

STATEWIDE TRANSITION PLAN SUMMARY TO IMPLEMENT THE SETTING REQUIREMENTS FOR HOME AND COMMUNITY BASED WAIVER SERVICES ADOPTED BY CMS ON 3/17/ 2014



Posted October 3, 2014

Public Comment open until November 3, 2014

Summary of Purpose

On March 17, 2014, the Centers for Medicaid and Medicare Services (CMS) promulgated new federal regulations for Home and Community Based (HCB) Waiver Service Settings requirements. The federal regulations are 42 CFR 441.301(c)(4)-(5). CMS posted additional guidance to help states assess compliance and remediate areas that are not fully in compliance. More information on the rules can be found on the CMS website at www.medicare.gov/hcbs. **Each waiver has a separate, detailed transition plan posted online.**

Overview of Process

The waiver settings being reviewed for compliance include the Wyoming Assisted Living Facility, Child Developmental Disabilities, Acquired Brain Injury, Supports, and Comprehensive Medicaid Waivers.

(Long Term Care and Children's Mental Health Waivers do not have settings that need a transition plan.)

In a report to CMS under this new requirement, the state must include:

- An inventory and description of all HCB service settings;
- A summary of how each setting meet or does not meet the federal HCB settings requirements;
- A list of any areas of non-compliance that need to be addressed to bring the setting into compliance;
- A waiver-specific transition plan to bring all HCB settings for that waiver into compliance, including a plan to monitor ongoing compliance; and
- A 30-day public comment period on the transition plan with a response summary of comments received.

Assessment of Compliance in HCB Settings

The Wyoming Department of Health State Medicaid Agency is working with the various providers, participants, guardians, and other stakeholders involved in the waiver programs to gather the information needed to assess our current compliance with HCB setting regulations through surveys, interviews, site visits, and data analysis. Below is a summary of the state's approach for developing and implementing a *HCB Setting Transition Plan* for each waiver, which is subject to approval by CMS.

Transition Plan Development Activities	Due Date
Form a Transition Taskforce with various stakeholders to develop the Transition Plans.	11-1-2014
Issue surveys to providers to evaluate their own settings by type and location.	8-1-2014
Summarize all HCB settings and areas of non-compliance based on provider surveys.	10-30-2014
Develop state standards for informed choice, integration, setting characteristics and locations based on input from Transition Task force	10-1-2014
Develop draft transition plan per waiver (which are posted separately on the Department's website: http://health.wyo.gov/healthcarefin/equalitycare/index.html)	10-1-2014
Conduct a 30 day public comment period. Hold public forums, post 2 public notices with website and forum schedule, and post draft plan to website.	
Submit a waiver specific transition plan that reflects changes based on public comment to CMS for approval, including a response summary of public comments.	11-15-2014
Validity testing of provider survey assessment	12-1-2014
<ul style="list-style-type: none"> • Provide a survey to waiver participants, guardians, and other stakeholders to evaluate and give input on provider settings by type and location. 	
<ul style="list-style-type: none"> • Conduct a state evaluation of settings to check for compliance with standards. 	3-1-2015
Evaluate state services, policies, provider training, certification and licensing requirements to ensure compliance with the HCBS settings.	7-1-2015

