



New York State's Statewide Transition Plan for HCBS Settings

A five year plan to assure that all settings in which recipients of HCB services live and/or receive these services are fully compliant with 42 CFR 441.301(c)(4) and (5); 441.710(a)(1)(2)

Overview

On January 16, 2014, the Center for Medicare and Medicaid Services (CMS) published the final rule related to Home and Community Based Settings (HCBS) for Medicaid-funded long term services and supports provided in residential and non-residential settings under the following authorities of the Social Services Act: 1915(c), 1915(i) and 1915(k). This rule implements a number of changes to home and community based waivers, finalizes regulatory changes to the 1915(i) state plan home and community based services and imposes new requirements on what is considered an appropriate home/community based residential setting for all the authorities in its scope. The crux of this final rule is to provide person-centered requirements which identify the strengths, preferences and needs (clinical and support), as well as the desired outcomes of the individual. The inclusion of defined HCBS setting requirements is one part of this strategy.

The final rule took effect March 17, 2014. States are required to submit transition plans to CMS within one year of the effective date indicating how they intend to comply with the new requirements within a reasonable time period. If states amend or renew any waivers or state plan amendments in place prior to the effective date, that action serves as a trigger for the state to submit a transition plan for all its waivers under 1915(c), as well as any state plan amendments under 1915(i) or 1915(k), within 120 days of the initial amendment/renewal submission.

The following is New York State's statewide transition plan pursuant to this requirement.

Background

New York State operates 12 1915(c) waivers across the four major offices that oversee programs and services to individuals who are aged and/or physically, behaviorally, mentally, developmentally or intellectually disabled. These agencies/offices are the Department of Health (DOH), Office of Mental Health (OMH), Office for People with Developmental Disabilities (OPWDD) and Office of Children and Family Services (OCFS). In addition, the Office for Alcohol and Substance Abuse Services (OASAS) provides services to some individuals in these waivers and participated in the development of the statewide transition plan. We do not currently offer services through our state plan under a 1915(i) or 1915(k) authority, although we have applied to CMS for approval of a 1915(k) Community First Choice Option state plan amendment.

The following 1915(c) waivers are currently operating in New York State, the agency/office in parentheses operates the program under the oversight of the Department of Health, the state's single Medicaid Agency.

- Long Term Home Health Care Program Waiver (DOH)
- Nursing Home Transition and Diversion Waiver (DOH)
- Traumatic Brain Injury Waiver (DOH)

- Care at Home Waivers (I, II, III, IV, and VI) – (I and II, DOH; III, IV and VI, OPWDD)
- Bridges to Health (B2H) Waivers (B2H Serious Emotional Disturbances, B2H Developmental Disabilities and B2H Medically Fragile) (OCFS)
- Home and Community Based Services (HCBS) Waiver (OPWDD)
- SED (Serious Emotional Disturbances) Children’s Waiver (OMH)

In addition, the above agencies/offices offer significant home and community based LTSS through our Medicaid state plan and DOH provides HCB services under the NY Partnership Plan 1115 Demonstration Waiver. The rule does not apply to state plan services outside of 1915(i) and 1915(k) authorities. However, CMS has indicated that it expects NYS to address the application of the HCB Settings rule to all HCB services provided through its 1115 Demonstration in this Statewide Transition Plan.

Most individuals receiving services through these waivers are living in their own homes or those of family members, certain group homes or other adult care facilities where they enjoy the qualitative benefits of receiving services in the community as opposed to in an institution. However, there are individuals who live in congregate housing, adult care facilities and supportive housing where their autonomy, independence and community integration may be less apparent, including children and youth where their rights are delegated to their parents or guardians.

New York has affirmed its commitment to serving individuals with disabilities in the least restrictive environment under Governor Andrew Cuomo’s leadership. In 2012, the Governor introduced legislation to establish the Justice Center to ensure protection against abuse and neglect of individuals with special needs. The Justice Center became operational in 2013. Also in 2012, he convened the Olmstead Development and Implementation Cabinet, which met with over 160 stakeholder groups and reviewed over 100 position papers before releasing its report in October 2013. This report lays out recommendations for New York policymakers to continue efforts to ensure that individuals with disabilities are provided the services and supports they need that reflect their choice and support their goals to live an independent and fully integrated life in the community.

