DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850

Home and Community-based Setting Requirements
June 26, 2015

Heightened Scrutiny

Q1. When should a state consider submitting information to CMS to enable the agency to conduct heightened scrutiny of a setting?

A1. States may submit information for any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building located on the grounds of, or immediately adjacent to, a public institution, which the state believes overcomes the institutional presumption and meets the requirements of a home and community based setting.

Importantly, any setting regardless of location that has the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community of individuals not receiving HCBS is also presumed to be institutional, and therefore requires information from the state to overcome that presumption and describe how the HCBS settings requirements are met.

States have an obligation to identify settings that are presumed institutional. 42 CFR 441.301(c)(5)(v) in the final HCBS regulation and at 441.530(a)(2)(v) in the final regulation for 1915(k) describes the process of "heightened scrutiny" that states can use to rebut or overcome this presumption. In particular, the regulations indicate that a settings described above "will be presumed to be a setting that has the qualities of an institution unless the Secretary determines through heightened scrutiny, based on information presented by the state or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings."

Any setting presumed to have institutional qualities will not be approved as a home and community-based setting through heightened scrutiny unless the Secretary determines that the state has submitted sufficient information to explain and document that the setting does not have qualities of an institution and does have the qualities of a home and community-based setting.

Q2. What criteria does CMS use to review state requests for heightened scrutiny?

A2. CMS reviews the information presented by the state as part of its request for "heightened scrutiny," in order to determine that the setting has the qualities of a home and community-based setting and does not have institutional qualities.

When a state makes a request to CMS to use the heightened scrutiny process for a particular setting or settings, CMS reviews all information presented by the state and other parties. CMS may solicit the input of federal partners. CMS, upon consultation with these federal partners, if appropriate, will review the information to determine whether each and every one of the qualities of a home and community based setting outlined in 42 CFR 441.301(c)(4)/ 441.530(a) are met, whether the state can demonstrate that persons receiving services are not isolated from the greater community of individuals not receiving Medicaid HOME AND COMMUNITY-BASED SERVICES, and whether CMS concludes that the information indicates that there is strong evidence the setting does not meet the criteria for a setting that has the qualities of an institution.

When a state submits documentation for a heightened scrutiny review, CMS will review the information or documentation to ensure that all participants in that setting are afforded the degree of community integration required by the regulation and desired by the individual. Providing documentation that a percentage or "some" participants have community access will not be considered sufficient to show that the setting meets the regulations.

Q3. What information should states submit in a heightened scrutiny process?

A3. CMS expects the state to submit several types of information and documentation to support its position that a particular setting has the qualities of home and community-based services and does not have the qualities of an institution. Evidence of how a setting overcomes its presumed institutional qualities should focus on the qualities of the setting and how it is integrated in and supports full access of individuals receiving home and community-based services into the greater community, not on the aspects and/or severity of the disabilities of the individuals served in the setting. For heightened scrutiny requested under 1915(c) or 1915(i), such information should also include the information the state received during the public input process. CMS will also consider information provided by other parties. For 1915(k) Community First Choice (CFC) programs, information should be submitted as part of the state's request for heightened scrutiny for any such settings included in the CFC State Plan Amendment (SPA).

The exploratory questions available in the Toolkit can also be helpful in determining the type of information that should be included in the documentation. Some additional examples might include:

- Licensure requirements or other state regulations for the setting that clearly distinguish it from institutional licensure or regulations, to demonstrate how the setting is integrated in and supports full access to the greater community.
- Residential housing or zoning requirements that demonstrate how the setting is

integrated in and supports full access to the greater community.

- Description of the proximity to and scope of interactions with community settings used by individuals not receiving Medicaid funded home and community-based services.
- Provider qualifications for staff employed in the setting that indicate training or certification in home and community-based services, and that demonstrate the staff is trained specifically for home and community-based support in a manner consistent with the HCB settings regulations.
- Service definitions that explicitly support the setting requirements. For example, definitions of employment supports that facilitate community-based integrated employment or, for facility-based programs, maximize autonomy and competitive employment opportunities.
- Documentation that the setting complies with the requirements for provider-owned or controlled settings at §441.301(c)(4)(vi)A through D, and if any modifications to these requirements have been made, such modifications are documented in the person-centered plan(s) consistent with the requirements at §441.301(c)(4)(vi)(F)
    - Note that for 1915(i), the relevant requirements are found at §441.710((a)(1)(vi)(A)through (D), and at §441.710(a)(1)(vi)(F)
    - Note that for 1915(k) the relevant requirements are found at **§**441.530(a)(1)(vi)(A) through (D), and at **§**441.530(a)(1)(vi)(F)
- Procedures in place by the setting that indicate support for activities in the greater community according to the individual's preferences and interests, staff training materials that speak of the need to support individuals' chosen activities, and a discussion of how schedules are varied according to the typical flow of the local community (appropriate for weather, holidays, sports seasons, faith-based observation, cultural celebrations, employment, etc.).
- Documentation that the individuals selected the setting from among setting options, including non-disability-specific settings.
- Description of the proximity to avenues of available public transportation or an explanation of how transportation is provided where public transportation is limited.
- Pictures of the site and other demonstrable evidence (taking in consideration the individual's right to privacy).

The information submitted may also include a report from an on-site visit to the setting conducted by the state (which as noted in previous Toolkit documents will facilitate the review), public input on the setting in question, consumer experience surveys that can be linked to the site for which evidence is being submitted, and any other

documentation made available. Supporting information could include participant interviews outside the presence of the provider conducted by an independent entity or state staff with demonstrated expertise and/or training working with the relevant population. If warranted, CMS may conduct an onsite review as well. Please note that, in accordance with provisions of the Health Information Portability and Accountability Act, no personally identifiable or other protected information should be submitted to CMS.

Q4. How can a state demonstrate that settings in a publicly or privately-owned facility that provides inpatient treatment meet the home and community-based services (HCBS) characteristics?