HCB SETTING ASSESSMENT PLAN TO ADDRESS REQUIREMENTS IN THE NEW HCB SETTING RULES

<p>CMS DESCRIPTIONS FOR INSTITUTIONAL SETTINGS AND QUALITIES</p>	<p><u>Settings that are Not Home and Community-Based include:</u></p> <ul style="list-style-type: none"> • A nursing facility; • An institution for mental diseases; • An intermediate care facility for individuals with intellectual disabilities; or • A hospital.
<p>STATE PLAN TO CHECK IF ANY OF PROVIDER FACILITIES MEET THE QUALITIES OF AN INSTITUTION.</p>	<p>Start Date: 7/1/14 End Date: 11/1/14</p> <ul style="list-style-type: none"> • Review Provider Setting Survey results • Review zoning for facility grounds <p>Plan to address area of non-compliance found:</p> <ul style="list-style-type: none"> • Providers are issued a report of where they are not in compliance. • Providers develop a detailed action plan with milestones and timelines to make changes to services, setting characteristics, locations, or service delivery in order to come into full compliance. • State must approve each provider transition plan. • Providers must address the area of non-compliance for a setting <i>location</i> issue the end of year four (by March 16, 2018), with evaluation in year five.
<p>CMS DESCRIPTIONS FOR INSTITUTIONAL SETTINGS AND QUALITIES</p>	<p><u>Settings that are Presumed to have the Qualities of an Institution:</u></p> <ul style="list-style-type: none"> • Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, • Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution, • Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS, or • Any other locations that have qualities of an institutional setting, as determined by the Secretary.
<p>STATE ASSESSMENT PLAN IF ANY OF OUR PROVIDER FACILITIES MEET THE QUALITIES OF AN INSTITUTION.</p>	<p>Start Date: 10/1/14 End Date: 1/1/15</p> <ul style="list-style-type: none"> • Review Provider Setting Survey results • Review zoning for facility grounds • Analyze survey results from stakeholder surveys and state staff onsite surveys <p>Plan to address area of non-compliance found:</p> <ul style="list-style-type: none"> • Providers are issued a report of where they are not in compliance. • Providers develop a detailed action plan with milestones and timelines to make changes to services, setting characteristics, locations, or service delivery in order to come into full compliance. • State must approve each provider transition plan. • Providers must address the area of non-compliance for a setting <i>characteristic</i> issue by the end of year two (by March 16, 2016) with policy and process changes, with full implementation and evaluation of changes by the end of year three (by March 16, 2017). Any setting <i>location</i> issue must be addressed by the end of year four (by March 16, 2018) with evaluation in year five.

**CMS GUIDANCE ON
SETTINGS THAT MAY
ISOLATE INDIVIDUALS**

Settings that have the following two characteristics alone might, but will not necessarily, meet the criteria for having the effect of isolating individuals:

- The setting is designed specifically for people with disabilities, and often even for people with a certain type of disability.
- The individuals in the setting are primarily or exclusively people with disabilities and on-site staff provides many services to them.

Settings that isolate people receiving HCBS from the broader community may have any of the following characteristics:

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

**STATE PLAN HAS TO
EVALUATE SETTINGS
FOR ISOLATING
CHARACTERISTICS AND
IF RISKS FOR ISOLATION
ARE PRESENT.**

Start Date: 11/1/14 End Date: 3/1/15

- Review Provider Setting Survey results
- Analyze survey results from stakeholder surveys and state staff onsite surveys
- Adjust provider monitoring and on-site visits to ensure compliance with transition plan deadlines to reach compliance with HCB setting standards.
- Use monitoring processes to address areas of non-compliance with standards through certification processes and incident/complaint monitoring processes
- Use the Representative Sample Case Review to look at data on participant's satisfaction with service settings, integration, and informed choice
- Use Case Management Quarterly Report data to evaluate integration, progress on objectives, satisfaction with services, and employment data

Plan to address area of non-compliance found:

- Providers are issued a report of where they are not in compliance.
- Providers develop a detailed action plan with milestones and timelines to make changes to services, setting characteristics, locations, or service delivery in order to come into full compliance.
- State must approve each provider transition plan.
- Providers must address the area of non-compliance for a setting *characteristic* issue by the end of year two (by March 16, 2016) with policy and process changes, with full implementation and evaluation of changes by the end of year three (by March 16, 2017). Any setting *location* issue must be addressed by the end of year four (by March 16, 2018) with evaluation in year five.

PROVIDER CONTROLLED SETTING ELEMENTS TO ASSESS PER NEW FEDERAL REQUIREMENTS
 FOR EACH SERVICE SETTING WITHIN A PROVIDER FACILITY, THE PARTICIPANT SHALL HAVE THESE RIGHTS AND FREEDOMS.