Consistent with these efforts, New York State convened an interagency workgroup in 2014 to address how best to comply with the requirements of the new settings rule. The group met regularly to ensure that a cohesive statewide transition plan was developed to address the unique needs of individuals across a wide variety of community-based settings. The interagency workgroup includes representatives from the Executive Chamber, DOH, OMH, OPWDD, OCFS, and OASAS. Five meetings were held between January and December to develop the transition plan that follows. This group will continue to meet to ensure full implementation of the plan and to work with stakeholders to carry out the assessment, remediation and ongoing monitoring activities in the plan.

Home and Community Based Setting Requirements

42 CFR §441.301(c)(4) and (5) requires that all settings in which individuals receiving Medicaid-funded home and community based services live and/or receive services must have the following characteristics and qualities:

- (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
- (ii) The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.
- (iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- (iv) Optimizes but does not regiment individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- (v) Facilitates individual choice regarding services and supports, and who provides them.

The rule imposes further requirements on settings that are provider owned or controlled. The following qualities and/or conditions must be assured in these settings:

- (A) The unit or dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the State, county, city or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.
- (B) Each individual has privacy in their sleeping or living unit:
 - (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors as needed.
 - (2) Individuals sharing units have a choice of roommates in that setting.

(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.

(D) Individuals are able to have visitors of their choosing at any time.

(E) The setting is physically accessible to the individual.

Finally, the rule asserts that hospitals, nursing homes, institutional care facilities (ICF) for the developmentally disabled and institutes for mental disease are not community-based settings. Further, settings on the grounds of public or private institutions and those in close proximity to public institutions are presumed to be institutional rather than community-based. New York State understands that it has the burden of providing evidence to the Secretary of Health and Human Services (HHS) if it believes that such a setting should be considered community-based for the purpose of allowing the provision of Medicaid-funded HCBS LTSS to individuals who reside there.

Summary of Activities to Develop Statewide Transition Plan (STP)

Assessment of State/Systemic Framework and Existing Settings

The NYS DOH, OMH, OPWDD, OCFS and OASAS staff assigned to the interagency workgroup reviewed existing state rules, regulations, provider qualifications, and practices to ensure that there were no systemic barriers to the implementation of the new HCB settings requirements. This review found the state framework to be consistent with the federal rule. (See letters attesting to this assertion, Appendix A).

Residential Settings

Staff reviewed the residential settings in which recipients of HCB services provided through the 1915(c) and 1115 waivers live and in the majority of cases found that participants live in their own home or family homes, which the state determines to be compliant with the rule. DOH and OMH determined that virtually all of their waiver participants live in fully compliant settings. The exceptions in the DOH TBI waiver are individuals who chose to live in a setting that may be partially compliant from among other options, which the regulation allows. There are no exceptions in the OMH SED waiver, which serves individuals between the ages of 5 and 17, all of whom reside in their family home.

OCFS notes that virtually all of its participants in the Bridges 2 Health Waivers live in family homes, however at any given time a number of participants may live in a congregate care foster home while awaiting placement in a family home. OCFS staff attest that these congregate settings have all the features one would find in a typical private home including kitchens with cooking facilities, community dining areas, living space for leisure time activities and bedrooms. Since the homes are located within the community there is ready access to activities and facilities available to the general

population of the locale. The children are able to access and attend school within their communities, and utilize services fairly freely, and have the opportunity to build meaningful relationships with community members and community organizations.

While the majority of participants in all waivers live in fully compliant settings, the largest number of individuals in partially compliant settings are participants in the 1915(c) HCBS Waiver operated by the OPWDD. OPWDD has developed and vetted a specific HCBS settings transition plan to submit with its HCBS Waiver renewal, anticipated to be resubmitted to CMS in 2015. Its components that are consistent with the statewide efforts are reflected in the Statewide Transition Plan (Appendix C); OPWDD's Transition Plan has further detail on planned activities unique to its system.