A4. The state must submit strong evidence that the setting presumed institutional has the characteristics of a HCBS setting and not an institutional setting. In addition to the guidance previously provided in the toolkit, at a minimum, states should submit information clarifying that there is a meaningful distinction between the facility and the community-based setting such that the latter is integrated in and supports full access of individuals receiving HCBS. For example, the state can submit, and CMS will consider, documentation showing that the HCBS setting is not operationally interrelated with the facility setting, such as:

- Interconnectedness between the facility and the setting in question, including administrative or financial interconnectedness, does not exist or is minimal.
- To the extent any facility staff are assigned occasionally or on a limited basis to support or back up the HCBS staff, the facility staff are cross-trained to meet the same qualifications as the HCBS staff;
- Participants in the setting in question do not have to rely primarily on transportation or other services provided by the facility setting, to the exclusion of other options;
- The proposed HCBS setting and facility have separate entrances and signage;
- The setting is integrated in the community to the extent that a person or persons without disabilities in the same community would consider it a part of their community and would not associate the setting with the provision of services to persons with disabilities:
- The individual participates regularly in typical community life activities outside of the setting to the extent the individual desires. Such activities do not include only those organized by the provider agency specifically for a group of individuals with disabilities and/or involving only paid staff; community activities should foster relationships with community members unaffiliated with the setting;

- Services to the individual, and activities in which the individual participates, are engaged with the broader community.

Q5. How can a state demonstrate that a building located on the grounds of or immediately adjacent to a public institution meets the home and community-based services (HCBS) characteristics?

A5. The state must submit strong evidence that the setting presumed institutional has the characteristics of a HCBS setting and not an institutional setting. In addition to the guidance previously provided in the toolkit, the state should, at a minimum, submit information documenting that there is a meaningful distinction between the institution and the community-based setting such that the latter is integrated in and supports full access of individuals receiving HCBS services. For example, the state can submit, and CMS will consider, documentation showing that the HCBS setting is not operationally interrelated with the institutional setting, such as:

- Interconnectedness between the institution and the setting, including administrative or financial interconnectedness, in question does not exist or is minimal;
- To the extent any institutional staff are assigned occasionally or on a limited basis to support or back up the HCBS staff, the institutional staff are cross-trained to meet the same qualifications as the HCBS staff; and
- Participants in the setting in question do not have to rely primarily on transportation or services provided by the institutional setting, to the exclusion of other options.
- The setting is integrated in the community to the extent that a person or persons without disabilities in the same community would consider it a part of their community and would not associate the setting with the provision of services to persons with disabilities.
- The individual participates regularly in typical community life activities outside of the setting to the extent the individual desires. Such activities do not include only those organized by the provider agency specifically for a group of individuals with disabilities and/or involving only paid staff; community activities should foster relationships with community members unaffiliated with the setting.
- Services to the individual, and activities in which the individual participates, are engaged with the broader community.

Q6. How can a state demonstrate that a setting does not have the effect of isolating individuals receiving home and community-based services (HCBS) from the broader community of individuals not receiving HCBS?

A6. The state has several options for the type of evidence it can submit to overcome the presumption that a setting is isolating. The evidence should support the following qualities:

- The setting is integrated in the community to the extent that a person or persons without disabilities in the same community would consider it a part of their community and would not associate the setting with the provision of services to persons with disabilities.
- The individual participates regularly in typical community life activities outside of the setting to the extent the individual desires. Such activities do not include only those organized by the provider agency specifically for a group of individuals with disabilities and/or involving only paid staff; community activities should foster relationships with community members unaffiliated with the setting.
- Services to the individual, and activities in which the individual participates, are engaged with the broader community.

For additional information on examples of settings that isolate individuals receiving HCBS, see the following link: http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/settings-that-isolate.pdf

Q7. What tools are available for states to collect documentation and information to be submitted to permit CMS to conduct heightened scrutiny?

A7. States may consider using the Exploratory Questions for Residential Settings and/or Non-Residential Settings as a framework against which to examine settings. The questions are designed to elicit information through review of documents and/or site visits. States are free to develop their own tools for collecting and evaluating the information received. In addition, states are expected to solicit public input on settings the state has flagged for heightened scrutiny, as part of a Statewide Transition Plan, a waiver-specific transition plan, or a waiver or state plan amendment filing submitted to CMS. This public reaction will facilitate the state's understanding of how the community at large views the settings in question.

Q8. What does CMS expect regarding public notice associated with settings for which the state is requesting heightened scrutiny?

A8. At a minimum, the notice about any submission for heightened scrutiny should:

- Be included in the Statewide Transition Plan, either initially or as an update to the plan. If the setting is not associated with a transition plan, it should comprehensively be addressed in the waiver or state plan amendment filing submitted to CMS;
- Be widely disseminated with the intent of reaching home and community-based services participants, families and the community;
- List the affected settings by name and location and identify the number of individuals served in each setting;
- Include any and all justifications from the state as to why the setting is home and community-based services and not institutional. This would include any reviewer reports, interview summaries, etc.;
- Provide sufficient detail such that the public has an opportunity to support or rebut the state's information;
- Be subject to a public comment period. CMS expects that states will provide responses to those public comments to CMS when they submit the proposed transition plan. These responses should include explanations as to why the state is or is not changing its decision.

Q9. What should states consider when performing a site visit?