FEDERAL REQUIREMENTS	<p><u>Settings that are integrated within the community so the participant can:</u></p> <ul style="list-style-type: none"> • Receive services in the community to the same degree as those not receiving HCBS • Receive services in a setting that is not segregated from people receiving services without disabilities • Receive services in a location among other private residences and retail businesses, in an area with consistent traffic patterns and where visitors are present and visiting regularly
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STATE ACTIVITIES TO ASSESS COMPLIANCE ACTIVITIES TO ADDRESS NON-COMPLIANCE	<p>Start Date: 11/1/14 End Date: 3/1/15</p> <ul style="list-style-type: none"> • Review Provider Setting Survey results • Analyze survey results from stakeholder surveys and state staff onsite surveys • Adjust provider monitoring and on-site visits to ensure compliance with transition plan deadlines to reach compliance with HCB setting standards. • Use monitoring processes to address areas of non-compliance with standards through certification processes and incident/complaint monitoring processes • Use the Representative Sample Case Review to look at data on participant's satisfaction with service settings, integration, and informed choice • Use Case Management Quarterly Report data to evaluate integration, progress on objectives, satisfaction with services, and employment data <p>Plan to address area of non-compliance found:</p> <ul style="list-style-type: none"> • Providers are issued a report of where they are not in compliance. • Providers develop a detailed action plan with milestones and timelines to make changes to services, setting characteristics, locations, or service delivery in order to come into full compliance. • State must approve each provider transition plan. • Providers must address the area of non-compliance for a setting <i>characteristic</i> issue by the end of year two (by March 16, 2016) with policy and process changes, with full implementation and evaluation of changes by the end of year three (by March 16, 2017). Any setting <i>location</i> issue must be addressed by the end of year four (by March 16, 2018) with evaluation in year five.
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FEDERAL REQUIREMENTS	<p><u>A choice in where to live with as much independence as possible, in the least restrictive environment, and:</u></p> <ul style="list-style-type: none"> • Be given opportunities to visit other settings options, such as an apartment, smaller home, fewer roommates, private bedroom • Choose a specific roommate or opt for a private unit. • Have a unit with entrance doors lockable by the individual, with only appropriate staff having keys to doors • Access to the typical facilities in a home, such as the kitchen, dining area, laundry, and comfortable seating/lounging areas • Have a signed lease or written agreement with tenant/landlord protection to document protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law • Have a setting physically accessible to the individual • Have unrestricted access in the setting to roam to common areas
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<p>FEDERAL REQUIREMENTS</p>	<p><u>Exercise Informed Choice and be able to:</u></p> <ul style="list-style-type: none"> Choose the living environment, services, providers and types of supports based on one's needs and preferences Optimize one's initiative, autonomy, and independence in making life choices, in such activities as daily activities, physical environment, and with whom to interact Design a schedule that meets one's wishes and is reflected in person-centered plan Participate in unscheduled and scheduled access to the community, can come and go at any time, and not have a regimented routine
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FEDERAL REQUIREMENTS

A setting that ensures the one's rights and protections so the participant can

- Actively participate in the development of a person-centered plan of care
- Have dignity and respect, where people communicate and interact respectfully. Staff greet and converse with participants without talking down to them or acting as though the person is not present and talking around them to other staff
- Expect privacy with protected health information and know that personal care is conducted privately, with help only as needed
- Control personal resources
- Be free from coercion and restraint
- Have visitors of their choosing at any time and access to a private area for visitors
- Have access to make private calls, text, email at their preference or convenience
- Choose when and what to eat and have access to food at any time, and chooses with whom to eat or to eat alone
- Have appropriate clothes for their preferences and the weather and activities performed
- Furnish and decorate their sleeping or living units within the lease or other agreement