Non-residential settings

New York State's waiver participants receive HCB services both in their own homes and in the community. Some settings in which services are provided may not be fully compliant with the new federal rule. As part of the Statewide Transition Plan, New York's agencies and offices operating 1915(c) and/or 1115 waivers will assess non-residential settings through provider and participant surveys, validating self-assessment with statistically significant site visits by state or local staff, plan staff or other entities (i.e. contractors, consumer advocacy organizations).

Remedial Strategies

While the vast majority of waiver participants reside in compliant settings, the interagency workgroup recommended that remedial strategies include (1) ensuring that providers and participants are aware of the requirements and (2) that monitoring procedures and practices ensure that they are fully implemented in residential and non-residential settings in which recipients of HCB services funded by Medicaid live and/or receive services. In addition, the state has a significant role to play in assuring that the intent of the rule is carried out consistently across the state by the myriad of providers, local agencies, managed care and managed long term care plans and other entities providing services to HCB service recipients.

Toward that end, the interagency workgroup will continue to meet and will work with stakeholders to develop guidance documents and other means to assure full compliance and a smooth implementation process.

This will also be the venue for the development of survey and evaluation tools to assess the appropriateness of non-residential settings and initial and ongoing compliance with the federal rule. Stakeholders will be involved in this process, as well, to assure that developed tools allow providers to effectively self-assess their settings to assure the presence of the qualities and characteristics of allowable HCB Settings.

The state will validate provider self-assessments using developed evaluation tools by deploying state or local staff, managed care organizations, long term care ombudsmen,

contractors, HCB service recipients and/or consumer advocacy organizations to a statistically significant number of sites for compliance reviews.

Monitoring for Ongoing Compliance

New York State currently employs a variety of quality assurance and monitoring practices to meet the terms and conditions of its current 1915(c) and 1115 waivers. The state assures that these practices will be amended to include ensuring that the settings where recipients of HCB services and supports live and/or receive services comply with the requirements of the federal rule. This will be accomplished through guidance developed by the interagency workgroup with stakeholder input and implemented both through site visits and the person-centered service planning process. The Assessment of Residential Settings Chart (Appendix B) includes the timing of planned site visits and the Statewide Transition Plan Timeline (Appendix C) includes timeframes for the development of additional monitoring activities for both residential and non-residential settings.

Public Input

Initial Plan

The State developed its initial draft Statewide Transition Plan between March and June of 2014. This plan was published on a page devoted to the Home and Community Based Services Settings Rule on the State website on June 26, 2014 at http://www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm. Subsequently, two Webinars were held in July to inform interested parties across the state of the requirements of the federal rule and the State's efforts to date to develop a transition plan. The identical presentations and a recorded version of the first session were posted on the website. This page also allows stakeholders and the general public electronic access the final rule published in the Federal Register on January 16, 2014.

In addition, the State published a notice about the draft Statewide Transition Plan in the August 27, 2014 State Register at <http://docs.dos.ny.gov/info/register/2014/august27/pdf/misc.pdf>.

Finally, staff at each of the agencies/offices operating waivers under 1915(c) and 1115 of the Social Security Act included information about the federal rule, its impact and the state's proposed transition plan in numerous presentations to stakeholder groups, including recipients of HCB services and supports and their representatives, across the state.

Summary and Disposition of Public Comments

Five organizations submitted written comments to the State regarding the draft statewide transition plan. In addition, many organizations, providers and recipients provided feedback to OPWDD based on its public forums and other stakeholder

information sessions regarding its HCBS Waiver Transition plan, which is incorporated in relevant part in the Revised Statewide Transition Plan.

The comments specific to the draft statewide transition plan are summarized here. Generally, organizations felt that:

- the proposed transition plan is too vague,
- it lacks stakeholder involvement in its development and implementation, and
- it pushes compliance too far into the future.

The State agrees that the initial plan did not include the specific assessment, remediation and monitoring milestones, timeframes and deliverables that CMS guidance released in late Spring noted was expected to be included in plans submitted for approval. Accordingly, the revised statewide transition plan includes these components.

