mean?
 - Answer: Only MI Choice participants should be counted. Note: Adding up the categories may not equal the total count in setting because “elderly” is not an option.
- *Section 1, Item 3.d: Complete the table on Page 3 to indicate the population characteristics of participants within your setting. Each person should be listed only once in the most appropriate category.*
 - Question: Does “most appropriate category” refer to main diagnosis?
 - Answer: Yes, this should be the primary diagnosis. However, if the setting has this data counted in a slightly different manner, that is ok. We’re just trying to get an idea of the variability of people within the setting.

Additional Questions

- *Residential, Section 1, Item 1: Type of residence or setting*
 - Question: What is a “specialized residential home”?
 - Answer: A “group home” licensed and overseen by the DHHS as well as the local Community Mental Health Authority. Specific guidelines are in place to meet the standards of the licensing body as well as funding sources.
 - Question: How will guardians be involved (particularly with clients with memory loss)?
 - Answer: Involving participants in the assessments is good practice, but isn’t required. If you want input on how the setting is truly treating their residents, you are welcome to ask participants, guardians, family or anyone else.

Additional Questions

- *Section 4, Item 16: Does the setting prohibit the use of physical restraints and/or restrictive intervention (unless documented and agreed upon in the person-centered plan)?*
 - Question: What is included with “restrictive intervention”?
 - Answer: According to CMS, “Restrictive interventions limit an individual’s movement; a person’s access to other individuals, locations or activities, or restrict participant rights. Restrictive interventions also include the use of other aversive techniques (not including restraint or seclusion) that are designed to modify a person’s behavior.”

Additional Questions

- *Non-Residential, Section 2: Waiver Administration and Policy Enforcement for Non-Residential Settings*
 - Question: Are these questions only for MI Choice participants in this setting?
 - Answer: Yes, answer these only for MI Choice participants.
- *Non-Residential, Section 2, Item 3: Do all individuals in the setting have a plan of care?*
 - Question: How do we know if everyone has a plan of care? Do you mean at the agency or adult day care?
 - Answer: The question is of the waiver agency, so we are referring to the plan of care you create.
- *Non-Residential: Did individuals have the opportunity to choose a non-residential setting from a variety of options?*
 - Question: The Supports Coordinator would be the individual to discuss the various options with the participant of the Adult Day Health Center.
 - Answer: Correct. This is a question of the waiver agency – we are making sure each participant is given all of their options for settings and providers.

Additional Questions

- *Residential, Section 6:*
 - Question: Is Section 6 only referring to Waiver residents, or all residents?
 - Answer: MI Choice waiver residents.
- *Residential, Section 6, Item 2:*
 - Question: What if there are no affordable housing options with private bedrooms?
 - Answer: Participants do not need the option to have a private bedroom if it is not available in the area in which they are choosing to live. But they need to have the option of settings and roommates in the same way that people not on the MI Choice waiver have options.
- *Residential, Section 6, Item 4:*
 - Question: Is the plan of care referred to at the facility or with the Waiver agent?
 - Answer: The question is of the waiver agency, so we are referring to the plan of care you create.

Questions?

- We will hold another webinar soon. Details will be sent once scheduled.
- Contact Cheryl Decker at deckerc@michigan.gov