**STATE ACTIVITIES TO ASSESS COMPLIANCE
ACTIVITIES TO ADDRESS NON-COMPLIANCE**

Start Date: 11/1/14 End Date: 3/1/15

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FEDERAL REQUIREMENTS	<p><u>A setting that optimizes personal autonomy so the participant can:</u></p> <ul style="list-style-type: none"> Engage in community life Engage with friends and family Have support to control their own schedules and activities, and access to activities of his/her choosing in the larger community Make money by accessing and seeking employment Work in a competitive integrated setting
<p>STATE ACTIVITIES TO ASSESS COMPLIANCE</p> <p>ACTIVITIES TO ADDRESS NON-COMPLIANCE</p>	<p>Start Date: 11/1/14 End Date: 3/1/15</p> <ul style="list-style-type: none"> Review Provider Setting Survey results Analyze survey results from stakeholder surveys and state staff onsite visit surveys Adjust provider monitoring and on-site visits to ensure compliance with transition plan deadlines to reach compliance with HCB setting standards. Use monitoring processes to address areas of non-compliance with standards through certification processes and incident/complaint monitoring processes Use the Representative Sample Case Review to look at data on participant's satisfaction with service settings, integration, and informed choice Use Case Management Quarterly Report data to evaluate integration, progress on objectives, satisfaction with services, and employment data <p>Plan to address area of non-compliance found:</p> <ul style="list-style-type: none"> Providers are issued a report of where they are not in compliance. Providers develop a detailed action plan with milestones and timelines to make changes to services, setting characteristics, locations, or service delivery in order to come into full compliance. State must approve each provider transition plan. Providers must begin to address the area of non-compliance for a setting <i>characteristic</i> issue in year two (by March 16, 2016) with policy and process changes, with full implementation and evaluation of changes by the end of year three (by March 16, 2017)
<p>ADDRESSING HEALTH AND SAFETY OF PARTICIPANTS DURING THE TRANSITION PROCESS</p>	<p>The Wyoming Department of Health State Medicaid Agency oversees the provider certification processes and ongoing oversight of provider compliance with all state standards. Through provider certification visits, incident and complaint management systems described in Appendix G of the approved waiver, the Department will assess providers for ongoing compliance with the HCB Settings. Certification requirements will be adjusted to ensure service settings for this waiver remain in settings that are not institutional or isolating in nature. Any areas of concern will be addressed the Department's corrective action and sanctioning processes pursuant to Chapter 16 of Wyoming Medicaid Rules. If participants must transition out of a service setting, the Division will involve the Department of Family Services and Protection & Advocacy Systems, Inc.</p>

STATE RULES, POLICIES,
PROCESSES AND
STANDARDS
THAT MAY BE
ADJUSTED TO ASSESS
COMPLIANCE ON AN
ONGOING BASIS

Start Date: 11/1/14 End Date: 10/1/15

At the state level, these actions include reviewing and adjusting:

- Licensing/certification standards
- Provider qualifications
- Service definitions and standards
- Provider training requirements
- Participant rights protections
- Individualized Plan of care requirements

WHAT SHOULD PROVIDER SETTINGS LOOK LIKE AT THE END OF THE FIVE-YEAR TRANSITION?

The Transition Taskforce looked at the federal standards and put them into context for what we want to see occur in Wyoming. The next section explains the standards that must be met by the end of year three for informed choice, integration and non-institutional characteristics and the standards for location that must be met by the end of year four. Year 5 is reserved for sustainability checks and evaluation of changes.



HERE'S A LOOK AT THE STANDARDS FOR HOME AND COMMUNITY BASED SERVICES AT THE END OF THE FIVE-YEAR TRANSITION

WYOMING STANDARDS RELATING TO INFORMED CHOICE

What should be occurring now:

1. With the assistance of a conflict free case manager, the person receives a full choice of services, settings, and providers every six months, which are offered in a manner that eliminates undue influence from providers or other parties who may gain from the person's choice.
2. The person is supported by a team member to interview providers and find out information to help make an informed choice.
3. A person, who uses non-verbal or limited communication, is encouraged to express choice through gestures, actions, behaviors, and strengths in order to have choices honored.
4. The person advocates for him or herself and speaks up for what he/she wants.
5. The person receives support and encouragement from the team to envision goals for the future to make choices that will lead to those goals.
6. The person's guardian focuses on the preferences, input, and desires of the participant when making choices on their behalf.
7. The team meetings stay person-centered when discussing services, providers, settings, and options for life planning. The person's goals and preferences are at the center of all service planning and choices made.
8. The person and team discuss the benefits, risks, advantages, and disadvantages involved in choices in settings or activities that are "person-centered" but not always the "safest" or "most protected" during the team meeting or other time. The team is willing to find ways to support a person's informed choice, even if a member disagrees with the person or guardian's choices. Back up plans are implemented to support the person if risky choices do not work out.