A9. CMS does not have a specific protocol for a site visit, which is highly recommended in order for CMS to evaluate the evidence. A site visit should include a significant amount of time that is observational in nature. The purpose of this type of site visit is to observe the individual's life experience and the presence or absence of the qualities of home and community-based settings. Record reviews and interviews are supplemental, but we believe are important to corroborate adherence to requirements, and should align with observations. In order to provide strong evidence, states should consider some of the following activities:

- Gather information from stakeholders with relevant information about the setting, such as the state Protection and Advocacy Organization, or other organizations or individuals that raised concerns in the public comment process;
- Conduct visits with individual(s) who have expertise with the community at large (to facilitate an understanding of local routines and interactions), and have training and/or experience in interviewing relevant populations;

- Review staff logs or other daily records of the setting, including any instances of seclusion and/or restraint; facility policies and procedures on resident/participant rights, person-centered service plans and records of how those plans are met; documentation regarding participants' selection of the setting from among setting options, including non-disability-specific settings.
- Evaluate participants' access to the broader community including the availability of transportation and geographic proximity to other community resources, including shopping, entertainment, worship, etc.;
- Look for evidence that settings have institutional characteristics, such as cameras; individual's schedules or other personal information posted; lack of uniqueness in room décor; indicators of seclusion or restraint such as quiet rooms with locks, restraint chairs, or posters of restraint techniques; regimented meal times and other daily activities; and barriers that inhibit community member involvement, such as fences or gates;
- Conduct interviews that generally:
    - Include as many participants as possible selected by the interviewers without influence by the provider or staff;
    - Include staff, specifically including direct support staff because they implement the program policies and procedures on a day-to-day basis, outside of the presence of the supervisor or administrator;
    - Have specific questions/goals based on the exploratory questions; and
    - Avoid leading questions that suggest the preferred answer and instead use questions that are open-ended, yet sufficiently specific to elicit a description of how the setting operates and the individual's experience in it.

Q10. How will CMS respond to the state's submission of information for heightened scrutiny of a setting?

A10. CMS will respond in writing as part of our review of the action pending – whether in response to a Statewide Transition Plan, new waiver, or SPA. If the CMS review determines that all regulatory requirements are met by the setting in question, and the information submitted to CMS -- which could include information collected in response to CMS exploratory questions -- is sufficient to overcome the presumption of institutional or isolating qualities, the setting will be determined to be home and community based.

If the CMS review determines that not all regulatory requirements are met, and the setting is included in the state's Statewide Transition Plan, the state can use the remaining transition period to bring the setting into compliance with all requirements,

transition individuals from that setting to a compliant setting, transition the coverage authority to one not requiring provision in a home or community based setting, or transition to non- Medicaid reimbursement. If CMS has further questions, CMS may conduct a site visit.

If the CMS review determines that not all regulatory requirements are met, and the setting is included in a new 1915(c) waiver, new 1915(i) state plan amendment, or new 1915(k) CFC SPA, Federal reimbursement for services provided to individuals in that setting will not be available unless or until the setting achieves compliance with all requirements. Once compliant with home and community-based services criteria, the setting can be added to the new program and Federal reimbursement for services provided to individuals in that setting can be claimed.

Approval of any heightened scrutiny request only pertains to the individual settings subject to the request. CMS and the state will collaborate through the Statewide Transition Plan and the review of waiver and SPA actions to ensure implementation of a plan for ongoing monitoring and oversight to ensure continued compliance. In the approval of those documents, CMS will communicate the settings and the scope under which they are adjudicated to be home and community-based services, and indicate that any material changes to the settings approved through heightened scrutiny such as an increase in licensing capacity, the establishment of additional disability-oriented settings in close proximity (e.g., next door), or changes in the ways in which community integration is realized, will require the state to update CMS and may result in a reevaluation of the setting.

Respite Services

Q11. The preamble to the regulation appears to permit respite services to be provided in institutional settings. Are states required to assess all settings used for respite against the requirements for home and community-based services (HCBS) and report on their status?

A11. No. Respite services are provided on a *short-term basis* because of the absence or need for relief of those persons who normally provide supports and services for the participant. These services support caregivers and help to preserve an individual's placement in the community. CMS, as indicated in the preamble to the regulation, intends to permit states to use institutional settings for the provision of respite services that typically do not exceed 30 days in duration. Therefore, states will not be required to assess their settings that are exclusively used for respite services for compliance with home and community based settings requirements.

Tenancy

In a provider owned or controlled setting, the state must ensure that a lease, residency agreement or other form of legally enforceable, written agreement will be in place for each participant; the document must provide protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/ tenant laws.

Q12. If a provider is furnishing home and community-based services (HCBS) to all individuals in a setting in a property owned and leased by a third party, is this setting considered provider owned and controlled?

A12. If the individual leases directly from the third party that has no direct or indirect financial relationship with the provider, the property is not considered provider-owned or controlled. If the HCBS provider leases from a third party or owns the property, this would be considered provider owned or controlled. If the provider does not lease or own the property, but has a direct or indirect financial relationship with the property owner, we would presume that the setting was provider controlled unless the property owner or provider establishes that the nature of the relationship did not affect either the care provided or the financial conditions applicable to tenants.

Q13. Can a residential agreement between the individual and the entity that owns or controls the property have the same protections as a lease?

A13. Yes, however the state must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and the document provides enforceable protections that address eviction processes and appeals comparable to those provided under the jurisdiction' s landlord tenant law.

Visitors

Q14. How will the regulation's requirement that an individual in a provider owned or controlled setting have access to visitors at any time be balanced against the rights and desires of others living in that setting?

A14. The regulation requires that individuals in a provider owned or controlled setting experience the community in the same manner as individuals not receiving Medicaid-funded home and community-based services. While no restrictions on the ability to have visitors should be imposed for convenience purposes, the regulation does not supersede orders of protection or other parameters governing the movement or actions of individuals visiting the setting that may arise under landlord/tenant or other laws or the terms of the lease or rental agreement.

1915(b)(3) Services

Q15. Must home and community-based services (HCBS) authorized under section 1915(b)(3) of the Social Security Act adhere to the home and community- based settings requirements?

A15. Yes. HCBS services (services that fit into the benefit package authorized under 1915(c), 1915(i) or 1915(k)) requested as part of new 1915(b)(3) managed care savings arrangements must adhere to the home and community- based settings requirements by the effective date of the waiver. To treat such services otherwise would not be consistent with the purposes of title XIX.

HCBS services that are currently approved under 1915(b)(3) authority are afforded the same transition flexibility (ending March 17, 2019) as exists for currently approved 1915(c) waivers. Settings in which these services are provided should be assessed for compliance with the settings requirements and described in the state's Statewide Transition Plan.

State Flexibility

Q16. May states establish requirements for that are more stringent than requirements in the federal regulation?

