STATE OF INDIANA

Statewide Transition Plan for Compliance with Home and Community Based Setting Rules

DECEMBER 2014

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References

CMS Home and Community Based Services: http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Division of Aging: http://www.in.gov/fssa/2329.htm

Division of Disability and Rehabilitative Services: http://www.in.gov/fssa/2328.htm

Division of Mental Health and Addiction: http://www.in.gov/fssa/dmha/index.htm

Family and Social Services Administration Calendar:
http://www.in.gov/activecalendar/CalendarNOW.aspx?fromdate=10/1/2014&todate=10/31/2014&display=Month&display=Month

Indiana Home and Community-Based Services Final Rule: http://www.in.gov/fssa/4917.htm

Public Comment E-mail: HCBSrulecomments@fssa.in.gov

PURPOSE

Effective March 17, 2014, the Centers for Medicare & Medicaid Services (CMS) have issued regulations that define the settings in which it is permissible for states to pay for Medicaid Home and Community-Based Services (HCBS). The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated and that support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive HCBS. These changes will maximize the opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting.

States must ensure all HCBS settings comply with the new requirements by completing an assessment of existing state standards including rules, regulations, standards, policies, licensing requirements and other provider requirements to ensure settings comport with the HCB settings requirements.

The Indiana Family and Social Services Administration (FSSA) has created a Statewide Transition Plan to assess compliance with the HCBS Rule and identify strategies and timelines for coming into compliance with the new rule as it relates to all FSSA HCBS programs. States must be in full compliance with the federal requirements by the time frame approved in the Statewide Transition Plan but no later than March 17, 2019.

The federal citation for the new rule is 42 CFR 441.301(c) (4)-(5), and Section 441.710(a)(1)(2). More information on the rules can be found on the CMS website at: CMS Home and Community Based Services.

Overview of the Settings Provision
The final rule requires that all home and community-based settings meet certain criteria. These include:

- The setting is integrated in and supports full access to the greater community;
- The setting is selected by the individual from among setting options;
- Each individual has a right to privacy, is treated with dignity and respect, and is free from coercion and restraint;
- Provides individuals independence in making life choices;
- The individual is given choice regarding services and who provides them.

In residential settings owned or controlled by a service provider, additional requirements must be met:

- The individual has a lease or other legally enforceable agreement providing similar protections;
- Each individual must have privacy in their living unit including lockable doors;
- Individuals sharing a living unit must have choice of roommates;
- Individuals must be allowed to furnish or decorate their own sleeping and living areas;
- The individual controls his/her own schedule including access to food at any time;
- The individual can have visitors at any time; and
- The setting is physically accessible.

Any modification to these additional requirements for provider-owned home and community-based residential settings must be supported by a specific assessed need and justified in the person-centered service plan.

The rule clarifies settings in which home and community based services cannot be provided. These settings include: nursing facilities, institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals.

It is not the intention of CMS or the state of Indiana to take away any residential options, or to remove access to services and supports. The intent of the federal regulation and the Indiana transition plan is to ensure that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community.

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FSSA PROGRAMMATIC IMPACT

The programs currently under review include 1915(c) HCBS Waivers and 1915(i) State Plan Amendments administered by the following Divisions within the Family and Social Services Administration:

Division of Aging

- Aged & Disabled (A&D) Waiver – IN.210
- Traumatic Brain Injury (TBI) Waiver – IN.4197

Division of Disability and Rehabilitative Services

- Community Integration and Habilitation (CIH) Waiver – IN.378
- Family Supports Waiver (FSW) – IN.387

Division of Mental Health and Addiction

Youth Services

- Psychiatric Residential Treatment Facility (PRTF) Transition Waiver – IN.03
- Child Mental Health Wraparound Services (CMHW) – TN No. 12-013

Adult Services

- Behavioral and Primary Healthcare Coordination (BPHC) – TN No 13.013
- Adult Mental Health & Habilitation (AMHH) – TN No 12-003

FSSA as the single state agency is comprised of five divisions, all of which play a role in the administration and reimbursement of home and community based services. The Division of Family Resources determines Medicaid eligibility. The Office of Medicaid Policy and Planning develops medical policy and ensures proper reimbursement of Medicaid services. The remaining three divisions, listed above, administer multiple programs including Medicaid home and community based programs that serve the unique population that division serves.

This Statewide Transition Plan covers three major areas: Assessment, Proposed Remediation Strategies and Public Input.

The following pages include plans presented by each of the three FSSA divisions who administer Indiana's HCBS programs:

- **Division of Aging (DA)**
- **Division of Disability and Rehabilitative Services (DDRS)**
- **Division of Mental Health and Addiction (DMHA) – Adult and Youth Services**

While each of the three major areas listed above are included, each Division is presenting a customized plan, including methods and timelines that best suit their operations as well as their members and stakeholder groups.

Although each plan is unique, they each include the following fundamental steps of the process necessary to comply with the HCBS final rule:

- An assessment of HCBS programs, service definitions, rules and policies addressing all settings including both residential and non-residential
- Identify areas for remediation
- Collect data to validate assumptions: FSSA is developing provider and/or member surveys to gather additional information in order to drive decisions
- Develop quality assurance processes to ensure ongoing compliance
- Involve key stakeholders, associations, advocacy groups and members throughout the process of transition plan development

Individuals who are enrolled in and receiving services from one of the HCBS programs may also be referred to, in this Statewide Transition Plan, as participants, members, beneficiaries, consumers, residents, individuals, or clients.

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Division of Aging (DA)

HCBS Programs

Aged and Disabled (A&D) Waiver – 1915c
Traumatic Brain Injury (TBI) Waiver – 1915c

SECTION 1: ASSESSMENT OF SETTINGS

From May through September 2014 the Division of Aging completed a review and analysis of all settings where HCBS services are provided. The analysis included:

- A crosswalk of Indiana Statute, Indiana Administrative Code, Home and Community Based Services policy;
- On-site visits to residential service providers;
- A self-survey of residential providers to assess operating practices, waiver participation levels and general adherence to HCBS rule principles;
- Review of licensing rules and regulations.

Through routine monitoring efforts, including quality reviews, site visits and on-going communication with providers and participants, the DA is aware of many strengths and weaknesses as they relate to the HCBS rule.

The Division of Aging currently monitors providers and service delivery through a variety of activities. Two of these are Provider Compliance Reviews (PCR) and Participant-Centered Compliance Reviews (PCCRs). These assessments will continue throughout the transition process and will be updated to include the new standards as we move through the transition period.

The Participant Centered-Compliance Review is conducted for a statistically significant random sample of waiver participants each year. This review focuses on how the individual experiences the services they receive and how each individual's chosen providers comply with waiver standards in the delivery of services.

The Provider Compliance Review is conducted every three years for all waiver providers not licensed by the Indiana State Department of Health (ISDH). The PCR focuses on the provider's policies and procedures and looks for evidence that those are being followed.

With both types of reviews, all negative findings must be addressed through a "corrective action plan (CAP)" which allows the provider to describe how it intends to address the problem. The DA then either approves the CAP, or works with the provider to develop an acceptable plan. The State intends to use these same tools and processes to assess and correct many of the areas which are identified as non-compliant with the HCBS rule, and will also continue to use updated versions of these tools to assure compliance with the HCBS rule over the long-term.

Through the process described above, the State has determined the following waiver services fully comply with the regulatory requirements because they are individualized services provided in the participant's private home:

- **Attendant Care** (A&D, TBI): Assistance with activities of daily living
- **Behavior Management/Behavior Program and Counseling** (TBI): Specialized therapies to address behavioral needs
- **Case Management** (A&D, TBI): Coordination of other waiver services, assuring freedom of choice and person-centered planning
- **Community Transition** (A&D, TBI): Funds to purchase household needs for participants transitioning into their own home
- **Environmental Modification Assessment** (A&D, TBI): Support to assure that home modifications are effective and efficient
- **Environmental Modifications** (A&D, TBI): Home modifications to meet the participant's disability-related needs
- **Healthcare Coordination** (A&D, TBI): Specialized medical support for participants with complex medical needs
- **Home Delivered Meals** (A&D, TBI): Nutritional meals for participants who are unable to prepare them
- **Homemaker** (A&D, TBI): Assistance with cleaning and routine household tasks
- **Nutritional Supplements** (A&D, TBI): Liquid supplements such as "Boost" or "Ensure"
- **Personal Emergency Response System** (A&D, TBI): Medical emergency alert systems for participants who spend time alone
- **Pest Control** (A&D, TBI): Pest extermination services when health and safety is compromised
- **Residential Based Habilitation** (TBI): Specialized therapies in the home setting
- **Respite** (A&D, TBI): Short term relief for non-paid caregivers
- **Specialized Medical Equipment and Supplies** (A&D, TBI): Adaptive equipment and supplies to help participants live more independently
- **Structured Family Caregiving** (A&D): Around-the-clock residential support provided in a participant's own home
- **Supported Employment** (TBI) Supervision and training for participants requiring support to be able to perform in a work setting
- **Transportation** (A&D, TBI): Rides to assist participants in accessing community services, activities, and resources identified in the service plan
- **Vehicle Modifications** (A&D, TBI): Modifications to vehicles to meet a participant's disability-related need

Through the assessment process, the State has also determined the following services, **with changes**, will fully comply with the regulatory requirements. The State will work with providers of these services to develop remediation strategies and timelines to implement the changes needed to achieve full compliance.

It is not the intention of CMS or the state of Indiana to take away any residential options, or to remove access to services and supports. The intent of the federal regulation and the Indiana transition plan is to ensure that individuals receive Medicaid HCBS in settings that are integrated in and support full access to the greater community.

- **Adult Family Care** (A&D, TBI): Residential services provided in a family-like setting
  Adult Family Care (AFC) homes are approved to serve not more than four residents in a home-like setting in a residential community with a live-in caregiver. While the HCBS waiver service definition reflects the requirements set forth in the final rule, it lacks the specificity of the rule. A self-survey of AFC providers was conducted as an initial assessment to identify areas in need of remediation. There are currently 40 enrolled AFC homes. The self-survey indicates that at least 73% of AFC homes will need to implement changes to address the standards:
    - The individual can have visitors at any time
    - The individual controls his/her own schedule including access to food at any time
    - The setting is integrated in and supports full access to the greater community
    - The individual has choice of roommates

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  Results also indicate that approximately 64% of providers use a lease or residency agreement, but it has not been determined if these are legally enforceable.

- **Assisted Living** (A&D, TBI): Residential services offering an increased level of support in a home or apartment-like setting.
  Assisted Living (AL) facilities participating in HCBS waiver programs are governed by 455 IAC Section 3 and IC 12-10-15-3 which encompass many of the requirements of the HCBS rule. Among these requirements are lockable, private units with a refrigerator and a means to heat food, assures the resident the freedom to choose their roommate or choose to not have a roommate; and a Resident Contract which delineates resident rights and provider responsibilities. While the self-survey results indicate broad compliance with these requirements, there are isolated incidents of non-compliance with nearly all HCBS standards which will require remediation.

  Assisted Living facilities are, by nature, somewhat isolating as they provide a full range of services within a facility. The State fully supports the concept of "Aging in Place" for elderly residents who choose to receive services conveniently or in a residence which allows them to remain close to a loved one in a nearby nursing facility. The State does have some AL

facilities which are co-located with nursing facilities, but does not allow them to be located within or adjacent to a public institution. The provider self-survey does indicate that some providers do limit visiting hours or have restrictions which limit access to the greater community and have implemented safety measures which include secured perimeters or delayed egress systems.

- There are currently 87 enrolled Assisted Living providers. The overall assessment of AL providers indicates a high percentage of compliance with isolated incidents of remediation needed to achieve the following standards:
    - The individual controls his/her own schedule including access to food at any time
    - The individual has privacy in their unit including lockable doors
    - The individual has choice of roommates
    - The individual has a lease or other legally enforceable agreement providing similar protections
    - The setting is integrated in and supports full access to the greater community
    - The setting ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint
    - The individual can have visitors at any time

- **Adult Day Services** (A&D, TBI): Activities provided in a group setting, outside the home
  The State has not yet assessed Adult Day Service settings to determine the level of compliance with the HCBS rule. Current service standards require the service be "…community-based group programs designed to meet the needs of adults with impairments through individual service plans."

  Current waiver requirements forbid any use of individual restraint but do not extend this definition to include the restriction of facilities which may have secured perimeters or delayed egress systems.

  There are currently 40 enrolled Adult Day Service providers. The State will use an approach similar to that used to assess residential settings, but at this time we do not have enough information to identify any specific instances of non-compliance with HCBS rule requirements. The assessment and remediation strategies delineated below will be implemented to identify and correct deficiencies.

- **Structured Day Program** (TBI): Activities and rehabilitative services provided in a group setting outside the home
  The State has not yet assessed Structured Day Program settings to determine the level of compliance with the final rule. Current service standards do require the service to be tailored to the needs of the individual participant. Current waiver requirements forbid any use of individual restraint but do not extend this definition to include the restriction of facilities which may have secured perimeters or delayed egress systems.

There are currently 90 enrolled Structured Day Program Providers. The State will use an approach similar to that used to assess residential settings, but at this time we do not have enough information to identify any specific instances of non-compliance with HCBS rule requirements. The assessment and remediation strategies delineated below will be implemented to identify and correct deficiencies.

SECTION 2: PROPOSED REMEDIATION STRATEGIES - DA

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
General **Affects all settings**	Changes are needed to Indiana Administrative Code 455 IAC Section 2 to incorporate and reinforce the requirements of the HCBS Rule	Division of Aging cross-walk of existing rules, 455 IAC 8-1-8, 410 IAC 16.2-5-0.5, A&D, TBI, and MFP approved Waiver documents, IHCP Provider Bulletin dated 6/17/09 and proposed rule 455 IAC 2.1 Legal review of existing state legislation and the HCBS rule to identify s necessary changes to state code Development and adoption of policies allowing enforcement of HCBS rule requirements prior to finalization of legislation. Finalization of legislative action amending state code to incorporate the requirements of the HCBS rule.	9/2014 12/2015 12/2016 12/2018	
General **Affects all settings**	Changes are needed to both 1915(c) Medicaid Waivers (A&D and TBI**), the initial and on-going assessment tools,** and	Identify needed changes to service definitions of all residential and facility-based services. **Create a work group, including waiver participants and advocates,** to more clearly define requirements for	03/2016 06/2016	

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
(continued)	the HCBS Waiver Provider Manual to incorporate and reinforce the requirements of the HCBS Rule	privacy, choice, and other quality of life components as well as safeguards for privacy and freedom from coercion and restraint as specified in final rule for all HCB services Open and submit modifications for TBI waiver Open and submit modifications for A&D waiver	 08/2016 12/2016	
Adult Family Care 40 service sites	The individual can have visitors at any time The individual controls his/her own schedule including access to food at any time The setting is integrated in and supports full access to the greater community	Conduct a provider self-survey to determine general compliance with the HCBS rule The State will partner with key AFC stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities Communicate expectations to specific AFC providers identified to be out of compliance through the self-assessment process, requiring a response indicating a corrective action plan	10/2014 12/2016 06/2017	Verify continuing compliance through Provider Compliance Reviews conducted for all AFC providers every three years and Person-Centered Compliance Reviews conducted for statistically valid random sample of waiver participants, determined annually.