To address concerns about the lack of stakeholder involvement in the initial plan, the revised plan calls for a significant role for stakeholders in developing survey and evaluation tools and participating in the implementation of the specified activities to achieve full compliance in all settings across the state.

Finally, the State has amended the state plan to better define the actions we will take to achieve compliance while providing ample time for providers to implement necessary changes.

Public Input on Revised Statewide Transition Plan

DOH posted the Revised Statewide Transition Plan (STP) on its website on February 9, 2015 and published it in the February 18, 2015 State Register. In addition, DOH hosted a Webinar on January 22, 2015 informing stakeholders from across the disability spectrum and around the state of the new HCBS final rule settings requirements and New York's effort to comply including a preview of the revised STP. Materials related to this webinar were also posted on the website. The revised Statewide Transition Plan incorporated feedback from comments received from the initial draft STP as well as CMS guidance released in December subsequent to our development of the draft STP. Comments were due by March 11, 2015.

Summary and Disposition of Comments Received

We received comments from 4 organizations and one individual. These comments do not require the State to amend its revised STP; however, they provide valuable stakeholder input to help us develop appropriate assessment and evaluation tools, remedial strategies and quality assurance, monitoring and oversight policies and procedures. Below is a summary of each comment.

LeadingAge NY

Leading Age supports the goals of the regulation but believes a one-size-fits-all approach to implementing new settings requirements may restrict individual options and fails to recognize unique characteristics of the various populations served in the settings their members operate. They would like a waiver system to address specific exceptions such as elderly adult home residents, who would not need access to the community to seek competitive employment. They also would like ALPs to be categorized separately as a hybrid between institutional and community-based care. Their comments indicate that they did not understand that the 1115 waiver that encompasses both managed care and managed long term care is already required to be included in the scope of the state's transition plan. Finally, their comments provide evidence the state should use to assert that certain settings that may be presumed institutional, in fact, comply with the final rule.

Response: The state will incorporate these comments, particularly the portions pointing to evidence of community-based qualities and characteristics of various settings that may be presumed institutional, in our assessment, remediation and oversight activities outlined in the Revised Statewide Transition Plan. LeadingAge NY is encouraged to participate in stakeholder activities throughout the implementation of the plan.

Adult Day Health Care Council

The Council argues persuasively that Adult Day Health Care settings offer community-based care consistent with the final rule, despite being located in many instances on the grounds of an institution. They note that individuals who attend these programs are fully integrated in the community and their attendance constitutes a visit for only a portion of the day (five hours). The Council provides significant evidence with regulatory citations to support the contention that Adult Day Health Care settings comply with the new rule.

Response: The state will incorporate these comments into its assessment, remediation and oversight activities outlined in the Revised Statewide Transition Plan, particularly when considering settings presumed to be institutional under the CMS definition. We will use these comments as part of the evidence submitted to the Secretary for heightened scrutiny to allow ADHC programs to remain among the HCBS offerings in NYS.

New York State Center for Assisted Living

NYSCAL seeks to be included among the stakeholders that the state will use to develop assessment and evaluation tools to determine compliance with the final rule. The organization also urges that the state develop alternatives to closure of facilities that fail to meet the settings requirements as outlined in the transition plan.

Response: The State welcomes NYSCAL as a stakeholder as we implement the assessment, remediation and oversight activities outlined in the Revised Statewide Transition Plan. As noted in the plan, only those facilities in which changes cannot

bring the setting into compliance will be subject to closure and transfer of HCBS service recipients to compliant settings.

Southern Tier Independent Center, Inc.

STIC, Inc.'s comments remind the State that the final rule also imposes significant new person-centered planning and conflict-free case management requirements on the provision of all home and community based services. The organization does not feel that the state sufficiently addressed these new requirements in its Revised Statewide Transition Plan. STIC, Inc also noted that New York's plan is inadequate due to a dearth of affordable, accessible housing and a housing policy that is biased toward "supportive housing," a model the organization feels cannot be compliant with the final rule. The commenter also urges New York to adopt Governor Cuomo's definition of "integrated setting" in his Executive Order establishing the NYS Employment First Commission in its regulations governing integrated employment settings.