A16. Yes. In addition, using their transition plan, a state may establish that certain settings currently in use in a home and community-based services waiver may continue within the waiver, as long as they will be able to meet the minimum standard set in the rule on or before the end of the transition period, but the state may suspend admission to the setting or suspend new provider approval or authorizations for those settings. Simultaneously, the state may establish or promote new or existing models of service that more fully meet the state's standards for home and community-based services. This arrangement, though established through the transition plan, may continue beyond the transition period. In this arrangement, all settings must meet the minimum standards established by CMS for home and community-based settings, but the state may identify a tiered standard so that only those meeting the optimal standards established by the state will be developed in the future.

Home and Community Based Services (HCBS) Final Rules Compliance
Provider: Cardinal Hill ADHC
Setting 1

Reason for Heightened Scrutiny

☐ ***Setting is located in a publicly or privately-owned facility providing inpatient treatment***

General Summary

This Adult Day Health Care (ADHC) serves individuals with physical, intellectual, and developmental disabilities from 18-99 years of age. Many of these individuals require assistance with the management of chronic diseases. This program is a blend between a medical and social model and is available Monday – Friday 7:00 am to 5:30 pm.

This Adult Day Health Care (ADHC) is located in a wing of a building that is attached to a hospital. The entrance to this ADHC is separate from the main hospital, and it shares its entrance with a home health division and some administrative offices. This ADHC is not owned by the hospital – its location is leased by the provider. The setting is close to public transportation and there is a nearby bus stop. There is a residential neighborhood next to the setting on one side and commercial/retail locations on the other side. The general public can walk and bike on the roads surrounding the setting, and there is a garden adjacent to the setting where individuals can spend time. The provider has a van and a car available for transportation.

Inside the ADHC, snacks are readily available. The provider offers lunch at two times, and individuals can choose which time they prefer to eat, where, and with whom. There is access to a television and other electronic devices. There are closets and shelves for items that the individual wants to store securely. The only required activity is a quarterly sexual abuse and neglect training and if the individual cannot attend, staff provide make-up sessions.

The ADHC has a Client Council, composed of individuals served, that meets quarterly to plan activities. During the on-site visit, some individuals were observed going out to go shopping in the community. Staff noted that individuals leave the setting at least 1-2 times per week to go into the community for activities including shopping, movies, a walking trail, and an ice cream shop. The executive director indicated that individuals participate in a number of community organizations including “Arts Place, the Opera House, Lexington Legends baseball games, plays put on by the School for Creative and Performing Arts (SCAPA), and Heart Arts (arts show and competition for people with disabilities).” Individuals go out with a nurse and nursing assistant since the ADHC is a medical model day program.

Individuals were observed exercising in the activity of their choice (dancing, walking on a treadmill, stretching, etc.). Some individuals chose solitary activities, and other individuals choose to go with groups into the community or to participate in group activities while at the ADHC. There were no visitors present during the on-site visit, but there are no restricted visiting hours. Visitors are at the ADHC weekly, and often include case managers and families of individuals. There are materials around the setting that describe community activities and there is a planned activity schedule for the month. Individuals choose how to spend their money with input from staff.

For entry and exit to the ADHC, individuals use a code to be 'buzzed' in by an employee through a security door. The setting has accessible bathrooms and entry ways/exits. Staff members were observed communicating with and offering assistance to individuals in a respectful manner. If an individual wants to make a change to their service or provider, the staff would assist with notifying the case manager, family, and/or guardian.

One individual who was interviewed indicated that he had participated in community activities and remembered going shopping, to the movies, and to plays. He noted that story tellers, music instructional demonstrations, and singing groups come to the ADHC for entertainment. The individual said that options of things to do are presented to him in a few ways: staff tell him the options of activities, he reads the calendar of activities, or the staff sends a notice of choices home with him. The calendar of activities is created by the group getting together and discussing what they would like to do.

The individual noted that he has taken classes, but that he does not have a paid job or volunteer. He also noted that he can see family/friends when he is at the ADHC and that his father comes frequently to have lunch with him. His daily scheduled is established by him and the staff. He said that his parents visited the ADHC before choosing this and that he likes this place so he can come and learn. Individuals are encouraged to visit the ADHC before choosing this setting. He also noted that he sees his friends and family both in the ADHC and outside the community and that the ADHC offers support groups, speakers, and evening picnics at the park. The provider facilitates couples going on outings together. The ADHC also facilitates individuals meeting new people, such as local artists, through the ADHC's educational programs.

State Requirements for Providers

Providers are required to comply with Kentucky's waiver regulations, and specifically, provider requirements within the regulations. Provider requirements established in regulations include: the provider shall support the participant's right to live and work in an integrated setting; right to time, space, and opportunity for privacy; right to communicate associate and meet privately with people; right to personal possessions; right to accurate information; and the right to live with dignity and respect, without fear of retaliation, discrimination, coercion or reprisal. The provider shall also foster a restraint-free environment where the participants are safe, healthy and respected in their communities. The provider shall also ensure that the participants enjoy living and working in the community with effective, individualized assistance, and that they have the right to choice, inclusion, employment, growth, and privacy. The provider shall treat the participant's confidential information, property, and residence with respect. The provider shall ensure that the participant is free from and educated on all forms of abuse, neglect, exploitation, and isolation. The participant shall know how to contact the person supervising their services, and there should a grievance and appeals system in place with an external review mechanism. Providers are required to successfully complete trainings related to crisis prevention and case management, as well as other courses provided by the Kentucky College of Direct Supports on topics important for HCBS, including individual rights, person-centered planning, and community inclusion. Providers are required to complete these trainings in order to provide HCBS to individuals.