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
(continued)	The individual has choice of roommates Optimizes autonomy and independence in making life choices;	The participant's waiver case manager will conduct reviews with the individual AL resident to identify any of their concerns indicating provider non-compliance with HCBS characteristics. The Case manager will provide those findings to the State The State will then require the AL provider to submit a corrective action plan as needed. Review of provider-specific corrective action plans, either approving or requiring additional actions Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel The State will issue decertification notices to providers unable/unwilling to complete corrective actions. Affected participants will be offered assistance if they choose to transition to a new provider	06/2017 09/2017 12/2017 12/2018 12/2018	

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Adult Family Care 40 service sites	The individual has a lease or other legally enforceable agreement providing similar protections	The State will communicate this standard to all AFC providers Require all providers to submit a representative sample of a lease or residency agreement that conforms to local standards The State will issue decertification notices to providers unable/unwilling to provide an acceptable representative sample Affected participants will be offered assistance if they choose to transition to a new provider	12/2015 06/2016 06/2017 06/2017	Verify continuing compliance through Provider Compliance Reviews conducted for all AFC providers every three years and Person-Centered Compliance Reviews conducted for statistically valid random sample of waiver participants, determined annually.
Assisted Living 87 service sites	The individual controls his/her own schedule including access to food at any time The individual has privacy in their unit including lockable doors	Conduct a provider self-survey to determine general compliance with the HCBS rule The State will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities Communicate expectations to specific providers identified to be out of	10/2014 12/2016 06/2017	To assure on-going compliance, the State will develop and implement a provider compliance review process similar to that used to review non-licensed providers, in addition to the Person-Centered Compliance Reviews

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
(continued)	The individual has choice of roommates Optimizes autonomy and independence in making life choices;	compliance through the self-assessment process, requiring a response indicating a corrective action plan The participant's waiver case manager will conduct reviews with the individual AL resident to identify any of their concerns indicating provider non-compliance with HCBS characteristics. The Case manager will provide those findings to the State. The State will then require the AL provider to submit a corrective action plan as needed. Review of provider-specific corrective action plans, either approving or requiring additional actions Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel The State will issue decertification notices to providers unable/unwilling to complete corrective actions.	 06/2017 09/2017 12/2017 12/2018	conducted for a statistically valid random sample of waiver participants, determined annually

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
		Affected participants will be offered assistance if they choose to transition to a new provider	12/2018	
Assisted Living 87 service sites	The individual has a lease or other legally enforceable agreement providing similar protections	The State will communicate this standard to all AL providers Require all providers to submit a representative sample of a lease or residency agreement that conforms to local standards The State will issue decertification notices to providers unable to provide an acceptable representative sample Affected participants will be offered assistance if they choose to transition to a new provider	12/2015 06/2016 06/2017 06/2017	Verify continuing compliance through Person-Centered Compliance Reviews conducted for a statistically valid random sample of waiver participants, determined annually
Assisted Living 87 service sites	The setting is integrated in and supports full access to the greater community; The setting ensures individual rights of	The State will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities Communicate expectations to specific	12/2016 06/2017	Verify continuing compliance through Person-Centered Compliance Reviews conducted for statistically valid random sample of waiver participants, determined annually

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
(continued)	privacy, dignity and respect, and freedom from coercion and restraint The individual can have visitors at any time	providers identified to be out of compliance through the self-assessment process, requiring a response indicating a corrective action plan The participant's waiver case manager will conduct reviews with the individual AL resident to identify any of their concerns indicating provider non-compliance with HCBS characteristics. The Case manager will provide those findings to the State. The State will then require the AL provider to submit a corrective action plan as needed. Review of provider-specific corrective action plans, either approving or requiring additional actions Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel The State will issue decertification notices to providers unable/unwilling to complete corrective actions.	06/2017 09/2017 12/2017 12/2018	

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
		Affected participants will be offered assistance if they choose to transition to a new provider.	12/2018	
Adult Day Services 40 service sites	The setting is integrated in and supports full access to the greater community; Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint Optimizes autonomy and independence in making life choices;	The State will require a self-survey for all ADS providers to identify both facility-specific and systemic areas of non-compliance. The State will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities The participant's waiver case manager will conduct reviews with the individual ADS participant to identify any of their concerns indicating provider non-compliance with HCBS characteristics. The Case manager will provide those findings to the State. The State will then require the ADS provider to submit a corrective action plan as needed.	6/2015 12/2016 04/2017	Verify continuing compliance through Provider Compliance Reviews conducted for all ADS providers every three years and Person-Centered Compliance Reviews conducted for statistically valid random sample of waiver participants, determined annually.

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
(continued)		The State will communicate expectations to specific providers identified to be out of compliance through the assessment processes, requiring a response indicating a corrective action plan	06/2017	
		Review of provider-specific corrective action plans, either approving or requiring additional actions	09/2017	
		Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel	12/2017	
		The State will issue decertification notices to providers unable/unwilling to complete corrective actions.	12/2018	
		Affected participants will be offered assistance if they choose to transition to a new provider	12/2018	

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Structured Day Program (SDP) 90 service sites	The setting is integrated in and supports full access to the greater community; Ensures individual rights of privacy, dignity and respect, and freedom from coercion and restraint Optimizes autonomy and independence in making life choices;	The State will require a self-survey for all SDP providers to identify both facility-specific and systemic areas of non-compliance. The State will partner with key stakeholders in a collaborative effort to develop and communicate expectations of standards to provider and consumer communities The participant's waiver case manager will conduct reviews with the individual SDP participant to identify any of their concerns indicating provider non-compliance with HCBS characteristics. The Case manager will provide those findings to the State. The State will then require the SDP provider to submit a corrective action plan as needed. The State will communicate expectations to specific providers identified to be out of compliance through the assessment processes, requiring a response indicating a corrective action plan Review of provider-specific corrective action plans, either approving or requiring additional actions	06/2015 12/2016 04/2017 06/2017 09/2017	Verify continuing compliance through Provider Compliance Reviews conducted for all SDP providers every three years and Person-Centered Compliance Reviews conducted for statistically valid random sample of waiver participants, determined annually

Service/Setting	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
(continued)		Verify implementation of approved corrective actions through on-site reviews conducted by state or contracted personnel The State will issue decertification notices to providers unable/unwilling to complete corrective actions. Affected participants will be offered assistance if they choose to transition to a new provider	12/2017 12/2018 12/2018	

SECTION 3: KEY STAKEHOLDERS AND OUTREACH

It is the Division of Aging's intention to assist each provider in reaching full compliance, and assist each participant with realizing the full benefits of the HCBS rule. To achieve these outcomes, it is imperative that the providers and participants, as well as their advocates and representatives, are included in each step of the process. Steps taken to date include:

- Several meetings occurred with trade associations representing Assisted Living and Adult Day Service Providers.
- During the month of October, Division staff met with Case Managers in regional training sessions to introduce them to the HCBS requirements and to open dialog as to how they will be involved and asked them to encourage their consumers and advocates to participate in transition planning and processes.
- Five regional forums are scheduled in November 2014. These will be conducted on-site at provider-owned Assisted Living facilities to meet with residents and their family members regarding the rule, the transition process, and opportunities to participate in that process.
- All DA HCBS waiver providers have been invited to a provider training day scheduled for November 10, 2014. This day will include an "all-provider" session on the HCBS rule, as well as an extended session to gather provider input into the process.
- The DA has engaged with individual providers throughout the assessment process, explaining the need for self-surveys and emphasizing the need for public participation, both in scheduled forums and ongoing. The DA will continue this individual approach as opportunities arise.

The Division of Aging has identified some specific areas for key stakeholder participation in the transition plan. We will consider the process to be dynamic and will be looking for opportunities to include stakeholders, particularly DA HCBS waiver participants, in the development and implementation as it evolves.

We have identified "Key Stakeholders" to be the DA HCBS waiver participants, their family members and advocates; HCBS waiver providers, along with their various trade associations; Case Managers and their managing entities, the 16 Area Agencies on Aging, the Long-Term Care Ombudsman and local representatives; and established advocacy groups representing senior citizens and individuals with disabilities.

Division of Disability and Rehabilitative Services (DDRS)

HCBS Programs

Community Integration and Habilitation (CIH) Waiver – 1915c
Family Supports Waiver (FSW) – 1915c

SECTION 1: ASSESSMENT OF SETTINGS

From May through September 2014 the Division of Disability and Rehabilitative Services (DDRS), completed a review and analysis of settings where HCBS services are provided. The analysis included review of National Core Indicators (NCI) Data, Indiana Statute, Indiana Administrative Code and Home and Community Based Services policy. Through this initial review process the State has identified areas which may need to have additional scrutiny and possible remediation. DDRS's intent throughout this process was to utilize currently available data to determine where systemic improvements or changes would need to be made to meet CMS's Home and Community Based Services Standards.

This initial setting analysis is general in nature and does not imply that any specific provider or location is non-compliant solely by classification or service type. Final determination will depend upon information gathered through additional assessment activities, outlined in this comprehensive transition plan. This will include, but may not be limited to: onsite reviews, provider self-assessments, internal and external programmatic data, and provider/participant surveys. These activities will place a direct focus on the member's experience within the DDRS system.

Below are brief narratives of each activity DDRS undertook to complete a preliminary analysis of HCBS settings. Following the narratives there is a table which more clearly outlines each area, the sources of information, the key stakeholders and the outcome of the analysis.

National Core Indicators (NCI) Data Review

In order to ascertain the level of compliance with the HCBS requirements, Indiana has chosen to utilize the National Core Indicators (NCI) data to begin the process by which to evaluate compliance. The **core indicators** are standard measures used across states to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including employment, rights, service planning, community inclusion, choice, and health and safety. The data obtained from the National Core Indicators

(NCI) was derived from a random sample of waiver participants across Indiana. A statistically valid sample was obtained and in person interviews were conducted with individuals and family members (as available) to gather information by asking the same questions of all participants.

In reviewing NCI data, Indiana set a clear standard of 85% or greater compliance in each point reviewed in order to guide the analysis. In March 2014, CMS also issued modifications to Quality Measures and Reporting on 1915(c) Home and Community Based Waivers. Specific to Improvements in 1915c Waiver Quality Requirements (June 15, 2014), CMS issued guidance to the States indicating that any level of performance measuring "less than 86%" compliance indicated a need for improvement and further analysis to determine the cause(s) of the performance problem. DDRS chose to use that same percentage (less than 86%, or 85%) as the threshold for low level compliance within our National Core Indicator and 90-Day Checklist data findings. National Core Indicator findings, including those specific to Indiana, are available at http://www.nationalcoreindicators.org/states/

The breakdown of NCI data was utilized as supplemental data in preparing the preliminary settings inventory. Based on the NCI analysis, Indiana consistently demonstrated that it did not meet this standard in the majority of the HCBS requirement areas.

The breakdown of the NCI has been incorporated into the waiver specific Transition Plans and is available for review.

90 Day Check List Data Review

In addition to the NCI data, internal data was analyzed from state systems. Case managers are responsible for meeting with individuals and their individualized support teams at least quarterly as part of the ongoing monitoring of services. A 90 day check list is completed with questions specifically related to individual needs, choice and rights, as well as other issues which may be identified in regard to the satisfaction, health and welfare of the participant. The 90 day check list data was extrapolated from the case management system.

Initial review of standards, rules, regulations, and/other requirements

The HCBS requirements and Indiana's current standards, rules, regulations, and requirements were reviewed and analyzed in order to determine if Indiana's current internal requirements meet/support the federal HCBS requirements.

Preliminary Settings Inventory

The preliminary settings inventory examines the HCBS requirements and Indiana's initial level of compliance with the HCBS requirements. The preliminary settings inventory was constructed utilizing Indiana's NCI data and an initial review of Indiana's current standards, rules, regulations, and other requirements.

PRELIMINARY SETTINGS INVENTORY						
Item	**Description**	**Start Date**	**End Date**	**Sources/Documents**	**Key Stake-holders**	**Outcome**
NCI Data Review	Indiana has chosen to utilize the National Core Indicators (NCI) data to begin the process by which to evaluate compliance. While 100% compliance with HBCS rules is required, Indiana utilized the NCI data as a starting point to identify the current status of the program and to identify barriers that may exist and impact our compliance with the HCBS requirements. In an effort to identify the larger programmatic restrictions, Indiana identified 85% and below as the threshold for low level of compliance.	6/2014	8/2014	Crosswalk of HCBS requirements and Indiana's NCI Data	DDRS internal staff	The initial NCI data has been reviewed and analyzed. Based on the NCI data, Indiana consistently demonstrated 85% and below in most HCBS requirement areas. Due to the consistent low level of compliance, Indiana was unable to drill down the data to focus the provider survey on specific areas of concern. However, the breakdown of NCI data will be utilized as supplemental data in the preliminary setting inventory. The breakdown of the NCI has been incorporated into the waiver specific Transition Plans and is available for review.

PRELIMINARY SETTINGS INVENTORY						
Item	**Description**	**Start Date**	**End Date**	**Sources/Documents**	**Key Stake-holders**	**Outcome**
Initial review of standards, rules, regulations, and other requirements	Indiana has chosen to review its current standards, rules, regulations, and requirements in order to ascertain Indiana's level of compliance with the HCBS requirements	9/2014	12/2014	Crosswalk of HCBS requirements and Indiana's standards, rules, regulations, and other requirements	DDRS/BDDS internal staff, OMPP, and the FSSA office of legal affairs	A review of the HCBS requirements and Indiana's current standards, rules, regulations, and requirements were evaluated and revealed areas of vulnerability and areas that need further exploration as outlined in the preliminary settings analysis.
Preliminary settings inventory based on requirements	The preliminary settings inventory examines the HCBS requirements and Indiana's initial level of compliance with the HCBS requirements The preliminary setting inventory was constructed utilizing Indiana's NCI data and an initial review of Indiana's current standards, rules, regulations, and other requirements. This initial setting analysis is general in nature and does not imply that any	9/2014	10/2014	Crosswalk of HCBS requirements and Indiana's NCI Data Crosswalk of HCBS requirements and Indiana's standards, rules, regulations, and other requirements	DDRS/BDDS internal staff, OMPP, and the FSSA office of legal affairs In order to receive comprehensive stakeholder feedback, the preliminary assessment	The Preliminary settings analysis revealed areas of vulnerability and areas that need further exploration in order to ascertain Indiana's level of compliance.

PRELIMINARY SETTINGS INVENTORY						
Item	**Description**	**Start Date**	**End Date**	**Sources/Documents**	**Key Stake-holders**	**Outcome**
(continued)	specific provider or location in non-compliant solely by classification in this analysis. Final determination will depend upon information gathered through all assessment activities outlined in the comprehensive transition plan, including but not limited to onsite reviews, provider annual self-assessments, internal programmatic data, and provider/participant surveys.				will be reviewed by stakeholders during the public comment period.	

Preliminary Settings Analysis

The table below outlines DDRS' preliminary settings analysis. This initial setting analysis is general in nature and does not imply that any specific provider or location is non-compliant solely by classification. Final determination will depend upon information gathered through all assessment activities outlined in the comprehensive transition plan, including but not limited to onsite reviews, provider annual self-assessments, internal programmatic data, and provider/participant surveys.