Response: STIC, Inc. is encouraged to participate as a stakeholder to help the State implement its assessment, remediation and oversight activities outlined in the Revised Statewide Transition Plan.

Individual Comment

An individual guardian of a recipient of extensive long term services and supports in disability specific housing noted that there are cases where such a setting is appropriate and she is afraid that the final rule may push providers to narrow or eliminate these options to comply.

Response: The State welcomes this individual and other caregivers to participate as stakeholders to help implement the assessment, remediation and oversight activities outlined in the Revised Statewide Transition Plan.

Revised Plan

See Appendix C.

APPENDIX A

**Letters from Agency/Office Staff Attesting that State Framework
Is Consistent with HCBS Final Rule**



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Acting Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 30, 2015

Mark L. Kissinger, Director
Division of Long Term Care
Office of Health Insurance Programs
New York State Department of Health
One Commerce Plaza
Suite 1620
Albany, NY 12260

Dear Mr. Kissinger:

In my capacity as the director of the Bureau of Home and Community Based Waivers (BHCBW) within the Division of Long Term Care, I am writing to attest that the OHIP Division of Long Term Care 1915c Waivers programs are compliant with the final Federal rule published by the Center for Medicare and Medicaid Services (CMS) related to Home and Community Based Settings (HCBS) for Medicaid-funded long term services and supports provided in residential and non-residential settings under the following authorities of the Social Services Act: 1915(c), 1915(i) and 1915(k).

States have been directed to perform extensive compliance review. Specific to the Nursing Home Transition and Diversion (NHTD) Waiver, the Traumatic Brain Injury (TBI) Waiver, the Care at Home (CAH) I/II waiver and the Long Term Home Health Care (LTHHCP) Waiver, waiver program staff and I reviewed the relevant statutes; regulations; manuals; program guidance documents; and practices; and we have found that there is no guidance that is an impediment to compliance to the new rule in regards to community residence requirements. In fact, there is significant language found throughout the waivers' applications, manuals and the like, that explicitly mandate that only community dwelling participants can be served by the waivers.

BHCBW staff will be working in concert with the HCBS Workgroup members to develop a site visit protocol, and a survey that will be issued to participants in order to ascertain the attestation by waiver providers, local departments of social services districts, and Regional Resource Development Center staff, that waiver participants in their care are residing in compliance with existing waiver program requirements.

Sincerely,

Lydia J. Kosinski
Director, Bureau of Home and Community
Based Waivers
Division of Long Term Care



Office for People With Developmental Disabilities

ANDREW M. CUOMO
Governor

KERRY A. DELANEY
Acting Commissioner

January 29, 2014

Mr. Mark L. Kissinger
Director, Division of Long Term Care
New York State Department of Health
Office of Health Insurance Programs
One Commerce Plaza, Room 1624
Albany, NY 12210

Dear Mr. Kissinger,

In response to your request, The Office for People With Developmental Disabilities (OPWDD) confirms that we have reviewed our state regulations, rules, practices, licensing and certification standards applicable to the OPWDD 1915(c) waiver and we believe that they currently do not serve as a barrier to providing appropriate settings for recipients of home and community based services to live and receive services in the community.

As part of OPWDD's specific HCBS Settings Transition Plan, OPWDD plans to make necessary changes to its regulatory framework, rules, practices, and certification system to ensure full alignment with the federal HCBS Settings regulations and we will implement ongoing monitoring of compliance with these requirements beginning October 1, 2018. Specific milestones for OPWDD remediation activities will be proposed in the OPWDD specific Transition Plan anticipated to be submitted to CMS on April 1, 2015 along with the resubmittal of OPWDD's waiver application.

We look forward to continuing to work with you on our system transition relative to HCBS Settings transition in the interagency work group.