Additional Forms Available on Request	
☐ **Form L (Location Information)**	☐ **Introductory Letter**
☐ **Form O (Observation(s))**	☐ **Transition Plan (Provider Completed)**
☐ **Form P (Participant Interview(s))**	☐ **Form S-ED (Executive Director Interview)**
☐ **Form S (Staff Interview(s))**	

Transition Plan		
Please indicate the settings compliance with the following areas. The provider is responsible for creating a transition plan for each rule indicated out of compliance and the expected date of that plan's completion.		
Compliant?	**Explanation of Compliance and Overview of Transition Plan**	**Date**
Setting Selection Yes / No	*Individuals are encouraged to visit the ADHC before choosing this setting.*	
Rights Rule Yes / No	*Staff members were observed communicating with and offering assistance to individuals in a respectful manner. The ADHC embodies a core value that all participants, families, and customers be treated as respected individuals. They are adults, who are champions of their own abilities. The ADHC strives to find and assist them with their most pressing needs. They are provided with dignity and patience in their plans of care and services rendered, plus given outcomes to improve their overall quality of life. Participants lead what their services will look like.* *Communication regarding the rights of all individuals and the program's grievance processes are written and communicated with participants and their families upon admission, annually, and upon request.*	
Autonomy Yes / No	*If an individual wants to make a change to their service or provider, the staff would assist them with it. Participants are given every opportunity to choose their own schedule of events and whether to join offered activities, plus the option to participate in developing onsite or offsite (community) services.*	
Choices Yes / No	*The program director, onsite social worker, and staff provide information regarding other programming options, support groups, and advocacy events. The individual interviewed said that options of things to do are presented to him in a variety of ways and he gets to choose.* *It is essential to the program that participants and their family members have control over the environment and service opportunities. They can choose from programming that is sensitive to health status monitoring, sensory integration, lifestyle choices, ethnic and cultural beliefs, values, physical needs and abilities, cognitive skills and abilities.*	
Integration Yes / No	*One individual who was interviewed indicated that he had participated in community activities. The ADHC exposes participants to various environments, in the hopes of increasing their personal skills and diversity awareness with other social and ethnic groups, religious institutions, cultures, higher education, and etc.*	

Participant Interview #1

INTEGRATION, AUTONOMY, and CHOICE: Participant Questionnaire – ADHCs (Form P-A)	
Question	**Explanation**
1. Do you participate in any community events while you are attending the ADHC?	The participant responded that he sometimes participated in community events. He could remember going shopping, to the movies, and to plays.

INTEGRATION, AUTONOMY, and CHOICE: Participant Questionnaire – ADHCs (Form P-A)	
Question	**Explanation**
2. Do community groups come to the ADHC for entertainment or social gatherings?	The participant responded that they had story tellers, music therapy, music instructional demonstrations, and singing groups coming.
3. Are you able to do the things you like to do, as often as you'd like while attending the ADHC? How does a disagreement about what to do get worked out?	The participant responded that "I always come up with something I want to do." The participant responded that he liked learning activities and used visual impairment tools to assist him. The participant did not indicate any disagreements.
4. Are you able to move around inside and outside the ADHC facility as you like?	The participant responded yes.
5. How are options of things to do presented to you? If you and other individuals disagree on activities, how do you decide what to do? Does everyone get a turn to choose?	The participant responded that the staff tells him, he reads the calendar of activities, or the staff sends a notice of choices home with him. The participant responded that the group gets together and discusses what they would like to do to create the calendar of events.
6. Do you have a paid job? Do you volunteer? If you do not work or volunteer, would you like to? 6a. If you do work or volunteer, where is your job or where do you volunteer? Do you work or volunteer as much as you want to?	The participant responded no.
7. Who chose (or picked) the place you work? (*Did you help make the choice?)*	Not applicable
8. Do you take classes, training, or do something to help you get a job or a better job?	The participant responded that there are classes offered and he has attended some that interest him.
9. Have you voted? (*In a local, state, or federal election?*) If not, would you like to vote?	The participant responded yes.
10. Can you see and/or talk to your family or friends while you are at the ADHC? Do visitors come to the ADHC? (*Can you pick the times you see them? Does someone help you make plans to see them? Are they allowed to come and visit you during the day?)*	The participant responded yes, that his father comes frequently and has lunch with him to visit.
11. Who decides your daily schedule at the ADHC?	The participant responded that he and the staff establish it.
12. If you leave to do something fun or to go to work or an appointment, do you have to return by a certain time? What type of transportation do you use when you leave?	The participant responded that he has to have staff take him out because his vision is getting worse and he has to be back by the time to go home from the ADHC.
13. Do you choose (or pick) your staff at the ADHC? (*Do you get to interview them? Did you get to meet different people or was someone assigned to you? Could you request someone different?)*	The participant responded that "I like all the help I can get".

INTEGRATION, AUTONOMY, and CHOICE: Participant Questionnaire – ADHCs (Form P-A)	
Question	**Explanation**
14. Who chose this center that you attend? Were you able to visit other centers before deciding to receive your services here?	The participant responded that his parents visited and he "likes this place, so he can come and learn."
15. Can you get food at any time of the day, whenever you are hungry while at the ADHC?	The participant responded that he has snacks available and drinks.
16. Do you have a place to store your belongings when you are at the ADHC?	The participant responded that he had specific locker space.
17. Is there anything else you do with other people, both individuals also at the facility and other people in the community?	The participant responded that he sees his friends and family inside the ADHC and out in the community. The agency offers support groups, speakers, and evening picnics at the park.

Participant Interview #2

INTEGRATION, AUTONOMY, and CHOICE: Participant Questionnaire – ADHCs (Form P-A)	
Question	**Explanation**
1. Do you participate in any community events while you are attending the ADHC?	The participant responded that they like to go shopping. She especially likes shopping for Christmas presents on her own. She attended many performances at the KY Opera house to watch musicals. She has gone to see Christmas lights at the horse park and to the local apple orchards.
2. Do community groups come to the ADHC for entertainment or social gatherings?	The participant responded that a music therapist comes twice weekly. Another group gives ballroom dancing and singing. Volunteers come in to assist with reading. Pet therapy comes in to do sessions. Master gardeners come and help with the community garden. A trainer came in to discuss ABLE accounts with the group.
3. Are you able to do the things you like to do, as often as you'd like while attending the ADHC? How does a disagreement about what to do get worked out?	The participant said, "Yes, I guess." She went on to say that she would remain calm and talk thru any issue and work as a team. She has a staff person that she goes when she has problems that helps to work things out.
4. Are you able to move around inside and outside the ADHC facility as you like?	The participant responded yes
5. How are options of things to do presented to you? If you and other individuals disagree on activities, how do you decide what to do? Does everyone get a turn to choose?	The participant responded that the staff present different activities by telling her about them and explaining the options and she then chooses. The participant stated that she loves music therapy. She says that everyone gets a turn and she doesn't have to do activities that she doesn't like.
6. Do you have a paid job? Do you volunteer? If you do not work or volunteer, would you like to?	The participant responded no.