To ascertain Indiana's initial level of compliance with the HCBS rules, the NCI data was analyzed and an initial review of Indiana Administrative Code (IAC 460), policies, procedures, provider agreements, and ongoing monitoring forms was completed. The initial review was completed by DDRS/BDDS internal staff, and OMPP.

This Setting Analysis is general in nature and does not imply that any specific provider or location is non-compliant solely by classification in this analysis. Final determination will depend upon information gathered through all assessment activities outlined in the comprehensive transition plan, including but not limited to onsite reviews, provider annual self-assessments, internal programmatic data, and provider/participant surveys. To ascertain Indiana's initial level of compliance with the HCBS rules, the NCI data was analyzed and an initial review of Indiana Administrative Code (IAC 460), policies, procedures, provider agreements, and ongoing monitoring forms was completed. The initial review was completed by DDRS/BDDS internal staff, OMPP, and the FSSA office of legal affairs.

In addition to ascertaining Indiana's initial level of compliance with the HCBS rules, the preliminary setting analysis was also used with the goal of identifying specific policies requiring updates, documents and processes requiring modifications and areas requiring additional data tracking in order to more appropriately represent compliance .

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Is integrated in and supports access to the greater community	Identified as 85% and below the low level of compliance threshold.	460 IAC 6-20-2 "community-based employment services shall be provided in an integrated setting." *Needs to be modified in order to meet HCBS standards* 460 IAC 6-3-58 "Transportation supports" means supports, such as tickets and passes to ride on public transportation systems, that enable an individual to have transportation for access to the community 460 IAC 6-3-32 ISP *Needs to be modified in order to meet HCBS standards*	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations* Transition Policy (4600316031)	90-day Checklist Does the individuals' routine outlined in ISP include participation in community activities and events? Pre-Post Monitoring Checklist Transportation available to meet all community access needs	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance due to inconsistencies in NCI data between 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Provide opportunities to seek employment and work in competitive integrated settings	Identified as 85% and below the low level of compliance threshold.	460 IAC 6-20-2 (community-based employment services shall be provided in an integrated setting). *Needs to be modified in order to meet HCBS standards*	Intentionally left blank.	90-day Checklist Is the employment section of the ISP still current and is it being routinely discussed? -Confirm the individual is free from work without pay that benefits others?	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance due to inconsistencies in inconsistencies in NCI data and 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Control Personal Resources	Identified as 85% and below the low level of compliance threshold.	460 IAC 6-17-3 Individuals Personal File 460 IAC 6-24-3 Management of Individuals Financial Resources *Needs to be modified in order to meet HCBS standards* 460 IAC 6-9-4 Personal Possessions and Clothing	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations*	90-day Checklist Unrestricted access to their personal possessions? -Free to receive and open own mail? -Free to receive and make phone calls without restrictions? Fiscal Issues (money, accounts, etc.) ISP Are the Individuals' Property/Financial resources being properly managed?	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance due to inconsistencies in NCI data and 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Ensures the individual receives services in the community with the same degree of access as individuals not receiving Medicaid HCBS	No NCI data	460 IAC 7-3-12 AND 6-3-38.5 (PCP) (4) empowers an individual and the individual's family to create a life plan and corresponding ISP for the individual that: (A) is based on the individual's preferences, dreams, and needs; (B) encourages and supports the individual's long term hopes and dreams; (C) is supported by a short term plan that is based on reasonable costs, given the individual's support needs; (D) includes individual responsibility; and	BQIS Complaints: Supported Living Services & Supports (BQIS 4600221005) Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations*	90-day Checklist Does the individual's routine outlined in the ISP include participation in community activities and events?	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the State does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		(E) includes a range of supports, including funded, community, and natural supports. 460 IAC 6-20-2 community-based employment services shall be provided in an integrated setting *Needs to be modified in order to meet HCBS standards*				
Allow full access to the greater community/Engaged in community life	Identified as 85% and below the low level of compliance threshold.	460 IAC 6-9-4 System for protecting Individuals (h) A provider shall establish a system for providing an individual with the opportunity to participate in social, religious, and community activities.	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations*	ISP Is adequate Transportation being provided?	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		ACCESS TO THE COMMUNITY 460 IAC 6-20-2 "community-based employment services shall be provided in an integrated setting." *Needs to be modified in order to meet HCBS standards* 460 IAC 6-3-58 "Transportation supports" means supports, such as tickets and passes to ride on public transportation systems, that enable an individual to have transportation for access to the community 460 IAC 6-3-32 ISP *Needs to be modified in order to meet HCBS standards*		90-day Checklist Does the individual's routine outlined in the ISP include participation in community activities and events? Pre-Post Monitoring Checklist Transportation		due to inconsistencies in NCI data and 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Setting is chosen among setting options including non-disability specific settings and options for a private unit in residential settings	Identified as 85% and below the low level of compliance threshold.	460 IAC 6-4 Rule 4. Types of Supported Living Services and Supports 460 IAC 6-29-3 Sec. 3. The provider designated in an individual's ISP as responsible for providing environmental and living arrangement support shall ensure that appropriate devices or home modifications, or both 460 IAC 6-9-6 Transfer of individual's records upon change of provider	Intentionally left blank.	(Part 4.5 and 4.6 of Manual-FSW/CIH) Participants may choose to live in their own home, family home, or community setting appropriate to their needs. AND When priority access has been deemed appropriate and a priority waiver slot in the specific reserved capacity category met by the applicant remains open, participants may choose to live in their own home, family home, or	This information is not obtained through the 90 day checklist	A review of policies, procedures and data assume vulnerability in this area.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)				community setting appropriate to their needs.		
Ensures right to privacy, dignity, and respect and freedom from coercion and restraint	All National Core Indicator questions were above the 85% threshold for this requirement	460 IAC 13-3-12 (IST Membership) 460 IAC 6-8-2 - Constitutional and statutory rights IC 12-27-4 – Seclusion and Restraint laws 460 IAC 6-8-3 Promoting the exercise of rights 460 IAC 7-5-6 - Statement of agreement section 460 IAC 6-10-8 - Resolution of disputes 460 IAC 6-9-4 – Systems for protecting individuals	Aversive Techniques (BDDS 4601207003) BMR-ANE (BDDS 4601207002) Environmental Requirements (BDDS 460 1216039) Use of Restrictive Interventions, Including Restraint (BDDS 460 0228 025)	Provider Agreement Checklist 12. Prohibiting Violations of Individual Rights Provider Agreement Checklist 14 Individual Freedoms Provider Agreement Checklist 15 Personnel Policy- Safeguards that	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	A review of policies, procedures and data assume compliance in this area.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		460 IAC 6-9-3 Prohibiting violations of individual rights	Human Rights Committee (BDDS 460 0221 012) Protection of Individual Rights (4600228022) Incident Reporting and Management (BQIS 460 0301 008) – TRAINING IS REQUIRED FOR ALL DSPs (4600228027) – Annual Training on the protection of individual rights and respecting dignity of individual (4600228021-Professional Qualifications and Requirements) Individual Rights and Responsibilities (NEW) (4600221014)	ensure compliance with HIPAA and all other Federal and State Privacy Laws. 90-day Checklist Free from ANE? Informed and able to understand/ exercise their rights as individual receiving services? Is the individual being treated with respect by the support staff?		

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)			*In process of being updated to support CMS regulations* IST (4600228016) Identifies other persons identified by the individual AND requires the individual to be present at all meetings Pre-Post Transition Monitoring (BDDS 4600530032) Health and Welfare is protected Provider Code of Ethics Conduct all practice with honest, integrity and fairness DDRS Policy: Personnel Policies and Manuals	Pre-Post Monitoring Checklist Transportation		

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
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 **(taken from Federal Register)**	No NCI data available	460 IAC 7-3-12 (PCP) *Needs to be modified in order to meet HCBS standards* 460 IAC 7-4-1 (Development of ISP) 460 IAC 6-3-32 "Individualized support plan" or "ISP" defined 460 IAC 6-3-38.5 "Person centered planning" defined (A) based on the individual's preferences, dreams, and needs; 460 IAC 6-3-38.6 "Person centered planning facilitation services" defined	DSP Training (4600228027) Initial DSP training requires an approved core competency such as PSP --Respect/Rights, Choice, Competence, and Community presence and participation Professional Qualifications and Requirements (4600228021) Provider shall ensure that services provided to individual meet the needs of the individual	(Part 4.5 and 4.6 of Manual-FSW/CIH) Participants develop an Individual Service Plan (ISP) using a person centered planning process guided by an Individual Support Team (IST). 90-day Checklist Does CCB/POC, ISP address the needs of the individual, implemented appropriately?	This information is not obtained through the 90 day checklist	Due to lack of data a more in-depth analysis will be completed in order to determine compliance in this area

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		460 IAC 6-5-36 Person centered planning facilitation services provider qualifications 460 IAC 6-14-4 Training				
Optimizes, but does not restrain, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	identified as 85% and below the low level of compliance threshold	IC 12-27 (Seclusion and Restraint) 460 IAC 6-3-29.5 Independence assistance service 460 IAC 6-24-1 Coordination of training services and training plan (be designed to enhance skill acquisition and increase independence). 460 IAC 6-8-2 Constitutional and statutory rights	Provider Code of Ethics A provider shall provide professional services with objectivity and with respect for the unique needs and values of the individual being provided services. Individual Rights and Responsibilities (NEW) (4600221014)	Intentionally left blank	This information is not obtained through the 90 day checklist	A review of policies, procedures and data assume vulnerability in this area.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		460 IAC 6-8-3 promoting the exercise of rights 460 IAC 6-36-2 Code of ethics 460 IAC 6-3-54 "Support team" defined (1) are designated by the individual;	*In process of being updated to support CMS regulations*			
Facilitates choice of services and who provides them	identified as 85% and below the low level of compliance threshold	460 IAC 7-4-3 Composition of the support team 460 IAC 7-3-12 AND 6-3-38.5 (PCP) (4) empowers an individual and the individual's family to create a life plan and corresponding ISP for the individual that:	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations* IST (4600228016)	(Part 4.5 and 4.6 of Manual-FSW/CIH) The participant with the IST selects services, identifies service providers of their choice and develops a Plan	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance due to inconsistencies

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		(A) is based on the individual's preferences, dreams, and needs; (B) encourages and supports the individual's long term hopes and dreams; (C) is supported by a short term plan that is based on reasonable costs, given the individual's support needs; (D) includes individual responsibility; and (E) includes a range of supports, including funded, community, and natural supports. 460 IAC 7-5-5 (Outcome section) (4) Proposed strategies and activities for meeting and attaining the outcome, including the following:	Coordinate the provision and monitoring of needed supports for the individual	of Care/Cost Comparison Budget (CCB). Freedom of Choice Form Provider Pick List 90-day Checklist Provided information on their right to choose and change providers and case managers?		in NCI data and 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		(5)The party or parties, paid or unpaid, responsible for assisting the individual in meeting the outcome. A responsible party cannot be changed unless the support team is reconvened and the ISP is amended to reflect a change in responsible party.				
A lease or other legally enforceable agreement to protect from eviction (Provider owned or controlled residential setting)	No NCI Data Available	460 IAC 6-24-3 Management of Individual's financial resources 460 IAC 6-9-4 Systems for protecting individuals	Intentionally left blank	90-day Checklist Has the provider obtained a rental agreement in the individuals' name?	Due to the majority of responses to this question on the 90 day check list being "n/a" validity of the data is unable to be determined	A more in-depth analysis will be completed in order to ensure full compliance.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)				ISP Are the Individuals' Property/Financial resources being properly managed?		
Privacy in their unit including entrances lockable by the individual	identified as 85% and below the low level of compliance threshold	460 IAC 6-9-4 Systems for protecting individuals (e) A provider shall establish a system to ensure that an individual has the opportunity for personal privacy. (1) the opportunity to communicate, associate, and meet privately with persons of the individual's choosing; (2) the means to send and receive unopened mail; and	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations* Protection of Individual Rights (4600228022)	Intentionally left blank	This information is not obtained through the 90 day checklist	A review of policies, procedures and data assume vulnerability in this area.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		(3) access to a telephone with privacy for incoming and outgoing local and long distance calls at the individual's expense				
Freedom to furnish and decorate their unit	No NCI Data Available	460 IAC 9-3-7 - Physical environment 460 IAC 6-9-4 Systems for protecting individuals	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations*	Additional participant and family feedback is requested to measure this area.	This information is not obtained through the 90 day checklist	Due to lack of data a more in-depth analysis will be completed in order to determine compliance in this area.
Control of schedule and activities	identified as 85% and below the low level of compliance threshold	460 IAC 6-3-38.5 "Person centered planning" defined 460 IAC 6-14-2 Requirement for qualified personnel Sec. 2. A provider shall ensure that services provided to an individual: (1)meet the	Intentionally left blank.	90-day Checklist Does the individual's routine outlined in the ISP include participation in community	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
(continued)		needs of the individual; 460 IAC 6-19-1 Information concerning an individual Sec. 1. A provider of case management services shall have the following information about an individual receiving case management services from the provider: (1) The wants and needs of an individual, including the health, safety and behavioral needs of an individual. 460 IAC 6-36-2 Code of ethics (1) A provider shall provide professional services with objectivity and with respect for the unique needs and values of the individual being provided services.		activities and events?		completed in order to ensure full compliance due to inconsistencies in NCI data and 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Access to food at any time	No NCI Data Available	460 IAC 6-3-36 (Neglect - "Neglect" means failure to provide supervision, training, appropriate care, food, medical care, or medical supervision to an individual." 460 IAC 6-9-3 Prohibiting violations of individual rights (4) A practice that denies an individual any of the following without a physician's order (C) Food	Individual Rights and Responsibilities (NEW) (4600221014) *In process of being updated to support CMS regulations* Protection of Individual Rights (4600228022)	90-day Checklist Individualized dining plan, does it include food restrictions?	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the State does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Visitors at any time	identified as 85% and below the low level of compliance threshold	460 IAC 6-9-4 (1) the opportunity to communicate, associate, and meet privately with persons of the individual's choosing; 460 IAC 6-9-3 Prohibiting violations of individual rights Sec. 3. (a) A provider shall not: (1) abuse, neglect, exploit, or mistreat an individual; or (2) violate an individual's rights.	Intentionally left blank	90-day Checklist Free to receive visitors with no restrictions?	The data analysis indicated that 85% of the time or better this area is checked yes on the 90 day checklist	While the state does have policies and procedures that support the HCBS rules, a more in-depth analysis will be completed in order to ensure full compliance due to inconsistencies in NCI data and 90 day check list data.

PRELIMINARY SETTINGS ANALYSIS						
CMS Criteria	**NCI Data Analysis**	**IAC / IC Reviewed**	**Policy and Procedures Reviewed**	**Waiver Manual/Forms Reviewed**	**90 Day Check List Data Analysis**	**Outcome of Review**
Setting is physically accessible to the individual	No NCI Data available	460 IAC 9-3-7 - Physical environment 460 IAC 6-29-2 Safety of individuals environment 460 IAC 6-29-3 Monitoring an individual's environment	Environmental Requirements (BDDS 460 1216039) Transition Activities (4600316031)	Pre-Post Monitoring Checklist	This information is not obtained through the 90 day checklist	While the State does have policies and procedures that support the HCBS rule, a more in-depth analysis will be completed in order to ensure full compliance due to lack of data.
Individuals sharing units have a choice of roommates in that setting	identified as 85% and below the low level of compliance threshold	Intentionally left blank	Intentionally left blank	Intentionally left blank	Intentionally left blank	A review of policies, procedures and data assume weakness in this area.