New standards for choice we want to reach in the next 2-3 years:

9. The case manager and team offer options using an approach preferred by the person or guardian instead of using a "one-size fits all" approach. The case manager checks in with the person enough to know when choice needs to be revisited in new ways.
10. The person's options reflect the options available to the same extent as people who are not on Medicaid. If there are limits on the choices, the team helps to explore and document ways to help the person access those options.
11. Provider and setting options are reviewed and choices are documented by the case manager for the review by the state.
12. If interested, the person takes a physical tour, virtual tour or meets providers of different types of settings and different services at least annually or more often by request in order to "experience" the different choices available. This may include visits to provider fairs or conference vendor booths to learn about new providers, services, and approaches to service delivery.
13. The case manager reviews and documents any barriers to honoring a person's choice so the team can address the barriers at least annually or when needed and work to overcome them.

14. The case manager evaluates and provides feedback on whether the person's choice will involve interactions with people who do not have disabilities or who are not paid to work with them. Options are introduced and discussed annually or more often by request regarding services in new, more independent settings or in a more integrated way. Opportunities are found for building friendships or social networks as needed, when the person's choices seem isolating or institutional in nature.
15. Team members evaluate the person's satisfaction with services annually to see how they are doing, and to determine if they can improve or serve the person better.

WYOMING STANDARDS RELATING TO INTEGRATION

New standards for integration we want to reach in the next 2-3 years:

1. The person is involved in the community and has regular, unscheduled access to the community to the same degree of access as people who are not on Medicaid.
2. The person has meaningful relationships in his or her life, some of which are with people who do not have disabilities or are not paid staff.
3. The person, if of working age, is employed in a job in an integrated community setting and receiving at or above minimum wage.
4. The person, regardless of age, is supported in volunteer efforts to help participate and be an active, contributing member of their community.
5. The person receives person-centered planning and services that offer opportunities into the community to shop at stores, attend community events, socialize with friends, and be an active member of the community in an integrated and meaningful manner.
6. The person receives support in an individualized way to initiate new friendships or acquaintances and be as connected to the public as a person without disabilities.
7. The person is not isolated from the public or community locations because of his or her disability, diagnosis, behaviors, or choice of service setting.
8. The person receives support and training on participating in preferred activities, accessing community resources, and using public transportation that may be available, so he or she can frequent any public business, area, or location that he or she has a right to access.
9. The person and team discuss together what the person wants for relationships, integration, and the team supports and encourages as much autonomy, integration, connectedness, and independence as possible.



WYOMING STANDARDS RELATING TO NON-INSTITUTIONAL HCB “SETTING” CHARACTERISTICS

Applies to provider owned, leased, or operated facilities

New standards for setting characteristics we want to reach in the next 2-3 years:

1. If not living in the family home, the person lives in a place that feels and looks like home according to the person’s preferences. This includes having a lease signed by the participant or guardian and a key to the main entrance and bedroom.
2. The setting, facilities, common areas, bedroom and bathroom are accessible to the person.
3. The person can access food when he or she wants, can make meals, choose food that meets their preferences, and eat when they would like – not according to a strict schedule or menu.
4. Choices for activities are made by the person, not the provider.
5. People have privacy in their bedroom and in the bathroom.
6. People in a setting, location, or group do not all have to do the same thing at the same time.
7. The setting is not just for people with disabilities or people with a certain type of disability.
8. People in the setting include people without disabilities (not just paid provider staff), who visit, interact and are a part of their lives.
9. People are treated with respect, friendly interactions, and with the utmost dignity by staff.
10. The setting is not designed to provide people with disabilities all of their services and daily activities on-site. People are encouraged and supported to go to community locations or businesses frequently to access educational, recreational, social, medical, behavioral and therapeutic services, or activities and interact with the community in a meaningful way.
11. People in the setting have access to regular habilitation training and support to increase their independence and self-sufficiency.
12. People in the setting do not have restrictive interventions or rights restrictions used on them without other approaches being used first every time and do not have restrictions used without the participant or guardian consent.
13. The setting and provider allows the person to have a non-regimented day.