INTEGRATION, AUTONOMY, and CHOICE: Participant Questionnaire – ADHCs (Form P-A)	
Question	**Explanation**
6a. If you do work or volunteer, where is your job or where do you volunteer? Do you work or volunteer as much as you want to?	
7. Who chose (or picked) the place you work? (*Did you help make the choice?)*	The participant does not work.
8. Do you take classes, training, or do something to help you get a job or a better job?	The participant does not right now but might like to be a singer someday.
9. Have you voted? (*In a local, state, or federal election?*) If not, would you like to vote?	No, the participant stated that she has a legal guardian.
10. Can you see and/or talk to your family or friends while you are at the ADHC? Do visitors come to the ADHC? (*Can you pick the times you see them? Does someone help you make plans to see them? Are they allowed to come and visit you during the day?)*	The participant responded yes to all questions.
11. Who decides your daily schedule at the ADHC?	The participant said that the staff checks with her about what she would like to do and plans activities. She stated that she has a hard time making decisions, but loves to participate in all the activities except going to the movies.
12. If you leave to do something fun or to go to work or an appointment, do you have to return by a certain time? What type of transportation do you use when you leave?	The participant stated that she does not have to be back by a certain time. She goes with her mother or Cardinal Hill staff on a wheel chair accessible lift van.
13. Do you choose (or pick) your staff at the ADHC? (*Do you get to interview them? Did you get to meet different people or was someone assigned to you? Could you request someone different?)*	The participant does not pick her staff but has spoken up when she was uncomfortable with staff to get a change made.
14. Who chose this center that you attend? Were you able to visit other centers before deciding to receive your services here?	The participant chose to attend this program based on a visit with her mom and case manager in 1998. She loves Cardinal Hill and states the people here are her family.
15. Can you get food at any time of the day, whenever you are hungry while at the ADHC?	The participant responded yes.
16. Do you have a place to store your belongings when you are at the ADHC?	Yes, the participant has a locker
17. Is there anything else you do with other people, both individuals also at the facility and other people in the community?	The participant will have open house parties at her home for Christmas and birthdays and invites all of her friends and staff members. She also explained that she had heard that Cardinal Hill might be forced to close or move due to Medicaid rules. She states that she loved her program at Cardinal Hill and her life would not be the same without it. She doesn't want the program to change.

Executive Director Interview

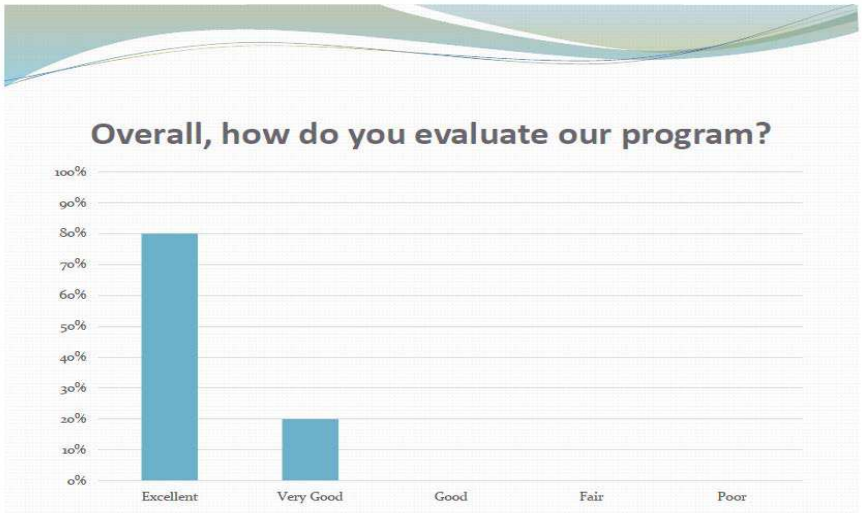
INTEGRATION, AUTONOMY, and CHOICE: Staff Questionnaire (Form S)	
Question	**Explanation**
1. How frequently did individuals go out for entertainment in the past month (e.g. movies, plays, concerts, restaurants, etc.)? Who did they usually go with?	Approximately twice a week. Since this program is a medical model day program, individuals go out with a nurse and nursing assistant. Everyone who wants to goes on outings—average of 6-8 individuals participate in each outing. Examples include shopping at Kroger, Hobby Lobby or Michael's, movies, the walking trail, ice cream shop.
2. What types of community groups or other activities in the community (e.g. church services) do individuals engage in? Who do individuals usually go with? How do individuals get there?	Examples include Arts Place, the Opera House, Lexington Legends baseball games, plays put on by the School for Creative and Performing Arts (SCAPA), Heart Arts (arts show and competition for people with disabilities).
3. Do individuals have any activities that they are required to attend? (Daily, Weekly, Seasonally, etc.)	All individuals receive quarterly sexual abuse and neglect training. If participants miss the scheduled trainings, staff provide individual make-up sessions.
4. How do individuals see or make plans with their friends when they wish? Do you support individuals dating if they want to? If you, how do you support them?	Friends or family members of individuals come in for lunch or visit whenever the individual wishes. Staff takes individuals to visit family members in the hospital when needed. The provider supports dating, if individuals wish to. They facilitate couples going on trips/outings together, and hold a Valentine's Day luncheon. Individuals exchange telephone numbers to talk and arrange to get together.
5. Explain how frequently individuals can see and/or communicate with their families.	There are no restrictions on frequency of contact with families. Family members are well aware they can come in whenever they wish. Families are invited to lunch at the center and to various parties and activities. Individuals call family members whenever they wish, as well as communicating by email. Staff facilitate communication with family members who are out of town via Skype.
6. How do you actively gather information from individuals about what community activities or groups they would like to be involved in?	A Client Council, composed of individuals served by Cardinal Hill Adult Day, meets quarterly to plan activities. Individuals also share information about community activities and groups they would like to be involved with during assessments. Often, individuals will informally tell a staff member of their interest in an activity and it will be planned. Staff may also bring suggestions of activities to the group of participants.
7. How do you explain options and choices to an individual? How do you honor those choices? How do disagreements between individuals about what they want to do get resolved?	The staff listens intently to participants to learn about their interests. There is a list of interests and requests for each individual and staff strive to make those activities happen. If there is a disagreement between individuals about what they want to do, staff usually try to arrange both activities.
8. How do individuals get places when they want to do something outside of the home, such as going out to see friends, for entertainment, or to do something fun?	Public transportation, family or friends, provider-supplied transportation