SECTION 2: VALIDATION OF PRELIMINARY SETTINGS INVENTORY

As the State moves forward in further assessing the system's compliance with HCBS rules the State intends to work closely with providers, self-advocates, individuals served and families. DDRS's intent is to engage in a collaborative process which will involve a high level of inclusion of all stakeholders. Throughout the five year transition process DDRS will continually seek out and incorporate stakeholder and other public input.

Provider Survey

The State is developing a high quality, comprehensive survey that will target the specific HCBS requirements and provide additional data to determine Indiana's compliance status. Indiana has contracted with The Indiana Institute on Disability and Community (IIDC) to design, develop, and administer a survey to be completed by participants when able or the person who knows them best. This survey will be administered through the participant's residential provider to ensure all participants are reached. Prior to the implementation of a statewide survey, Indiana, in conjunction with the IIDC, will administer the survey using a pilot group which will allow Indiana to be confident in the validity and reliability of the survey questions. The IIDC, in consultation with the State, will then finalize the survey questions for dissemination to a wider group.

Site Specific Assessment

Based on the results of the preliminary data analysis and statewide provider survey, Indiana will identify specific sites that will need further review prior to the completion of the comprehensive setting results document in order to validate the information obtained through the comprehensive survey.

Validation of the compliance of the specific sites will be determined by CMS guidance as to what is and is not a community setting. CMS has issued clear guidance that any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS is presumed to have the qualities of an institution. Indiana will utilize this guidance in developing and establishing criteria for engaging in site specific assessments.

During the site-specific assessments, Bureau of Developmental Disabilities (BDDS) staff and case management staff will review the results of the assessments to validate the results. Prior to the assessment review, Indiana will conduct a comprehensive training for all case management providers in order to ensure consistency of all reviews.

Results of the site-specific assessments will be used to identify specific settings that do not meet the HCBS requirements.

Comprehensive Setting Results

Indiana will develop a comprehensive setting results document, which identifies and publically disseminates Indiana's level of compliance with HCBS standards. The data gathered from the comprehensive setting results document will be utilized to begin the process of correction and implementation of the necessary remedial strategies.

DDRS will develop a comprehensive setting results document which identifies an estimate of the number of settings that:

- Fully comply with the HCBS requirements
- Do not meet the HCBS requirements and will require modifications
- Cannot meet the HCBS requirements and require removal from the program and/or relocation of the individuals
- 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 home and community-based settings (CMS' heightened scrutiny process)

Indiana will develop a comprehensive data report with program-specific data. This data report will be formally disseminated during a public comment period.

SECTION 3: PROPOSED REMEDIATION STRATEGIES

As part of CMS regulations, Indiana must develop a plan to correct, through various means, any areas of non-compliance with HCBS rules. In order to do this, Indiana has developed a remediation plan with specific strategies and timelines. It is important to note that the desire of the transition plan and remediation strategies is not to close or terminate providers but instead, to work with members, providers and other stakeholders to come into compliance with the CMS final rule and the vision of ensuring members are fully integrated into the community, afforded choice, and have their health and safety needs met.

The table below outlines the strategies that DDRS has developed to both further assess compliance and to then address areas of non-compliance.

PROPOSED REMEDIATION STRATEGIES - DDRS

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Provider and Member Surveys	Indiana has developed a comprehensive survey targeting specific HCBS requirements that will provide data to further determine Indiana's compliance status with the HCBS rules. Indiana has contracted with The Indiana Institute on Disability and Community (IIDC) to design, develop, and administer a survey to individuals receiving Home and Community Based Services.	Survey results will serve as a tool to identify settings that may not be in compliance with HCBS rules and allow the State to develop strategies for working with these providers to come in to compliance in the required timelines.	Pilot Survey and Results: 01/2015 Comprehensive Survey: 01/2016 Survey Results: 04/2016	Survey Document Aggregate and site specific survey results	DDRS/BDDS internal staff, OMPP, DDRS Advisory Council, IIDC, Pilot group. Providers, Individuals Served

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
(continued)	Prior to the implementation of a statewide survey, Indiana, in conjunction with the IIDC, will administer the survey using a pilot group in order to assess the validity and reliability of the survey. Once the survey has been validated IIDC will disseminate it electronically to providers throughout Indiana to complete with the individuals they serve. At the time of survey completion the contractor, in consultation with the state, will analyze the data and provide a comprehensive report on the survey results. The aggregate results will be disseminated to stakeholders throughout the system.				

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Site Specific Assessment	Based on the results of the preliminary settings inventory and statewide survey, Indiana will identify specific sites that will need further review prior to the completion of the comprehensive setting results document. In addition, specific sites will be identified for data validation.	Validation of the compliance of the specific sites will be determined by CMS guidance as to what is and is not a community setting. Specifically, DDRS will identify any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. DDRS will utilize this guidance in developing and establishing criteria for engaging in site specific assessments.	09/2016	Not yet available	DDRS/BDDS Staff; Case Management Companies, IIDC
Comprehensive Setting Results	DDRS will develop a comprehensive setting results document, which identifies Indiana's level of compliance with HCBS standards. This document will be disseminated to stakeholders throughout the system.	The data gathered from the comprehensive setting results document will be utilized to begin the process of correction and implementation of the necessary remedial strategies.	04/2017	Not yet available	DDRS/BDDS internal staff, OMPP, DDRS Advisory Council, IIDC, Advocacy groups, Providers, Participants, Self-Advocates and Families

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Revisions to Indiana Administrative Code	Indiana will initiate the rule making process in order to revise Indiana Administrative Code. Indiana will revise rules related to community integration, individual rights, and individual choice.	Revisions to Indiana Administrative Code	05/2018	http://www.in.gov/legislative/iac/IACDrftMan.pdf	DDRS/BDDS internal staff, OMPP
Revisions to Forms	Revise all applicable internal and external forms to meet HCBS regulations, administrative rules and policy and procedures.	Revisions to Forms	12/2017	To Be Determined	DDRS/BDDS internal staff, OMPP, Case Management Companies
Revisions to DDRS Waiver Manual	In order to ensure current and ongoing compliance with the HCBS requirements, Indiana will review the DDRS Waiver Manual. Changes to the DDRS Waiver Manual may constitute changes to the	Revisions to DDRS Waiver Manual	12/2017	DDRS Waiver Manual	DDRS/BDDS internal staff, OMPP

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
(continued)	FSW and CIH application. Amendments to the FSW and CIH application will be completed to maintain program consistency.				
Participant Rights and Responsibilities Policy/Procedure Modifications	Indiana will revise policies and procedures related to participant rights, due process, and procedural safeguards.	Participant Rights and Responsibilities Policy/Procedure Modifications	12/2017	Review of current Rights and Responsibilities policy Review of Protection of Individual Rights	DDRS/BDDS internal staff, OMPP, Self-Advocates, individuals served
Review and Revisions to Provider Enrollment and Provider Training	Review and potentially revise the provider enrollment and recertification process. Provide training to new and existing providers to educate them on the HCBS requirements.	Review and Revisions to Provider Enrollment/Provider Training	04/2018	Review of current enrollment/re-enrollment process	DDRS/BDDS internal staff, OMPP, Providers

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Development of a Corrective Action Process	The development of a provider corrective action process/plan is to ensure providers are in compliance with HCBS requirements. Once a provider has been identified as non-compliant, the State will work to develop a provider remediation process and framework of plans:	Provider training on the HCBS requirements Deadlines for completion & periodic status update requirements for significant remediation activities	04/2018	To Be Determined	DDRS/BDDS internal staff, OMPP
Develop process for Provider Sanctions and Disenrollments	In the event the provider has gone through remediation activities and continues to demonstrate noncompliance with HCBS requirements, the State will develop a specific process for issuing provider sanctions and dis-enrollments.	The State will dis-enroll or sanction providers that fail to meet remediation standards and fail to comport with the HCBS setting requirements.	06/2018	The State will formally disseminate the provider sanctions and disenrollment criterion during a public comment period.	DDRS/BDDS internal staff, OMPP, Providers

Action Item	Description	Remediation Strategies	Timeline for Completion	Source Document	Key Stakeholders
Convene a Transition Taskforce	**The State will develop a Transition Taskforce to provide technical assistance and support for individuals identified as requiring significant changes, such as, relocation, adjustments to allocation, mediations to resolve internal conflicts and compliance issues.**	**The identified areas of noncompliance will be used to guide the Transition Taskforce to gather further qualitative feedback from providers, participants, and their families.**	**3/2017**	**To be determined**	**DDRS/BDDS staff, Self-Advocates, individuals served, Providers, Advocacy groups**

SECTION 4: KEY STAKEHOLDERS AND OUTREACH

DDRS posted the CMS approved preliminary transition plan specific to the Community Integration and Habilitation Waiver renewal online with a notation that the comprehensive plan would be posted for public comment. In addition, announcements of the public comment period are on the BDDS Provider Portal and the BDDS Case Management system encouraging all to become familiar with the new HCBS criteria outlined in the rule and to assist in informing members and their families about the transition plan and asking that they submit their comments, questions, or concerns. DDRS continues to work with other stakeholders such as the ARC of Indiana, INARF, and providers to promote public input though various public meetings including quarterly provider meetings.

DDRS is committed to a high level transparency moving forward and will publish the planned steps to ensure that all providers, families, participants, and potential participants are given meaningful opportunity for public input.

Division of Mental Health and Addiction (DMHA)

HCBS Youth Programs

Psychiatric Residential Treatment Facility (PRTF) Transition Waiver – 1915c
Child Mental Health Wraparound (CMHW) – 1915i

Background

The Division of Mental Health and Addiction youth division administers two Home and Community Based Service (HCBS) Programs; one that serves eligible youth with serious emotional disturbance (SED); and one that serves youth with SED or serious mental illness (MI) diagnosis. The two programs are the 1915(c) HCBS Psychiatric Residential Treatment Facility (PRTF) transition waiver and the Child Mental Health Wraparound (CMHW) 1915(i) HCBS program. These HCBS programs are available to eligible youth and include Wraparound Facilitation, and may include Habilitation, Respite, and Family Support & Training.

SECTION 1: ASSESSMENT OF SETTINGS

From May through September 2014 the Family and Social Services Administration Division of Mental Health and Addiction, youth services completed an internal review and analysis of all settings where HCBS services are provided. The analysis included review of Indiana Statute, Indiana Administrative Code, Home and Community Based Services policy, and review of licensing rules and regulations.

Through this process, the State has determined all services offered by the **Psychiatric Residential Treatment Facility (PRTF) Transition Waiver and the Child Mental Health Wraparound (CMHW)** fully comply with the regulatory requirements because they are individualized services provided in a public setting or in the client's private home.

The following services are available through one or both of these programs:

- **Consultative Clinical and Therapeutic Services** (PRTF): Improve participant's independence and inclusion in his or her community.

- **Flex Funds** (PRTF): Purchase variety of one time or occasional goods that is supported by rationale as to how that expenditure will assist the participant to remain in the home and/or community.

- **Habilitation** (PRTF, CMHW): Enhance a participant's level of functioning through one-on-one support.
- **Non-Medical Transportation** (PRTF): Transportation for participants to gain access to community services or activities.
- **Respite*** (PRTF, CMHW): Short-term relief for person who normally provides care for the participant.
- **Training and Support for Unpaid Caregivers** (PRTF, CMHW): Provide education and support to the unpaid caregiver of a participant.
- **Wraparound Facilitation/Care Coordination** (PRTF, CMHW): Comprehensive service that follows a series of steps and is provided in the community through a Child and Family Wraparound Team.
- **Wraparound Technician** (PRTF): Monitor progress and assist participant or their family with gaining knowledge or access to community based resources, services or activities.

*Respite in a Psychiatric Residential Treatment Facility is an approved service, as allowable under 42 CFR § 441.310(a)(2)(i). CMS indicates in the HCBS Final Rule that "Institutional Respite" is an allowable setting.

Participants enrolled in these programs must reside in a community based setting. The application process for both programs, require the living situation is clearly documented for the potential applicant. Any applicant that is not currently living in a community based setting is not eligible for these services. Group Homes and residential facilities are licensed by Indiana Department of Child Services as a child caring institution; therefore, individuals living in these environments are not eligible for home and community based services.

All services are offered through a local System of Care (SOC) that includes the ten Wraparound Principles: Family Voice and Choice, Team-based, Natural Supports, Collaboration, Community-based, Culturally Competent, Individualized, Strengths-based, Persistent and Outcome-based.

The Wraparound process includes four phases: engagement, plan development, plan implementation and transition. The wraparound facilitator participates in extensive training to ensure that family voice and choice is consistent throughout all four phases of the wraparound process.

- The engagement phase includes discussion of the family's needs, hopes, dreams, concerns and strengths. This phase includes telling the family story and developing a vision for their future. The Wraparound Facilitator assists the family with identifying potential participants of their child and family team that will guide and support them through the entire process.

- The plan development phase includes developing a mission statement that will help the child and family team with agreeing on what they will be working on together, reviewing the family's needs and beginning discussions about how to utilize strengths to overcome the needs.

- The implementation phase involves reviewing accomplishments, assessing what is or is not working, adjusting items that are not working in the current plan and assigning new tasks to the child and family team participants.

- The transition phase is occurring throughout the life of the plan and the family's involvement with wraparound. The child and family team will consistently review and support the family to ensure that a transition off of services is appropriate. The family will end the wraparound process with more knowledge and access to community based resources as well as emergency services should they be needed in the future.

SECTION 2: VALIDATION OF STATE ASSUMPTION

To further validate compliance with the rule regarding HCBS settings, DMHA will conduct a survey of all interested participants that includes: living environment, number of individuals with or without disabilities living in residence, whether or not there is paid staff, number of hours with whom person spends time, activities in the community and choice in daily routine. The survey will be offered to the participants by the Wraparound Facilitator at a child and family team meeting.

Ongoing Compliance

DMHA currently conducts field audits that include a review of the participant's current living arrangement to ensure compliance. The field audits can occur in the participant's home, at the provider's office or at the State. The audits include at least one of the following: a review of the case file, participation in a child and family team meeting or supervision between the Wraparound Facilitator and the state consultant. If compliance issues are found, the state consultant issues an informal adjustment or corrective action depending on the situation. In addition, there is currently an established process for the Wraparound Facilitator to notify the State if the participant will be out the identified setting for more than 24 hours. This includes but is not limited to camp, overnight with relatives or placement in an acute setting. This allows for DMHA to monitor changes in the living arrangement.

SECTION 3: KEY STAKEHOLDERS AND OUTREACH

DMHA is posting a copy of the Statewide Transition Plan on our website and sending an email to notify stakeholders that it is available for review and public comment. Stakeholders include family advocacy agencies, community mental health centers, persons with lived experience, youth and family participants, state agencies, community services agencies and individual providers.

Division of Mental Health and Addiction (DMHA)

HCBS Adult Programs

Behavioral and Primary Healthcare Coordination (BPHC)
Adult Mental Health & Habilitation (AMHH)

Background

The Division of Mental Health and Addiction, (DMHA) sets care standards for the provision of mental health and addiction services to Hoosiers throughout Indiana. DMHA is committed to ensuring that clients have access to quality services that promote individual, family and community resiliency and recovery. The division also certifies all community mental health centers (CMHC) and addiction treatment services providers.