Sincerely,

Kerry A. Delaney
Acting Commissioner
New York State
Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229-0001

Executive Office

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**Office of Children
and Family Services**

ANDREW M. CUOMO
Governor

ROBERTO VELEZ
Acting Commissioner

January 30, 2015

Mark L. Kissinger
Director, Division of Long Term Care
Office of Health Insurance Programs
One Commerce Plaza, Room 1624
Albany NY 12210

Dear Mr. Kissinger,

As requested, New York State Office of Children and Family Services (OCFS) staff has reviewed the Bridges to Health (B2H) Program Manual for its three 1915c Home and Community Based Settings (HCBS) B2H Waivers.

OCFS' initial review of the B2H Program Manual does not reveal any state regulations, rules, practices, licensing and certification standards applicable to the B2H Waiver Program that would serve as a barrier to providing appropriate settings for B2H participants to live and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

Any limitations or restrictions applicable to a B2H participant are a function of the age of the individual B2H child, and not the child's status as a B2H participant receiving Medicaid HCBS, and will be specified in the individual participant's person-centered service plan .

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mimi Weber".

Mimi Weber, Bureau Director
Bridges to Health Waiver Program

APPENDIX B

NYS Assessment of Compliance with HCBS Final Rule – Residential Settings

	Total # Enrolled	Full	Partial	Site Visit/Monitoring Schedule
<u>DOH Waivers (1915-c)</u>				
LTHHCP	1,694	1,684	0	LTHHCP providers must complete home assessments, including compliance with rule
TBI	3,029	3,020	9	Housing venue assessment on initial placement
NHTD	2,204	2,204	0	same as above
CAH I/II	1,250	1,250	0	Housing assessed every 180 days with regular assessment
Adult homes (other)				Assessment of scope underway
<u>OCFS</u>				
B2H – MF	113	113	0	OCFS monitors congregate foster settings onsite on a quarterly basis. In addition, the child’s B2H Case Manager/Health Care Integrator monitors the child in his/her home on a monthly basis.
B2H – SED	2,516	2,468	48	OCFS monitors congregate foster settings onsite on a quarterly basis. In addition, the child’s B2H Case Manager/Health Care Integrator monitors the child in his/her home on a monthly basis.
B2H – DD	475	463	12	OCFS monitors congregate foster settings onsite on a quarterly basis. In addition, the child’s B2H Case Manager/Health Care Integrator monitors the child in his/her home on a monthly basis.
<u>OMH</u>				
SED 5-17	1,803	1,803		Annual site visits

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	Total # Enrolled	Full	Partial	Site Visit/Monitoring Schedule
<u>OPWDD</u>				
				OPWDD began its specific HCBS Settings Residential Assessment for certified Individualized Residential Alternatives (IRAs) and Community Residences (CRs) on 11/1/14 (it will run through 9/30/15--the annual survey cycle). OPWDD will be working on amending its HCBS Waiver regulatory framework to align with federal requirements. Once this process has concluded, OPWDD will integrate the HCBS settings requirements into its certification standards and survey process.
HCBS Waiver	71,519	47,057	24,462	
CAH III	108	108	0	N/A all CAH participants reside at home
CAH IV	197	197	0	N/A all CAH participants reside at home
CAH VI	168	168	0	N/A all CAH participants reside at home

Appendix C: Summary of Transition Activities

Transition Plan Activity	Time line	Deliverables
<i>Assessment Activities</i>		
Is State/Systemic Framework Compliant?	3/2014-6/2014 (completed)	Assurance from State Agency/offices operating waivers that state framework is not a barrier to compliant settings under the requirements of the federal rule
OPWDD anticipates state revision to its regulatory framework, licensing and certification requirements; other agencies/offices may also find changes necessary after full assessment is completed	Ongoing	Revised regulations, policies, and requirements (if needed)
Are existing residential settings compliant?		
1915(c) Waiver Programs:	6/2014 – 9/2014	Appendix B of STP
1115 Demonstration Waiver	11/2014 – present	Will add to appendix B when census is concluded
Settings that are outside of individual's own or family home	7/2015 – 12/2015	Survey of providers and service recipients will determine compliance, chart will be developed
Develop survey tool to evaluate compliance of residential settings outside individual's own or family home	3/2015-9/2015	Survey tool; evidence of stakeholder input