WYOMING STANDARDS RELATING TO LOCATION OF THE HCB SETTING

New standards for setting locations we want to reach in the next 3-4 years:

1. The setting is not located in an industrial park or in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.
2. The setting is not keeping people separate from the public by being in a building that is on the grounds of or immediately adjacent to
 - An industrial park,
 - A public institution (such as a hospital, skilled nursing facility, institution for people with intellectual disabilities, psychiatric residential facility, correctional facility), or
 - On the grounds of or immediately adjacent to other facilities serving people with disabilities.

Year 5 is reserved for sustainability checks and evaluation of changes.

PRELIMINARY RESULTS OF PROVIDER SETTINGS

Preliminary results of provider settings that serve Child DD, Comprehensive, Supports and Acquired Brain Injury Waiver participants:

- 333 settings were reviewed based on a provider-completed survey
- 12 are in compliance (Fully align with the Federal requirements)
- 271 do not comply with the Federal requirements and will require modification through a transition plan.
- 50 cannot meet the federal requirements upon the preliminary review due to location and would require removal from the program and/or the relocation of individuals if the setting issues were not resolved. These 50 include some settings in commercial zoning areas. Upon a state review, these settings may be approved after further analysis and input on the access to the community experienced by participants.
- 0 are presumptively non-home and community-based but for which the state will provide justification / evidence to show that those settings do not have the characteristics of an institution and do have the qualities of HCBS (to be evaluated by CMS through heightened scrutiny process)

**Assisted Living facility inventory is not yet complete.*

Through additional state surveys assessments and stakeholder surveys, these settings will be fully evaluated for compliance. Reports on areas of non-compliance will be issued to providers so they can develop action plans to address the concerns. Settings do not come into compliance within the transition timeline will not be recertified to provide waiver services.

FINDING THE WAIVER SPECIFIC TRANSITION PLANS

The specific five-year transition plan for the Department's Assisted Living Facility, Supports, Comprehensive, Child Developmental Disabilities, and Acquired Brain Injury Waivers are on the Department's website at <http://health.wyo.gov/healthcarefin/equalitycare/index.html>.

30 DAY PUBLIC COMMENT PERIOD

The state is required to post the transition plans for a 30-day public comment period.

Public comment on this plan will close on November 3, 2014.

Submitting Comments

Comments can be sent via email to bhdmail@wyo.gov or

Wyoming Department of Health – Behavioral Health Division | Attention: Jamie Kennedy
6101 Yellowstone Road Suite 220 | Cheyenne, Wyoming 82002

Or you may want to complete the stakeholder online survey at: <https://www.surveymonkey.com/s/publicHCBSsurvey>

The scheduled forums will explain the transition plans and gather public comment.

Forum Schedule			
Thursday - Oct 16	1030-1145 am	Mega Conference Hilton Garden Inn 2229 Grand Ave	Laramie
Monday - Oct 20	330-430 pm	Laramie County Library Cottonwood Rm 2200 Pioneer Ave	Cheyenne
Wednesday - Oct 22	330-430 pm	Teton County Library –Auditorium 125 Virginian Lane	Jackson
Thursday - Oct 23	330-430 pm	Evanston Senior Center 1229 Uinta St - Top Floor	Evanston
Monday - Oct 27	2-3p and 6-7p	Statewide Conference Call (at 2 separate times)	Call 877-278-8686 Code 058448
Tuesday - Oct 28	530-630 pm	Sheridan Senior Center 211 Smith St.	Sheridan
Wednesday- Oct 29	530-630 pm	Casper College CS-160 Nichols Auditorium 125 College Dr.	Casper