Indiana has two CMS approved 1915(i) HCBS programs for adults with serious mental illness. These programs are the Adult Mental Health Habilitation (AMHH) Services program and the Behavioral and Primary Healthcare Coordination (BPHC) program. The CMHCs are the authorized providers for these two HCBS programs.

The AMHH services program provides community-based opportunities for adults with serious mental illness or co-occurring mental illness and addiction disorders who may most benefit from keeping or learning skills to maintain a healthy and safe lifestyle in the community.

Behavioral & Primary Healthcare Coordination (BPHC) consists of coordination of healthcare services to manage the healthcare needs of the individual. BPHC includes logistical support, advocacy and education to assist individuals in navigating the healthcare system. BPHC consists of activities that help participants gain access to needed health (physical and behavioral health) services, manage their health conditions such as adhering to health regimens, scheduling and keeping medical appointments, obtaining and maintaining a primary medical provider and facilitating communication across providers. Direct assistance in gaining access to services, coordination of care within and across systems, oversight of the entire case and linkage to appropriate services are also included.

SECTION 1: ASSESSMENT OF SETTINGS

From March through September 2014 the Family and Social Services Administration Division of Mental Health and Addiction (DMHA), with the Office of General Counsel (OGC) and the Office of Medicaid Policy and Planning (OMPP), completed a preliminary review and analysis of all settings where HCBS services are provided to BPHC members. The analysis included a review of Indiana Administrative Code, program policy, provider manuals, and the CMS approved 1915(i) State Plan Amendments. It was discovered that while the SPA's, rules, and manuals show that services within the two 1915(i) programs comply, DMHA will need to facilitate further analysis of the settings for members receiving these services to ensure compliance with HCBS requirements.

Through this process, DMHA has determined all services offered by the **Adult Mental Health Habilitation (AMHH) Services program and the Behavioral and Primary Healthcare Coordination (BPHC)** fully comply with the regulatory requirements because they are individualized services provided in a community based setting or in the member's private home.

- **Supported Community Engagement Services** (AMHH): Services that engage a participant in meaningful community involvement in activities such as volunteerism or community service.

- **Therapy and Behavioral Supports** (AMHH): Therapeutic services that are a series of time-limited, structured, face-to-face sessions that work toward the goals identified in the individualized integrated care plan.

- **Care Coordination** (BPHC/AMHH): Consists of services that help participants gain access to needed medical, social, educational, and other services.

- **Home and Community-Based Habilitation and Support** (AMHH): Services directed at the health, safety and welfare of the participant and assisting in the management, adaptation and/or retention of skills necessary to support participants to live successfully in the least restrictive, most community based integrated setting.

- **Peer Support Services** (AMHH): Services that support socialization, recovery, self-advocacy, development of natural supports, and maintenance of community living skills.

- **Medication Training and Support** (AMHH): Services that involve monitoring medication compliance, providing education and training about medications, monitoring medication side effects, and providing other nursing or medical assessments

- **Respite** (AMHH): Services provided to participants who are unable to care for themselves and are living with a non-professional (unpaid) caregiver.

- **Addiction Counseling** (AMHH): A planned and organized service with the participant where addiction professionals and other clinicians provide counseling intervention that works toward the participant's recovery goals.

The BPHC and AMHH are new 1915i programs in Indiana. The BPHC program was implemented June 1, 2014 and offers a single service, Care Coordination. Current enrollment is approximately 4,100 members with an estimate of less than 20% of currently enrolled BPHC members residing in a DMHA certified residential facility or other community setting that may merit heightened scrutiny.

The AMHH program is scheduled for implementation on November 1, 2014 and member enrollment will begin at that time. Anticipated enrollment is projected at 1,000 members with the assumption that more than 50% of AMHH members may reside in a DMHA certified facility or other community setting that may merit heightened scrutiny.

The following services are not provided in the member's private residence but based on the analysis also fully comply.

- **Adult Day Services** (AMHH): Community-based group programs designed to provide supervision, support services, and personal care.

- **Respite** (AMHH): Services provided to participants who are unable to care for themselves and are living with a non-professional (unpaid) caregiver. Respite care may be provided in the member's home or other community based setting. Respite may also be provided in an institutional setting, if necessary. Institutional respite care complies with the setting rules per 42 CFR 441.301(c) (4)-(5).

The majority of HCBS services are provided in the member's private home or in a community based setting. DMHA requires, as part of the member application process, the CMHCs attest the client resides in a setting that complies with HCBS requirements as detailed in both the approved 1915(i) SPAs and the Indiana Administrative Code. DMHA has determined that while these services, as written, are compliant, the following residential settings need further evaluation to verify they meet CMS HCBS requirements:

- Alternative Family Homes
- Transitional Residential Living Facility
- Semi-independent living residents
- Supervised Group living facilities

SECTION 2: PROPOSED REMEDIATION - DMHA ADULT

Service/Setting	Total # of Settings	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Supervised group living facility	61 (618 beds)	• The individual has a lease or other legally enforceable agreement providing similar protections; • Each individual must have privacy in their living unit including lockable doors, • Individuals sharing a living unit must have choice of roommates, • Individuals must be allowed to furnish or decorate their own sleeping and living areas; • The individual controls his/her own schedule including access to food at any time; • The individual can have visitors at any time; and • The setting is physically accessible.	Quality Assurance site visits Member surveys re: HCBS experience Provider surveys re: HCBS experience Review of provider agency policies and procedures Member focus groups in development Providers not in compliance with the final rule will be issued a corrective action plan and have a time line given to come in line with the corrective action.	12/2014 12/2015 06/2015 06/2015 10/2017 01/2018	CMHC trainings/webinars/ Conference calls DMHA QA DMHA Certification Team (Review the rule/B-4 for provider re-certification) DMHA State Evaluation Team approval of program providers

Service/Setting	Total # of Settings	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Transitional residential services facility	51 (579 beds)	• The individual has a lease or other legally enforceable agreement providing similar protections; • Each individual must have privacy in their living unit including lockable doors, • Individuals sharing a living unit must have choice of roommates, • Individuals must be allowed to furnish or decorate their own sleeping and living areas; • The individual controls his/her own schedule including access to food at any time; • The individual can have visitors at any time; and • The setting is physically accessible.	Quality Assurance site visits Member surveys re: HCBS experience Provider surveys re: HCBS experience Review of provider agency policies and procedures Member focus groups in development Providers not in compliance with the final rule will be issued a corrective action plan and have a time line given to come in line with the corrective action.	12/2014 12/2015 06/2015 6/2015 10/2017 01/2018	CMHC trainings/webinars/ Conference calls DMHA QA DMHA Certification Team (Review the rule/B-4 for provider re-certification) DMHA State Evaluation Team approval of program providers

Service/Setting	Total # of Settings	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Semi-independently living facility	Not available at this time	• The individual has a lease or other legally enforceable agreement providing similar protections; • Each individual must have privacy in their living unit including lockable doors, • Individuals sharing a living unit must have choice of roommates, • Individuals must be allowed to furnish or decorate their own sleeping and living areas; • The individual controls his/her own schedule including access to food at any time; • The individual can have visitors at any time; and • The setting is physically accessible.	Quality Assurance site visits Member surveys re: HCBS experience Provider surveys re: HCBS experience Review of provider agency policies and procedures Member focus groups in development Providers not in compliance with the final rule will be issued a corrective action plan and have a time line given to come in line with the corrective action.	12/2014 12/2015 06/2015 06/2015 10/2017 01/2018	CMHC trainings/webinars/ Conference calls DMHA QA DMHA Certification Team (Review the rule/B-4 for provider re-certification) DMHA State Evaluation Team approval of program providers

Service/Setting	Total # of Settings	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Alternative family homes	9	• The individual has a lease or legally enforceable agreement providing similar protections; • individual must have privacy in their living unit including lockable doors, • Individuals sharing a living unit must have choice of roommates, • Individuals must be allowed to furnish or decorate their own sleeping and living areas; • The individual controls his/her own schedule including access to food at any time; • The individual can have visitors at any time; and • The setting is physically accessible.	Quality Assurance site visits Member surveys re: HCBS experience Provider surveys re: HCBS experience Review of provider agency policies and procedures Member focus groups in development Providers not in compliance with the final rule will be issued a corrective action plan and have a time line given to come in line with the corrective action.	12/2014 12/2015 06/2015 06/2015 10/2017 01/2018	CMHC trainings/webinars/ Conference calls DMHA QA DMHA Certification Team (Review the rule/B-4 for provider re-certification) DMHA State Evaluation Team approval of program providers

Service/Setting	Total # of Settings	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Non-DMHA Certified Residential Facilities	Not available at this time	• The individual has a lease or other legally enforceable agreement providing similar protections; • Each individual must have privacy in their living unit including lockable doors, • Individuals sharing a living unit must have choice of roommates, • Individuals must be allowed to furnish or decorate their own sleeping and living areas; • The individual controls his/her own schedule including access to food at any time; • The individual can have visitors at any time; and • The setting is physically accessible.	Quality Assurance site visits Member surveys re: HCBS experience Provider surveys re: HCBS experience Review of provider agency policies and procedures Member focus groups in development	12/2014 12/2015 06/2015 06/2015 10/2017	CMHC trainings/webinars/ Conference calls DMHA QA (Review the rule/B-4 for provider re-certification) DMHA State Evaluation Team approval of program providers

Service/Setting	Total # of Settings	Areas in Need of Remediation to Comply with HCB Characteristics	Validation/Remediation Strategies	Timeline for Start/Completion	Assuring Ongoing Compliance
Adult Day Service	Not available at this time	• may have structured meal times • regimented/structured activities • Community integration • Restricted to just AMHH members	DMHA will develop a work group with members/providers to incorporate HCBS characteristics into this service Develop a HCBS characteristics tool Providers not in compliance with the final rule will be directed to complete a corrective action plan (CAP) that must be approved by DMHA. A time line must be included into the CAP given to come in line with the corrective action.	06/2016 06/2017 01/2018	Provider/member annual surveys-7/17 **Annual QA site visits will include Adult Day site visits-6/16** Annual review of Adult Day service characteristics-6/16 DMHA Settings Standards Document DMHA provider trainings DMHA data systems MMIS system changes DMHA Survey Tool DMHA will work with stake holders to develop a taskforce that will work to identify settings that are not in compliance with HCBS rules

Summary of Proposed Remediation Strategies:

The table above demonstrates how the DMHA will be identifying settings that are presumed to be areas of heightened scrutiny to ensure total compliance with the residential setting standards of the CMS HCBS final rule. Although the Adult Mental Health and Habilitation (AMHH) program is not yet operational, DMHA will be proactive in the implementation of this plan for both the Behavioral and Primary Healthcare Coordination (BPHC) and AMHH programs. The members' residential settings are first captured in the application process where the provider and member attest that all requirements as outlined within the CMS approved BPHC SPA are met. DMHA has determined there may be areas of vulnerability. In order to determine if these presumptions are correct, DMHA will begin with a detailed review of all approved BPHC and AMHH provider policies and procedures for their internal operation of HCBS programs. This will be completed by DMHA staff that conduct on site visits and review documentation of each of the 25 approved providers. This is anticipated to begin December 2014. This is a part of the ongoing quality assurance that DMHA will complete annually for all HCBS programs.

The second part of the transition plan is surveying all DMHA providers to give a full picture of where providers feel they stand with the final rule, and areas that they may need assistance with coming into compliance with the final rule. Once the provider surveys are aggregated, DMHA will complete a member survey to better understand the member experience. This will provide our members a direct voice to the State.

Member focus groups will be developed to receive direct feedback from members on their experiences in these residential settings. Ongoing, DMHA will use annual provider trainings, as well as annual QA visits, to ensure consistent application of HCBS residential standards.

After all survey information and site visit data is compiled, DMHA will collaborate with stakeholders to develop a task force that will develop strategies to assure that HCBS programs are in full compliance with the HCBS rule.

If areas of remediation are determined to be needed, DMHA with the support of the task force will develop strategies that will be used as a guide for those providers to work towards compliance. One strategy will include a provider completed Corrective Action Plan that includes timelines for coming into compliance. DMHA must approve and monitor progress towards the providers CAP. The DMHA staff will provide ongoing site visits and audits to assist with implementation of the corrective action strategies.

If a provider does not satisfy the remediation strategies in their own CAP within the established time frame, DMHA will issue a corrective action plan. If compliance is not achieved within the DMHA designated timeframe, further sanctions will be taken up to and including termination of the provider's enrollment as an HCBS provider for DMHA adult programs.

An HCBS characteristics tool will be developed by the work group and used to assess all HCBS services through the AMHH and BPHC.

In addition, this will be tied into the provider recertification process of Community Mental Health Centers. DMHA will partner with the key stakeholders by participating in multiple stakeholder forums, events, and scheduled meetings to provide/access to information regarding maintaining compliance of HCBS residential standards.

There are areas of concern for how Adult Day service may be provided. Utilizing the member work group mentioned earlier, and adding Adult Day Service Providers, DMHA will create an Adult Day program work group that will be tasked with developing a HCBS tool to assess fidelity and to build HCBS compliance within the service provision. It is anticipated that Adult Day Services will not be fully implemented until approximately 10/2015. DMHA will communicate often with CMHCs on what the final rule requires and work with these providers to ensure that Adult Day services are delivered in a manner that meets the standards of the final rule. The Adult Day Program work group will be developed to assist with assuring that Adult day services settings are in compliance after they are implemented.

SECTION 3: KEY STAKEHOLDERS AND OUTREACH

DMHA is working in partnership with members and advocates, providers and other stakeholders to create a sustainable, person-driven long-term support system in which people with mental illness have choice, control and access to a full array of quality services that assure optimal outcomes, such as independence, health and quality of life.

The programs and partnerships contained in this section are aimed at achieving a system that is:

- **Person-driven:** affords people with disabilities and/or chronic illness the opportunity to decide where and with whom they live, to have control over the services they receive and who provides the services, to work and earn money, and to include friends and supports to help them participate in community life.
- **Inclusive:** The system encourages and supports people to live where they want to live with access to a full array of quality services and supports in the community.
- **Effective and Accountable:** The system offers high quality services that improve quality of life. Accountability and responsibility is shared between public and private partners and includes personal accountability and planning for long-term care needs, including greater use and awareness of private sources of funding.
- **Sustainable and Efficient:** The system achieves economy and efficiency by coordinating and managing a package of services paid that are appropriate for the beneficiary and paid for by the appropriate party.
- **Coordinated and Transparent:** The system coordinates services from various funding streams to provide a coordinated, seamless package of supports, and makes effective use of health information technology to provide transparent information to members, providers and payers.
- **Culturally Competent:** The system provides accessible information and services that take into account people's cultural and linguistic needs.

In preparation for the transition plan, DMHA has hosted three regional provider trainings in which state staff shared information pertaining to the comprehensive state plan. Since November of 2013, DMHA has shared the proposed HCBS requirements as outlined in both AMHH and BPHC with providers through webinars and conference calls. Ongoing, DMHA will host webinars for providers, members, and stakeholders such as Intecare, NAMI, Key Consumers, Indiana Council of CMHC's, and Mental Health America, to educate on the transition plan pieces specific to the DMHA adult population. DMHA will seek input from key stakeholders and work with them to assure members are aware of the transition plan and methods in which they can provide comments.