Develop survey tool to evaluate compliance of non-residential settings	3/2015 – 6/2015	Survey tool; evidence of stakeholder input
Are existing non-residential settings compliant?	10/2015 – 3/2016	Survey of providers and service recipients will determine compliance; chart will be developed
Are there any residential or non-residential settings that may be presumed institutional and therefore trigger CMS's heightened scrutiny review?		Interagency group to address in subsequent meetings
Develop guidance and include with both residential and non-residential survey/evaluation tools to identify settings that may trigger the heightened scrutiny process	3/2015 – 9/2017	Guidance document(s)
Identify pool of settings that may be presumed institutional/subject to heightened scrutiny	7/2015 – 9/2017	List of settings
<i>Communication/Outreach Activities</i>		
Develop state-level materials that ensure that providers and waiver participants are aware of the federal rule requirements	Ongoing	State level guidance will be developed and distributed by June 2015

Continue to maintain and update informational webpages to assist stakeholders in understanding and implementing the new setting requirements	Ongoing	http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/home http://www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm
Develop proposed STP; post for public comment	3/2014 - 6/26/14; 11/2014 – 2/2015	Proposals developed and publicized through DOH/MRT Website: http://www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm ; Also posted in State Register (8/27/2014 at http://docs.dos.ny.gov/info/register/2014/august27/toc.html and February 18, 2015 at http://docs.dos.ny.gov/info/register/2015/feb18/toc.html
<i>Remediation Activities</i>		
Conclude any necessary regulatory changes to ensure compliance and commence ongoing monitoring and enforcement	Ongoing through 10/2018	Revised state rules, regulations, practices, guidance, licensing/certification and/or provider requirements (if any)
Develop specific remediation plans to address noncompliant areas in residential settings outside of individual's own or family home	1/2016 – 4/2016	Plans with internal timelines for compliance based on activities required to ensure the presence of all qualities and characteristics outlined in final rule; evidence of informing setting operators and recipients of HCB services

Develop specific remediation plans to address noncompliant areas in non-residential settings	4/2016 – 7/2016	Plans with internal timelines for compliance based on activities required to ensure the presence of all qualities and characteristics outlined in final rule; evidence of informing setting operators and recipients of HCB services
Gather evidence, including public input and any on-site evaluations, for submission to CMS for settings that require approval through CMS's heightened scrutiny process	By 1/2018	Evidence submitted to CMS
Implement transition or closure plans for presumed institutional settings that are not approved through CMS heightened scrutiny process	By 3/2019	Completed transition plan that amends deficiencies in meeting settings requirements; plans that arrange for transfer of individuals who reside or receive services in non-compliant settings that cannot be changed to meet the requirements; assurance that services will continue during transfer process and that service recipients are offered placement in compliant settings
Develop evaluation tool to be used to validate both survey results and implementation of specific plans; stakeholders will help assure efficacy of tool	7/2016 – 9/2016	Evaluation tool(s); evidence of stakeholder involvement

Implement specific remediation activities	5/2016 – 2/2019	Compliance reports; Corrective Action Plans (if any)
<i>Monitoring/Oversight Activities</i>		
Develop site visit schedule based on existing initial and ongoing site visits in waiver terms and conditions or practices	3/2015 – 6/2015	Schedule of planned site visits for residential and non-residential settings
Determine statistically significant sample for each waiver and type of setting	6/2015 – 10/2018	Schedule of site visits to validate self-assessment/survey results and implementation of specific remediation plans
Survey residential sites to self-assess compliance with federal rule	7/2015 – 9/2015	Survey results
Survey non-residential settings to self-assess compliance with federal rule	10/2015 – 3/2016	Survey results

Incorporate participant feedback in assessment of settings; surveys and person-centered planning process to validate provider survey results; include external survey results like those from the National Core Indicator Survey	Ongoing throughout implementation of STP	Survey results; amended assessment and planning tools
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