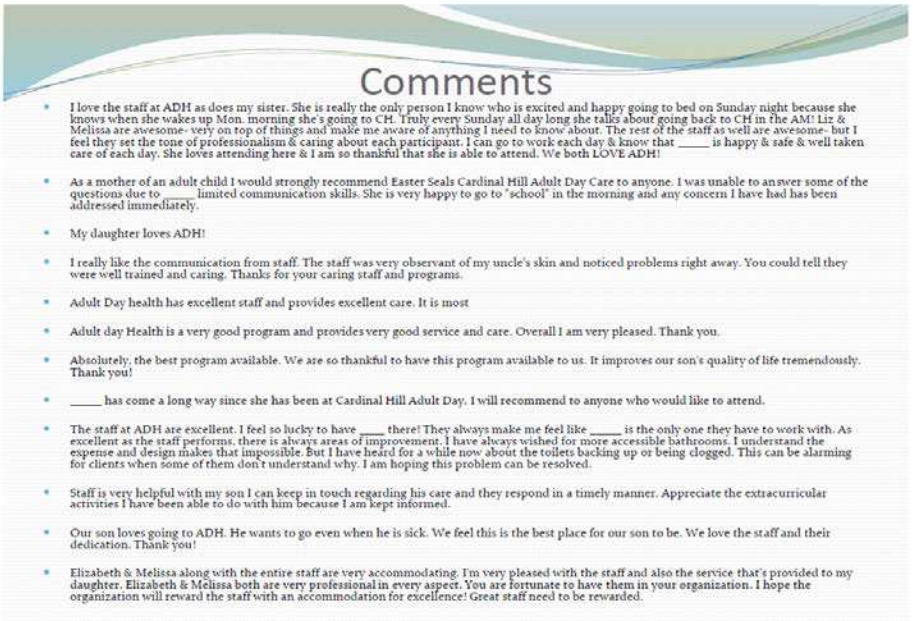
INTEGRATION, AUTONOMY, and CHOICE: Staff Questionnaire (Form S)	
Question	**Explanation**
9. Do any individuals have a competitive, integrated, paid job or volunteer in the community? If so, how many of the total individuals have a paid job or volunteer?	1 participant is employed and 3 volunteer in the community out of 35 total participants. Staff ask quarterly if individuals are interested in getting employment and help individuals develop resumes and practice completing job applications. The interviewees shared several anecdotes about successful efforts to get jobs for individuals and to tutor a participant to help him prepare for college. This individual attended college successfully and is no longer a program participant.
10. Do individuals vote in local, state, or federal elections?	Most or all individuals (anyone who wants to) vote. Staff share information with the individuals on when elections are held and the right to vote.
11. Do individuals take classes, training, or utilize supported employment services to help them get a job or a better job? Please explain.	Not presently. This option is offered to participants.
14. How do individuals choose what to buy with their spending money and how do they go out to spend it?	Staff facilitate shopping trips wherever the participants want to go. Provider-supplied transportation, public transportation or friends/family.
15. How do individuals dictate their daily schedule (such as when to get up, when to eat, where to spend their day, when to go to sleep)?	A flexible schedule is posted at the setting—it is clearly stated as flexible. If an individual doesn't want to participate in a planned activity, he or she does an alternate activity of his/her choosing. There are two planned lunch times each day, but if they wish, individuals may eat at a different time. If an individual has an idea of a wonderful activity they would like to participate in, they are encouraged to share the idea with other participants to see if others would also like to join in.
16. How do individuals choose the staff that they work with?	The center has two different staff teams, and individuals generally rotate between the teams. If there is an absolute conflict between a staff member and a participant, the staff member will switch teams. Some individuals prefer solitary activities, so will do those. Individuals choose the staff member they would prefer to assist them with personal care, or activities of daily living.
17. How do individuals decide how they spend their free time?	There is free time every afternoon and one day/week. Individuals just decide what they want to do during that time and do it. Individuals use computers or iPads freely, as they wish.
18. How do individuals access food at any time?	Individuals access food from refrigerators and food cupboards freely, at any time.
19. How do individuals change or request a change to their program, service, provider, or activity they receive? How do you ensure individuals learn about this opportunity and process?	They usually tell the social worker, but may tell any staff member that they want to change their program, service, provider or activity. Staff readily assist with the requested changes. At the Quarterly Council meetings mentioned above, staff share information about other programs that participants might be interested in. Staff will facilitate changes by taking participants to visit residential or non-residential programs, or helping them find a Community Living Supports provider, if they wish.

INTEGRATION, AUTONOMY, and CHOICE: Staff Questionnaire (Form S)	
Question	**Explanation**
20. Are there any other examples of informal or formal community interaction that individuals are a part of at your setting?	Parent meetings and support groups. The center does parent and family surveys and tries to accommodate requests or needs identified in the surveys.