PUBLIC INPUT

This Statewide Transition Plan was open for public comment for **30 days, November 1 – December 1, 2014.** The comment period allows all HCBS members, potential members, providers and other stakeholders an opportunity to provide input to the plan.

This Statewide Transition Plan and related materials are available at the Home and Community-Based Services Final Rule website. Indiana provided public notice through print articles in newsletters disseminated by advocacy groups and trade organizations, electronic newsletters and list serves. Notice was also published in the form of a provider banner and on the Provider and Member pages at www.IndianaMedicaid.com .

Public comments were also received, in-person, at a series of stakeholder forums and listening sessions conducted throughout the state. The dates and times of these opportunities were published on the Family and Social Services Administration Calendar**.**

Written comments were received by email via HCBSrulecomments@fssa.in.gov, or by mail to:

State of Indiana
FSSA/OMPP
Attn: HCBS Final Rule – Waiver Manager
402 W. Washington St., Rm. W374
Indianapolis, IN 46204-2739

All comments were tracked and summarized by FSSA Division. The summary of comments follows, by Division, in addition to a summary of modifications made in response to the public comments. The Division summary provides the page number where revisions or new content are located (in this document) and appear in **bold font**. In cases where the state's determination differs from public comment, the additional evidence and rationale the State used to confirm the determination is included. The Indiana Statewide Transition Plan is due to CMS by December 14, 2014. Once submitted, the updated Transition Plan will be posted on the dedicated website.

The Transition Plan will be posted online and available for review for the duration of the transition period.

States must be in full compliance with the federal requirements by the time frame approved in the Statewide Transition Plan but no later than March 17, 2019.

Division of Aging (DA)

HCBS Programs

Aged and Disabled (A&D) Waiver – 1915c
Traumatic Brain Injury (TBI) Waiver – 1915c

SUMMARY:

The Division of Aging solicited comments on the State Transition Plan as it applies to the Aged and Disabled (A&D) and Traumatic Brain Injury (TBI) Medicaid waivers. Comments were encouraged through five public forums conducted at Assisted Living facilities across the state, as well as at Provider and Case Management Training sessions reaching approximately 430 attendees. E-mail notifications were made to waiver providers and to case managers, asking them to reach out to their waiver participants and other interested parties.

The Division of Aging received comments from waiver participants, family members, providers, consumer advocate organizations and industry associations. There was wide support for the HCBS rule in general and for the transition plan. Numerous comments included suggestions for improvements to the plan, but most were questions seeking interpretation of the rule itself. While some comments have been combined, most are unique and the DA is including individual responses below.

The DA revised the transition plan to include consumers and advocates earlier in the transition process, **see pages 13-14**.

SUBJECT: Assessments of Settings and Compliance

Comment: The DA received one comment endorsing the use of the current Provider Compliance Review Tool and the Person-Centered Compliance Review tool as a means of assessing settings and rule implementation.

Comment: One commenter is concerned about the strong reliance on the Provider Compliance Review and Person-Centered Compliance Review process to ensure ongoing compliance with the HCBS rules. This commenter would also like to see more substantive detail as to how these tools will be updated and strengthened to comply with the new rules.

Comment: One commenter is concerned with the strong reliance on provider self-surveys and case manager reviews to identify noncompliance. "The structure or substance of the survey and review should be described in greater detail. With regard to the case manager reviews, the concern is that there is a potential for bias or influence. Ideally, the process would incorporate onsite compliance reviews (prior to a CAP), as well as member/resident interviews that are conducted in such a way as to prevent the appearance of bias and that are meaningful to the person. Another concern with the heavy reliance on provider self-assessments to determine non-compliance is that the use of onsite reviews and service recipient reviews come so late in the process that its impact may be diminished."

Response: It needs to be noted that initial assessments will be used only for assessment and enforcement will not begin until after 2017 once specific standards are in place. The DA intends to first use a self-assessment to allow for analysis of the current inventory, and use case manager assessments in conjunction with Person-Centered Compliance Reviews (PCCRs), Provider Compliance Reviews (PCR), and possibly DA site visits to verify initial results. The DA recognizes that current assessment tools will need to be modified to conduct these assessments. The case manager review is anticipated to be a modification of the current 90 Review Tool that is very comprehensive in nature and is usually conducted on-site. It has been the DA's experience that case manager reviews have not been biased toward providers. On-site reviews are currently conducted at all provider-operated service settings, which are not licensed by the State Department of Health, and it is expected that these will continue with modifications to account for new HCBS standards. Individual PCCRs are currently conducted for a statistically significant random sample of waiver participants and it is anticipated that an increased number of these reviews will need to be targeted toward participants receiving services in "heightened scrutiny" settings. The DA recognizes that the PCCR tool will either need to be modified or replaced to assess for HCBS standards.

Comment: Regarding Assisted Living regulations: Who holds these facilities accountable for compliance? How often are they inspected? Are all compliance visits unannounced? Actually giving freedom to compliance officers to walk through all parts of the facility, talk with clients and their families is key to better care for these persons. Is there a "whistle-blower" protection for employees of the company? Are there financial forensic specialists available to audit records of these facilities?

Response: Assisted Living facilities are licensed through the Indiana State Health Department. Compliance visits and complaint visits are conducted "unannounced" and include the freedom to inspect all parts of the facility and talk with residents and family members. The DA also monitors AL services provided to residents served under Medicaid waiver and has, under the Waiver Provider Agreement, full access to the facilities. FSSA has the ability to conduct financial audits on all Medicaid waiver providers under their provider agreement. Generally, Medicaid and Department of Labor laws protect "whistleblowers".

Comment: With regard to the Adult Day Services (ADS) and Structured Day Program (SDP) services, one commenter would like to see substantive comments regarding how these programs will be assessed for compliance. It is our experience that these programs, in particular, are most problematic with regard to HCBS rule requirements. The plan seems to presume that because the services are supposed to be community-based that they meet the HCBS standards, which assessment may determine to not be true.

Response: The DA does not presume these settings to be compliant, but rather these service settings will receive a heightened level of scrutiny. The DA has chosen to focus initially on residential providers but will be starting to assess ADS and SDP settings as our next step. It needs to be noted that the initial assessment will be used only for assessment and enforcement will not begin until after 2017 once specific standards are in place. The DA intends to first use a self-assessment to allow for analysis of the current inventory, and use case manager assessments in conjunction with Person-Centered Compliance Reviews, Provider Compliance Reviews, and possibly DA site visits to verify initial results. The DA recognizes that current assessment tools will need to be modified to conduct these assessments.

Comment: What about Structured Family Caregiving (SFC)?

Response: The DA presumes SFC settings are compliant with new HCBS standards as this service is usually implemented in the consumer's home or in the home of a caregiver in a non-congregate setting. However, SFC services are not in any way exempt and the DA anticipates that individuals receiving SFC services will be monitored to assure their settings do not have or develop characteristics of an institutional setting.

Comment: The final rule identifies other settings that are presumed to have institutional qualities, and do not meet the threshold for Medicaid HCBS. These settings include those in a publicly or privately-owned facility that provides inpatient treatment: Many of our Medicaid Waiver assisted living members are attached to or are part of campuses with nursing homes. We understand that continuing care retirement communities (CCRCs) are specifically exempted from this provision and many of our members are CCRCs and not impacted but the remainder of our Medicaid Waiver assisted living members are part of campuses where this continuum is available but don't meet Indiana's specific CCRC definition. This continuum is very important to seniors who know as their care needs changes that these important nursing facility services are available from the same organization for either short term or long term placements. The assisted living components are separate from the nursing home component and meet all of the requirements for HCBS settings

noted earlier. We hope that these facilities that will be under heightened scrutiny will be allowed to provide these important Waiver services. For most of the residents, the only alternative may be a nursing home and greater expense to the state and in a much more institutional environment.

Response: It is the DA's understanding that CMS' use of the term "publicly-owned" refers to government-owned facilities only, and not to facilities owned through publically traded corporations or those which offer services to the general public. While it is the DA's understanding that the majority of CCRCs will meet the HCBS standards, the DA is not aware of a "specific exemption" for CCRCs and each of these facilities will need to be assessed for compliance as there is the potential for these having the characteristics of an institutional setting. The DA does not feel that an Assisted Living facility adjacent or attached to a nursing facility is inherently non-compliant, but will receive higher scrutiny during the assessment and implementation phases. The state recognizes and endorses "aging in place" principles and will advocate for settings implementing these principles.

Comment: With regard to determining compliance with having a lease agreement, one commenter expressed that there is too much reliance on provider self-report and requiring submission of a standard lease agreement. There should also be a process to verify that the lease has been signed by the resident.

Response: The requirement to submit a standard lease agreement is only an initial step. It is anticipated that the presence of a properly constructed lease will be monitored through both case manager assessments and through the Person-Centered Compliance Review process. There will be challenges to monitoring this as lease requirements may vary from location to location around the state.

SUBJECT: Access to the Community/Settings That May Isolate

Comment: Several comments were received from residential providers regarding community access and whether transportation services would be required; or whether public transportation or family members could be utilized to meet the individual's community integration needs.

Comment: Assisted Living residents are free to participate in community activities as they desire just as individuals who receive Medicaid Waiver services in their own home. Transportation is inevitably the issue for both of these types of Waiver clients. Coordination of transportation, transportation by family members, public transportation, and transportation provided by the facility

should all be considered. We want to make sure that this does not require that the facility provide transportation at any time for any reason.

Response: The DA does not anticipate a requirement that residential providers offer transportation services for non-critical events, but also recognizes that on an individual basis, lack of transportation resources does create an isolating environment for the individual. The DA invites AL providers to be part of the discussion on how we avoid settings that isolate individuals.

Comment: The CMS guidance implies that secured dementia units or secured adult day care facilities may not be acceptable. This would pose significant issues for providers serving Medicaid Waiver participants in these settings. These assisted living settings are very homelike and provide the same amenities as other units but they are secured for the protection of cognitively impaired residents who might wander out of the facility. The same thing applies for secured adult day care settings. This security is for the protection of the resident/client to keep them from wandering out of the facility into unsafe settings. The alternative would be placement in a nursing home where such units are specifically permitted at a much higher cost to the state and most likely a less home-like setting for the resident. It would be our hope that through the development of person centered care plans, waivers will be permitted for these secured units and adult day care facilities.

Comment: What are special memory units? What if everyone in the memory care unit had to leave? Where would they all go?

Response: The DA intends to demonstrate the value of secured memory care units within the waiver program, but will also partner with providers and advocates to develop standards that ensure secured settings offer frequent and meaningful access to the community and assure that other HCBS setting requirements are met. It is anticipated that standards will be built into the person-centered planning process to assure that decisions regarding memory care placements are truly individualized, necessary, closely monitored and routinely reviewed. Please note that the DA will not close any memory care units. Should a memory care unit, operating as or within an Assisted Living facility, not be able to achieve the required standards, it would no longer be able to serve waiver consumers in that manner.

Comment: Any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS is presumed to have the qualities of an institution: This is a more general statement that seems to imply that assisted living facilities in general have the qualities of an institution since seniors served in these settings have chosen to live in a congregate setting that by definition isolates them from the broader community. Some AL providers have

developed facilities primarily serving Waiver clients that would possibly cause greater concern regarding this presumption. It would be our desire that through the heightened scrutiny process and person centered planning that these settings will be permitted.

Response: All provider operated residential settings will be subject to heightened scrutiny. Precise standards have not yet been developed but the DA anticipates that these standards will focus on how the resident experiences the service in relation to the principles of self-direction, choice, and their level of satisfaction with opportunities to interact with the broader community.

Comment: There appears to be fairly broad assumptions about services being community-based. For example, has the state looked to see if any of the facilities are geographically clustered such that they become isolating or have institutional characteristics? This concern is especially true for Assisted Living facilities, which should garner heightened scrutiny due to many services being self-contained within the facility.

Response: Assisted Living facilities are subject to heightened scrutiny and the state recognizes that local geography and community characteristics may contribute to isolation. Standards regarding access to the community will need to be developed.

Comment: With regard to Adult Day Services, the plan should address in more detail how the adult day services will be modified to assure that participants have the opportunity to interact routinely with people without disabilities, since these settings are designed exclusively or primarily for people with disabilities.

Response: The DA is in the early stages of developing and implementing the transition plan. The specific compliance indicators have yet to be determined for any service. The process of developing these standards and identifying appropriate indicators will involve significant input from stakeholders, and it would be premature to identify specific changes without including that input.

Comment: As noted on page 11 of the Transition Plan: "Current Waiver requirements forbid any use of individual restraint but do not extend to this definition to include the restriction of facilities which may have secured perimeters or delayed egress systems." Many of the alarmed exits and delayed egress systems within the adult day center settings are in place for the safety of participants that are diagnosed with Alzheimer's or dementia. To remove this safety precaution in the ADC setting could endanger participants

due to an increase in participant wandering and elopement behaviors. A Consumer Risk Contract can be utilized to provide other participants the ability to "opt out" of such a restriction. Please note that Centers serving a population of participants with an Alzheimer's or dementia diagnosis are following best practices recommended by the Alzheimer's Association. Provisions such as secured doors and alarms, locked cabinets, portion and dietary controls, and other measures were designed to promote the care and safety of these participants. Without such precautions, many participants would be unable to attend adult day services, thus resulting in an increase in premature institutionalization.

Comment: With a majority of adult day centers serving the senior population and/or individuals with chronic diseases Adult Day Centers work to maintain physical or cognitive function, or to slow the rate of degeneration. While our participant population will have an interest in integrating into other community activities, by and large, they will not be seeking employment options. To provide diversity in activity programming, many adult day centers partner with outside organizations to bring education an entertainment opportunities inside.

Response: The DA recognizes the challenge of allowing freedom of mobility while ensuring individual needs for health and safety are addressed. Person-centered planning and negotiated risk principles will be key to addressing these challenges. But in the spirit of being "community-based", the site itself should not have the characteristics of an institutional setting. As you or I may very well enjoy experiencing entertainment and educational opportunities "in-house", this does not serve as a replacement for access to the greater community.

SUBJECT: Visitation in Residential Settings

Comment: While it is desirable to allow visitation at any time, the requirement must be balanced with security concerns in a congregate setting. Just like in many multi-unit apartment buildings, doors are locked to outsiders and visitors must go through some type of security procedure. This is particularly true during overnight hours since staff is less available. Reasonable security rules should be permitted. In addition, the facility must be able to limit the number of overnights visitors can stay or it is possible that family or friends could become permanent without payment or approval.

Comment: With unlimited visitation it opens it up for someone to show up at 1 a.m. and stay in a person's room. How would we monitor?

Response: Residential providers will need to develop clear and realistic standards to distinguish between a visitor and an "unauthorized resident," and make sure these standards are clearly communicated in the lease agreement. It will be determined during the assessment and implementation period whether to have a state standard in this regard. This

requirement does not prevent facilities from locking exterior doors as long as there is a means for the visitor to be allowed in.

SUBJECT: Access to Food in a Residential Setting

Comment: Our members offer cooking facilities and refrigerators in the units, three meals a day, and snacks available at other times. We assume that this requirement is not meant to imply that you have to have 24 hour dining services since this is not realistic to have full kitchen staff available at all times.

Response: It is correct that the DA does not intend to require residential facilities to offer 24 hour dining services. We are also not sure that the current requirement to offer cooking facilities in the units automatically meets the standard of having 24/7 availability of food. Standards will be developed as part of the implementation process.

Comment: What if a person is morbidly obese and on a special diet plan?

Comment: A significant percentage of our Adult Day Service participant population has special dietary needs (diabetic diets, low sodium diet, soft foods diet, etc.), and ADS centers foster partnerships with the participant's family members and medical providers to assist in maintaining the health of participants. Providing open access to food and meals may negatively affect the health of those participants who are not able to properly maintain their diet

Response: Individual situations such as these will need to be addressed through person-centered planning, but as in community living, an individual has a right to make poor decisions regarding their health.

SUBJECT: Legally Enforceable Leases

Comment: Assisted living providers that are eligible to participate in the Medicaid Waiver program must be licensed residential care providers by the Indiana State Department of Health. The rules for licensed residential care provide a long list of residential rights that go well beyond those required by local landlord-tenant lease requirements. However, they clearly specify when a resident must be transferred to a nursing facility based on the care needs. Hopefully, these rules and the residency agreements required will suffice to comply with this requirement.

Response: The state is aware of possible conflicts with State Health Department but needs to assess the conflicts more thoroughly to develop standards to address these situations. It must be remembered that movement to a nursing facility does not negate an individual's residency status any more than it would require them to surrender an apartment if they moved to an NF from the community. It is not unusual for an individual admitted to a NF to stay only short-term.

Comment: What if a person is very aggressive and there is a need to evict them?

Response: Providers will need to utilize the same community resources that any other residential provider in their community uses, including local law enforcement and the court system as necessary. In such a situation, it is expected that focused person-centered planning will occur, but this will not over-ride an individual's rights under local residency and eviction laws.

Comment: How long does a lease need to be?

Response: The DA does not anticipate imposing any standard for this. Leases will need to be constructed to comply with state and local requirements.

Comment: With regard to determining compliance with having a lease agreement, one commenter feels there is too much reliance on provider self-report and requiring submission of a standard lease agreement. There should also be a process to verify that the lease has been signed by the resident.

Response: The requirement to submit a standard lease agreement is only an initial step. It is anticipated that the presence of a properly constructed lease will be monitored through both case manager assessments and through the Person-Centered Compliance Review process. There will be challenges to monitoring this as lease requirements may vary from location to location around the state.

Comment: That lease thing - Does that mean if they want to, they can kick you out of here if they want to?

Response: No. It means you and the provider will be required to have an agreement or a lease that states the criteria under which you are protected in this environment but it also lists your responsibilities as a resident. So it protects you, but it also protects the facility. It requires all parties to abide by local residency and eviction laws.

SUBJECT: Stakeholder Participation and Outreach

Comment: One commenter was encouraged to see the reliance on key stakeholders starting in 2016. However, the stakeholders should include several representatives from service recipients, families, advocates, and self-advocates. Otherwise, it would appear that service recipients are not included in the process until the case management reviews in 2017. The state is encouraged to include service recipients, their families, and advocates early on, and frequently, in the process.

Response: The DA appreciates and agrees with the suggestion that waiver participants and their families are included earlier and more frequently in the transition planning process and will incorporate that into the transition plan.

Comment: One commenter requests that to the greatest extent possible, materials developed and proposed changes to policy and procedures, regulations, etc, should include key stakeholders, with an emphasis on service recipients, and their families and advocates, in all stages of development and planning. The materials should be freely accessible on the state's website and the process should be as transparent as possible.

Response: The state strives to be transparent but struggles with the challenge of moving forward while including all who desire to participate. To date, the involved state agencies have set up a HCBS transition specific website at www.in.gov/fssa/4917.htm. We hope that this will serve as a "launch site" for division specific information and stakeholder participation. The state appreciates it when outside entities challenge us to be more transparent. When the DA uses the terms "advocate" and "stakeholders", it should be interpreted to include service recipients, self-advocates, families, advocacy and self-advocacy organizations, providers and their representing associations, concerned citizens and any member of the public who wishes to participate in the process.

SUBJECT: Participant Choice of Settings

Comment: One entity expressed concern that the transition plan does not discuss how the state will ensure, as is required by the regulation, that individuals will have a choice of setting, including a non-disability specific setting. Aside from brief mention of the lack of compliance in the DDRS system (see page 37), the plan does not address how the issue will be remedied. The lack of discussion of this issue in the other three transition plans is concerning.

Response: Settings funded by the A&D and TBI Medicaid waivers are rarely "disability specific" (we have identified one dementia-specific setting to-date), although many are segregated by age. CMS guidance on "choice of settings" acknowledges that this choice is subject to availability within the market. There is not a requirement within the HCBS rule that states expand the number or range of available settings.

Comment: There is an inadequacy of the system to support individuals in the community: many rural areas have no staff, do not have needed transportation, etc

Comment: There is an inadequate provider network to provide real choice in living settings. Most individuals have to choose a provider who is accepting new clients and then move to a setting that has an opening. There is little meaningful consumer choice in those decisions.

Response: Provider "capacity" is an on-going concern. While the state continues to address this issue, consumer choice is subject to the availability of options with the market.

Comment: We believe that most of this guidance was designed to address the unique concerns and interests of younger persons with intellectual, developmental, and physical disabilities. Many of these individuals and their advocates are opposed to congregate residential settings under the Medicare Waiver program. However, many seniors are attracted to congregate settings for socialization, security, and a broader range of activities and experiences than are available in their individual residences. Mobility issues, frailty, and cognitive impairments make it easier and more appealing for these individuals to receive services, activities, recreation, and socialization in these congregate setting.

Response: The DA recognizes the demand for congregate settings with integrated services and opportunities for active participation through continuing care retirement communities. The DA also advocates for residential options that allow

for "aging in place". We do not feel that these Assisted Living or CCRC settings are inherently non-compliant, but we also agree that such settings must be individually assessed to assure that HCBS characteristics are maintained.

Comment: One entity is concerned with the timelines for completion of CAPs that stretch into 2018. Given the likelihood of some facilities requiring substantial correction, the timeframe seems tight to ensure compliance by March 17, 2019.

Response: The DA is confident that providers choosing to continue under the new HCBS standards will be able to implement needed changes by the March 17, 2019 deadline.

Comment: One commenter was encouraged to see the plan address non-provider-owned residential settings (e.g., pg.64) and stated that Indiana did a good job recognizing that as an issue and coming up with a plan in the Children's Mental Health system. However, there are other non-provider owned residential settings in the other contexts and the state should determine how they plan to address those settings before finalizing the plan.

Response: At this stage of transition, the DA has chosen to focus on settings that are presumed non-compliant or that require heightened scrutiny. The DA does recognize that there are non-provider owned settings where waiver services are delivered. The DA does not have any regulatory authority over these setting and anticipates that these will be assessed at the participant level taking into account individual choice of settings. There is still room here for much discussion and we welcome further input on addressing these situations.

Comment: We are pleased to see that the draft Statewide Transition Plan notes that "It is not the intention of CMS or the state of Indiana to take away any residential options, or to remove access to services and supports." However, we are concerned about how some of these requirements might be interpreted which could limit the availability of high quality home and community based options in assisted living facilities.

Response: The DA shares a concern that misinterpretation and misrepresentation of existing and future standards may discourage quality providers from pursuing or maintaining participation in the waiver program. The DA intends to work closely with all stakeholders, throughout the transition process, to assure that standards and interpretations are clear to all parties.

SUBJECT: Remediation Strategies

Comment: The Plan's Proposed Remediation Process appears thorough and appropriate. We appreciate that the process includes significant input from providers as the details for how facilities comply with individual requirements are defined. This input will be critical since there are various aspects of the CMS guidance on the rule that will pose concerns for our Medicaid Waiver certified members.

Response: The DA intends to include waiver participants and advocates in development of standards as well as providers.

Comment: It is unclear what role service recipients will have in the CAP process and whether they will have input on CAP development.

Response: The DA has traditionally allowed providers to submit corrective action plans (CAPs) to the state for approval. These CAPs have been assessed and either accepted or returned for re-submission. Upon notice of implementation, the DA has then verified implementation. The DA would be open to receiving comments on how service recipients might participate in this process.

Comment: One commenter expressed that they are pleased to see that the state recognizes that some providers may need to be decertified if they cannot meet the new regulations.

Comment: I don't think an 85% compliance rate is acceptable. Maximizing opportunities for A&D, TBI clients is a noble goal. Without adequate funding for services and incentives for excellence in care we won't see progress and there will continue to be non-compliance issues.

Response: The Division of Aging does not recognize an 85% compliance rate for new HCBS standards. The DA intends to remediate all occurrences of non-compliance to 100%. This may necessitate termination of some providers.

General Comments

Comment: Will the state wait a full five years to implement the rule, or will there be steps along the way?

Response: There will be steps along the way. The transition plan lays out a general schedule. Many components of the new HCBS rule are already part of the current waiver rules so we will continue to ensure compliance with those components.

Comment: Several comments were received in support of home and community based services and detailing how non-waiver home health providers can be a part of the overall strategy to keep people in their homes through provision of skilled home health services, nursing services, physical therapy, occupational therapy, and by providing caregiver training

Response: The DA recognizes the importance of non-waiver home health, medical and therapy providers and appreciates their willingness to be part of the overall strategy to implement the HCBS rules.

Comment: A concern was expressed that the plan doesn't address how the state will implement and monitor any individual modifications to the additional requirements for provider-owned settings. This information should be addressed in the transition plan before it is submitted to CMS.

Response: The transition process is in its initial stages and the DA has not yet addressed needed enhancements to the Person-Centered Planning process or the process through which individual modifications will be implemented and monitored. The DA will seek public input and participation as we enter future stages.

Comment: Who determines if the client is in an appropriate setting?

Response: For residential service options under the A&D and TBI waivers (Adult Family Care, Assisted Living, and Structured Family Care) the DA utilizes a Service Level Assessment to determine the level of need on an individual basis. This assessment is conducted by the case manager with input from the individual and/or their representative and the service provider. This assessment does include a maximum score beyond which the individual's needs exceed the service

that can be provided by the facility. Aside from this assessment, it is the participant, their chosen representative, or their guardian who decides the appropriate setting.

Comment: Persons on A&D and TBI waivers have unique considerations. Will there be a team, including the client, who will be making a decision about how and how much funding will be available for the services.

Response: The waiver participant will continue to choose who will be on their team and maintains the right to choose services based on their individual needs. The DA funds services based on individually assessed needs.

Comment: How often will participant assessments be made? Will there be opportunities for appeal and review of services by a non-partisan representative?

Response: The DA currently utilizes several layers of assessment. All waiver participants have a service assessment every 90 days and a Level of Care Assessment every six months. Both of these assessments are conducted by their case manager. Some services require a Level of Service assessment. The state recognizes that enhancements to the person-centered planning process will require a review and changes to the current assessment protocols and will use the transition process to achieve those enhancements. The DA currently has an appeal process for all decisions the individual wishes to appeal. It is not anticipated that there will be changes to this process as it includes opportunities for internal (DA) and neutral (Administrative Law judge) review.

Comment: Along with physical and mental assessments will there be opportunities provided for financial education such as budgeting, planning and consumer education?

Response: These subjects, while important, are not within the scope of the transition plan or the HCBS final rule.

Comment: If a client is deemed unable to have total control over personal resources, either temporarily or permanently who will aid them?

Comment: Who determines if the client is capable of making all decisions re: their care, finances, education, etc.? Is there a set of guidelines already in place or are there new guidelines being implemented as part of the transition plan? Who will make these assessments (BDD, Health professionals, Medicare or Medicaid)?

Response: The individual has the right to appoint financial and personal representatives, granting power of attorney at their discretion. For individuals unable to make these appointments, another entity may obtain guardianship through legal channels. It is not anticipated that these will be addressed through the implementation of this transition plan.

Comment: Medicaid fraud seems to be on the rise and because there has been a reduction of reimbursements for Medicare & Medicaid clients some clients are being underserved. Who is writing the regs or updating them?

Response: The DA agrees that Medicaid fraud is serious problem. The State has two organizations that investigate Medicaid Fraud; Program Integrity operates through FSSA Operations and the Medicaid Fraud Unit operates within the Attorney General's office. The DA's transition plan does not include any changes within these organizations.

Comment: The complexity of medical conditions, medical ethics, and medical treatment need to be reviewed more frequently. Also I remember just last year that a state legislator was questioned about his actions on a funding bill because he had interest in a health care business. Does this new plan have a federal (GAO) and state collaborative investigative unit?

Response: As the A&D and TBI waivers include very limited medical services, it is not anticipated that there will be standards regarding medical treatment or medical ethics, or include a federal/state collaborative investigative unit. Medical service providers are required to be licensed under the Indiana State Department of Health and to abide by their standards.

Comment: One commenter expressed a fear that the new HCBS rules will create a greater burden of paperwork.

Response: The DA does not anticipate an increased level of paperwork for providers over the long-term. Individual exceptions may occur if extensive corrective actions are required.

Division of Disability and Rehabilitative Services (DDRS)

HCBS Programs

Community Integration and Habilitation (CIH) Waiver – 1915c
Family Supports Waiver (FSW) – 1915c

SUMMARY:

On October 31, 2014, Indiana posted public notice of the Family Supports Waiver Comprehensive Transition Plan, the Community Integration Waiver Comprehensive Transition Plan and the Indiana Statewide Transition Plans to the FSSA/DDRS website and to all individuals on the Division of Disability and Rehabilitative Services (DDRS) listserv. The DDRS listserv has a total of 5,078 registered individuals. **Letters were also sent to every individual who is currently utilizing waiver services inviting them to participate in a webinar and phone conference to educate them of the HCBS rules and transition plans.**

In addition, throughout October and November, DDRS hosted a variety of events to generate public comments on the posted Transition Plans. Events included the DDRS Quarterly Provider Meeting attended by over 167 individuals, a meeting with the Arc Self Advocates Officers, three Webinars and phone conferences for families with over 400 participants, a presentation at Indiana Association of Rehabilitation Facilities, Inc. Quarterly Conference, a podcast by the Director of DDRS with the Arc of Indiana; the DDRS Advisory Council; Quarterly Case Management Meeting and multiple meetings and announcements by local provider and advocacy groups. During the public comment period, a variety of comments were received from individuals, family members, providers and advocacy groups.

The public comment received ranged from detailed suggestions regarding the various phases of the Transition Plan to long-term remedial strategies. Indiana noted many individuals reported an overall satisfaction with the Comprehensive Transition Plans, as it ensures that individuals receiving HCBS are integrated in and have access to supports in the community.

The DDRS revised the Transition plan to explain use of 85% as baseline for compliance, to clarify language and policy goals and explain the review and potential modification of documents and process as well as to include the addition of a Transition Taskforce based on public comment**. See pages 26, 30, and 60**

Below is a summary of various categories of public comment, a summary of the public comment received (with the exception of the specific system barrier comments received), and the State's responses to the comments. Anecdotal comments received about the specific system barriers affecting compliance will be utilized during the review of qualitative data in order to supplement the quantitative data review and identify potential remedial strategies.

SUBJECT: Assessment of Settings

Comment: Indiana identified 85% and below as the threshold for low level compliance with National Core Indicators. One commenter asked what the national standard is for compliance and how Indiana compares to other states across the country if the threshold of 85% compliance is met.

Comment: The Indiana demographics section of the 2013 National Core Indicators Report indicates that most interviewees resided with family. In this setting, rules and activities are generally determined by a parent or family member, making individual choice a matter of family dynamics. This situation may unintentionally skew the results related to self-determination, as well as potentially make remediation and compliance challenging. The commenter recommends that this be taken into consideration in further assessment activities and in the final determination of setting compliance.

Comment: One commenter was pleased with the use of NCI data to assess compliance. They felt the state's use of the NCI survey (National Core Indicators) is helpful because it demonstrates that there needs to be significant change in a broad range of topics. However, there is concern with the use of the 90-day checklist as an indicator of compliance given that in several instances the results were contradictory with the NCI data.

Response: While the State used NCI data as a preliminary assessment tool, the State acknowledges concern with contradictory data obtained by the 90 day checklist. For this reason, a more in-depth approach will be carried out through the individual experience surveys to determine HCBS compliance. The individual experience surveys will also allow for all participants settings to be analyzed, not just residential.

In March 2014, CMS also issued modifications to Quality Measures and Reporting on 1915(c) Home and Community Based Waivers. Specific to Improvements in 1915c Waiver Quality Requirements (June 15, 2014), CMS issued guidance to the States indicating that any level of performance measuring "less than 86%" compliance indicated a need for improvement and further analysis to determine the cause(s) of the performance problem. DDRS chose to use that same percentage (less than 86%, or 85%) as the threshold for low level compliance within our National Core Indicator and 90-

Day Checklist data findings. National Core Indicator findings, including those specific to Indiana, are available at http://www.nationalcoreindicators.org/states/.

Comment: One commenter stated the transition plan read as though the assumption was everyone is out of compliance and requested language clarification, specifically how the site survey's will be assessed.

Response: Compliance cannot be assumed nor does Indiana assume that it is not in compliance. The transition plan was developed to clearly delineate Indiana's assessment and potential remediation activities.

SUBJECT: Preliminary Settings Inventory/Analysis

Comment: In the preliminary settings analysis, one commenter would like to see more substantive comments regarding how compliance will be determined in all instances where there is no NCI data and no 90-day checklist data.

Comment: Information reviewed and used for future data collection to manage accomplishment includes the 90 day checklist and pre/post transition documents, both of which are significantly in need of modification to more appropriately represent the current and future waiver recipients. It is concerning going forward if the intent is to continue to use these two documents as part of the transition process/plan. Perhaps part of the transition plan could speak to the necessary document changes in assuring they support what is being monitored and leading the team to successfully support the individual.

Comment: Standards, Rules, Regulations and/or Requirements should be broad in scope, being applicable to individuals of all ages. The average age of individuals served is decreasing as school age individuals are targeted, rather than deinstitutionalized individuals such as in previous decades.

Comment: Due to the fact that NCI data and 90 day checklists frequently contradicted each other, several areas of the initial assessment have been noted to require further study. This suggests the need to review the validity of the 90 day checklists and/or the NCI data collection process as it relates to determining compliance with CMS rules.

Comment: One commenter has concerns about the 90-day checklist process. Specifically, who responds to the questions; the case manager or the individual? It was recommended that a trained individual, outside of the case management team, to ensure that the data is truly person-centered, conduct Personal Outcome Measurement (POM) interviews. For the CMS Criteria that is not obtained

through the 90 day checklist, it is recommended that the criteria be added to the checklist, and referenced in the individual's person-centered plan.

Response: The State will incorporate specific components of the above suggestions into the transition plan by clarifying language and policy goals. The review and potential modification of documents and process to support the changes will be incorporated into the transition plans. Currently, both the Case Manager and the individual waiver participant (consumer)/family or guardian are to respond to questions on the 90 Day Checklist during the 90-Day Meetings of the Individualized Support Team (IST), but the Case Manager is responsible for its completion and processing. At this time, it is the responsibility of the Individual Support Team to ensure the accuracy of the 90-Day Checklist responses and there are no immediate plans to bring in outside entities.

Comment: One commenter suggested policy specifics be a part of a later comment period around rules and regulation changes.

Comment: 90 – Day Checklist

1. I see that this is used to review many of the desired outcomes. With new policies being implemented and because this is one of the main pieces of information being used to measure current and future outcomes; will there be more accountability for all Case Managers to complete this documentation with the review of the IST team state wide?

2. A Focus of training on this documentation may need to be implemented through AdvoCare for all individual Case managers, as historically, many newer CMs have either overlooked this or completed it without the input of the IST.

Response: The State will review the suggestions listed above in order to identify areas of inadequacy or weakness within the 90 day check list and develop necessary modifications to assure the State's compliance with HCBS requirements. Case Managers will continue to be trained and held accountable for following proper procedure in the completion of this task. While the specific suggestions will not be incorporated into the high level Transition Plan, the State will ensure stakeholders have an opportunity to review any policy/process changes listed above and, to the greatest extent possible, the State will incorporate the suggestions within the specific processes.

SUBJECT: Validation of Preliminary Setting Inventory

Comment: One commenter felt that using the Indiana Institute on Disability and Community (IIDC) to complete the next phase of assessment is a wise decision. IIDC's expertise and reputation will reinforce the process as fair and credible. Further, by testing with a sub-group of individuals with disabilities, the assessment will have a high level of validity.

Comment: One commenter felt it was unclear if all waiver recipients will be surveyed or only Individuals receiving RHS services. They suggested DDRS should consider scaling down the implementation of a statewide survey for 17,000+ Individuals on the waiver. A large percentage of the Individuals receiving waiver services live in their family home, and these settings are considered to be site appropriate. If the goal of this survey is to identify specific sites that may need further review, it may be advantageous for DDRS to focus only upon Individuals receiving residential services or supported living services.

Comment: Once the survey tool is completed, the state should consider changing the implementation process. Right now, this plan outlines a provider-led process, with the provider responsible for ensuring the survey is completed for each Individual. The state will have difficulty getting full compliance with this process. Instead, the state should consider having Case Management facilitate the questions to the Individual and their support team as part of the 90 day process.

Comment: One commenter recommends that the Provider and Member Surveys are inclusive of individuals Receiving HCBS services, as well as those on the wait list.

> **Response: Final details on how, to whom, and by whom the site surveys should be administered for optimal results is still in the final planning stages and will be incorporated in future updates of the transition plan. The State will review the suggestions listed above in order to finalize the specific components and processes for the survey tool. DDRS appreciates the support expressed by various commenters. While the specific suggestions listed above will not be incorporated into the preliminary transition plan, the State will incorporate the suggestions within the specific processes to the greatest extent possible.**

SUBJECT: Proposed Remediation Strategies

Comment: The Comprehensive Transition Plan states that a Comprehensive Provider Survey will be conducted and results analyzed. The plan does not specify if (or how) results will be made available to individual providers. It would be beneficial for providers to have timely access to survey results specific to their agency's compliance. This would allow providers to begin making systematic changes that facilitate compliance.

Comment: The Transition Plans call for assessment components to be completed by an individual or another person that "knows them best." It is understood that the State may likely look to providers to facilitate identifying an appropriate person to assist the individual through the assessment process. To that end, it is recommended that a single point of contact be established at each provider agency to coordinate with the support teams to determine who should be involved in individual surveys.

Comment: With regard to the survey tool being developed by the IIDC to target specific HCBS requirements, there is concern with vesting the administration of the survey through the residential provider. There is a concern that the provider could manipulate or influence resident responses. Due to the survey's importance, whereby its results will be used to determine sites for site specific assessments, the survey tool should be as free from bias and influence as possible. Commenter would also request that the key stakeholders be included in the survey design process. In that same vein, requests that the participant/resident survey be accessible and meaningful. For example, rather than asking generally whether the resident/participant has access to food, asking whether he or she can get a snack whenever they want.

Comment: The Participant Rights and Responsibilities Policy is not scheduled to be modified until 12/2017. Commenter would request that this be done earlier in the process – participants should be aware of their rights as early as possible so that they may better participate in the process going forward.

Comment: One commenter suggested a clearer process for sanctions and provider dis-enrollments. Specifically, timeframes for notice, action steps and procedural safe guards to ensure consumers and their teams are provided adequate notice.

Comment: One commenter suggested the remedial section of the plan is lacking. It appears to be primarily policy change or provider corrective action/sanctions. The state should realize that this is the most important part of the plan and should be afforded enough time for implementation. As noted previously, the state appears to be taking over half of the allowable time to identify the issues but the real work lies in correcting and taking action to make changes in Individuals' lives. Please allow enough time within this plan for the remedial work.

Comment: One commenter suggested a BDDS transition task force will need to be established for Individuals identified that will require major changes including relocation, adjustments to allocations, and mediation to resolve internal conflicts and compliance issues that cannot be handled by the Individual and their team. In addition, any system that is developed should allow for external support and consultation for situations that are too difficult for the Individual and their support team to handle without mediation or additional funding. It would be helpful for a process to be developed to request on-site consultations or team assistance.

Comment: These remedial strategies leave the Individual and the team out of this process entirely. For a true person-centered approach, most remedial issues, once identified, should be handled at the Individual and support team level.

Response: It is the State's intent to include the individual and team throughout the assessment and remediation process. Timelines allow for all settings to be assessed and remedial strategies to be addressed upon completion of identified issues. Final details on how, to whom, and by whom the site surveys will be administered and assessed, is still in the final planning stages and will be incorporated in future updates of the transition plan. The suggestion of a transition taskforce will be incorporated into the transition plan to allow for additional ongoing supports and consultation during the transition process. The State acknowledges that Remedial Strategies and processes may need to be altered based upon the pilot surveys as well as the actual survey findings, but assessments must be completed prior to determining how those strategies may need to change. While the process for sanctions and provider disenrollment's was not added to the high level Transition Plan, the State will incorporate the suggestions within specific policies and procedures.

The State will review the suggestions listed above in order to finalize the specific components and processes for the survey tool. DDRS fully intends the survey to be meaningful and free from bias. Additionally, policies and procedures will be updated timely and appropriately once the survey findings have been analyzed and compared to the HCBS requirements.

SUBJECT: System Recommendations

Comment: A few commenters provided specific suggestions regarding system recommendations. Specific suggestions are listed below:

- Ensure choice in living situations and staff
- Ensure meaningful employment opportunities for individuals
- Provide more options in services that are individualized
- Ensure control of personal resources
- Wider range of residential opportunities
- Address the shortage of qualified Direct Care Staff
- System constraints will need to be addressed
- Address the limited access to community
- Extra protections for individuals without Legal Guardians or advocates should be considered
- Ensure a more collaborative effort between Case Management and community disability organizations

Response: The State acknowledges the concern with the system issues listed above. Through the individual experience survey and subsequent review of the HCBS requirements, Indiana will gather data on the current status of the system and

identify areas of noncompliance. To the greatest extent possible, the specific comments listed above will be incorporated within the survey(s) to assess the current status of Indiana's HCBS settings.

Division of Mental Health and Addiction (DMHA)

HCBS Youth Programs

Psychiatric Residential Treatment Facility (PRTF) Transition Waiver – 1915c
Child Mental Health Wraparound (CMHW) – 1915i

SUMMARY:

Comment: A commenter requested that DMHA Youth Programs conduct site visits to validate the assertions these programs are in compliance with the new rule. Other feedback received was related to the population served, not settings.

Response: Site visits are conducted by DCS who certifies and licenses homes where children and youth will be placed as all participants reside in either a family home or foster home placement.

Additionally, 100% of participants will receive a survey that will request further validation of this assumption.

Division of Mental Health and Addiction (DMHA)

HCBS Adult Programs

Behavioral and Primary Healthcare Coordination (BPHC)
Adult Mental Health & Habilitation (AMHH)

SUMMARY:

The Division of Mental Health and Addiction (DMHA) solicited comments on the State Transition Plan as it applies to two adult 1915(i) programs; the Adult Mental Health Habilitation (AMHH) and Behavioral and Primary Healthcare Coordination (BPHC) programs. Comments were solicited and encouraged through an adult 1915(i) program provider training on October 15, 2014, as well as on adult 1915(i) provider conference calls on October 16th and November 20th, 2014. Providers were asked to reach out to members and other interested community partners to inform them of the state transition plan and comment period. E-mail notifications and a link to the state transition plan were made available to providers on October 31, 2014. On November 20th, 2014, an additional reminder email was sent to adult 1915(i) program providers encouraging response during the comment period.

The DMHA received all five comments from the Indiana Protection & Advocacy Services (IPAS). DMHA is including individual responses to these comments below. DMHA revised the Proposed Remediation Plan as a part of the transition plan to include Adult Day site visits to ensure compliance. **See page number 73**.

SUBJECT: Assessments of Settings and Compliance

Comment: "The Assessment of Settings included a review of the IAC, program policy, and provider manuals. It does not appear that service recipients were included in the assessment to better determine whether the services, in practice, are compliant. Given that the sites were found to be largely in compliance without site assessments or service recipient input is concerning."

Response: As stated in the Proposed Remediation Plan, DMHA will be using member surveys and member focus groups to assess setting compliance across the state. These are geared to get direct member feedback on compliance with the final rule of CMS.

Comment: "On page 67, the plan notes that Adult Day Services and Respite fully comply with the rules based on the agency's analysis. This analysis only included a review of policies and procedures. IPAS is particularly concerned about the provision of Day Services, as this has been an area, anecdotally, with many problems."

Response: The division will incorporate Adult Day site visits into the regular Quality Assurance Plan site visits. DMHA will add Adult Day site visits to the Proposed Remediation Plan for Adult Day to assure ongoing compliance.

SUBJECT: Proposed Remediation and Strategies

Comment: "It appears that site visits are only for residential providers and not for Adult Day Services. See page 73. Furthermore, the materials to assess Adult Day Services appear to be in development. IPAS would request that site visits be added to Adult Day Services and that key stakeholders be included in the process of developing measures that will be used to assess these providers."

Response: As stated above, DMHA will incorporate Adult Day site visits into the regular Quality Assurance Plan site visits. DMHA will add this to the Proposed Remediation Plan for Adult Day to assure ongoing compliance.

Comment: "There is a lack of service recipient input into the process. Furthermore, more detail is needed regarding the use of annual provider trainings and Quality Assurance visits to ensure consistent application of HCBS residential standards."

Response: Also as stated above and in the Proposed Remediation Plan, DMHA will be using member surveys and member focus groups to assess setting compliance across the state. These are intended to get direct member feedback on compliance with the final rule of CMS.

Comment: "With regard to Adult Day Services, the plan should address in more detail how the adult day services will be modified to assure that participants have the opportunity to interact routinely with people without disabilities, since these settings are designed exclusively or primarily for people with disabilities."

Response: The AMHH program is intended to help facilitate improved community integration for all individuals. The intent of the program and services is to support and assist individuals to participate in community activities and utilize

natural supports and community resources to move them beyond behavioral health settings. It is expected that Adult Day programming will include opportunities for community integration. **The Division will incorporate Adult Day site visits into the regular Quality Assurance Plan site visits. DMHA will add Adult Day site visits to the Proposed Remediation Plan for Adult Day to assure ongoing compliance.**