Pictures

Provider Documentation – Results from Consumer Satisfaction Survey – 1/2016





Comments

- I love the staff at ADH as does my sister. She is really the only person I know who is excited and happy going to bed on Sunday night because she knows when she wakes up Mon. morning she's going to CH. Truly every Sunday all day long she talks about going back to CH in the AM! Liz & Melissa are awesome- very on top of things and make me aware of anything I need to know about. The rest of the staff as well are awesome- but I feel they set the tone of professionalism & caring about each participant. I can go to work each day & know that _____ is happy & safe & well taken care of each day. She loves attending here & I am so thankful that she is able to attend. We both LOVE ADH!
- As a mother of an adult child I would strongly recommend Easter Seals Cardinal Hill Adult Day Care to anyone. I was unable to answer some of the questions due to _____ limited communication skills. She is very happy to go to "school" in the morning and any concern I have had has been addressed immediately.
- My daughter loves ADH!
- I really like the communication from staff. The staff was very observant of my uncle's skin and noticed problems right away. You could tell they were well trained and caring. Thanks for your caring staff and programs.
- Adult Day health has excellent staff and provides excellent care. It is most
- Adult day Health is a very good program and provides very good service and care. Overall I am very pleased. Thank you.
- Absolutely, the best program available. We are so thankful to have this program available to us. It improves our son's quality of life tremendously. Thank you!
- _____ has come a long way since she has been at Cardinal Hill Adult Day. I will recommend to anyone who would like to attend.
- The staff at ADH are excellent. I feel so lucky to have ____ there! They always make me feel like _____ is the only one they have to work with. As excellent as the staff performs, there is always areas of improvement. I have always wished for more accessible bathrooms. I understand the expense and design makes that impossible. But I have heard for a while now about the toilets backing up or being clogged. This can be alarming for clients when some of them don't understand why. I am hoping this problem can be resolved.
- Staff is very helpful with my son I can keep in touch regarding his care and they respond in a timely manner. Appreciate the extracurricular activities I have been able to do with him because I am kept informed.
- Our son loves going to ADH. He wants to go even when he is sick. We feel this is the best place for our son to be. We love the staff and their dedication. Thank you!
- Elizabeth & Melissa along with the entire staff are very accommodating. I'm very pleased with the staff and also the service that's provided to my daughter. Elizabeth & Melissa both are very professional in every aspect. You are fortunate to have them in your organization. I hope the organization will reward the staff with an accommodation for excellence! Great staff need to be rewarded.

Provider Newsletter – October 2015

Flu Shots Unavailable - Many Apologies

Adult Day Health **will not** be offering influenza vaccines during this season (2015-2016). In the future, our agency hopes to be prepared to offer this service to our clients again.

However, please seriously consider the following information for yourself and your loved one(s):

The flu is a severe respiratory disease that spreads very easily. Everyone is at risk of getting it.

The Centers for Disease Control and Prevention (CDC) states that an annual seasonal flu vaccine is the best way to reduce the chances that you will "catch" the flu and spread it to others.

There are various versions of the vaccine, so please talk with your primary care physician or pharmacist about which may be right for your family members.

See below, lots going on in the next few months.

We care for the ones you love.

EXTRA CLOTHING

Please exchange your loved ones' extra clothes, i.e. summer for winter.

Please wash & return extra clothes that don't belong to your loved one.

Thanks.

Upcoming Events

October 6, 13, 20 - Baseball Games at Shillito Park
*Come cheer on your loved one and their peers.

October 13 - Support Group

October 30 - Halloween Party
*Encourage your loved one to wear a costume & bring in sweet treats to share.

November 6 - Jesus Prom from 6:30p-10:00p at Southland Christian Church

November 20 - Thanksgiving Feast from 5:30p-7:30p in the Center of Learning
*Family and close friends are welcome. The event will be catered again. *Please RSVP your total number of guests with Melissa before close of business on Monday, 11/16, and rearrange your loved one's transportation as needed.*

November 26 & 27 - CLOSED for Thanksgiving

December 4 - Annual Christmas Sing & Craft Fair from 11:00a-1:00p in the Center of Learning
*Encourage your loved one to wear a green or red dress shirt

Mid December - Visit from the Red Elf to Be Scheduled

December 24 & 25 - CLOSED for Christmas

January 1 - CLOSED for New Years

Public Comments Summarized

Comment 1 - A family member is very happy with the services provided by Cardinal Hill as his son is respected and well cared for. This family member is happy the setting is next to an inpatient location as there is quick access to medical professionals if needed.

Comment 2 - A family member is very supportive of Cardinal Hill activities, community integration, as well as location. The setting is attached to hospital, which gives this family peace of mind as world class medical care immediately available. The participant is able to make choices, plan activities, and participate fully in the community.

Comment 3 - A family member strongly supports Cardinal Hill and the facilities used. The family member's daughter is well integrated in the community, the facility is accessible, and there are plenty of opportunities for engagement and learning.

Comment 4 - A family member is very supportive of the Cardinal Hill staff, programming and location. He feels that his child is treated with utmost respect, is very well integrated into the community, has ample opportunity to choose daily activities, and is able to freely move about the fully-accessible setting.

Comment 5 - A family member has been very pleased with Cardinal Hill services to date, including the opportunities provided to her daughters to make decisions and interact independently with both staff, other participants, and the larger community. She feels that her children are highly respected and very well cared, in particular because there are medical facilities so close which provided additional peace of mind.

Comment 6 - A family member is highly supportive of the Cardinal Hill ADHC, stating that the opportunities to learn life skills and engage in the community are invaluable. The family member also appreciates how close the facility is to the hospital as the response would be very quick in the event of a medical emergency.

Comment 7 - A parent of a long-time participant at Cardinal Hill ADHC is supportive of the program. The parent appreciates the value of the location, access to medical services, and the opportunity to learn life skills through activities and training.

Comment 8 - A parent at Cardinal Hill is very supportive of the programming, location and staff. The parent believes that her daughter is able to choose daily activities and is provided transportation to chosen activities and events. Moreover, this parent appreciates that the setting is close to a hospital as her daughter has recurring health concerns so access to medical staff is crucial.

Comment 9 - This parent is very supportive of the Cardinal Hill programming including daily activities, opportunities to go out into the community, engagement with staff, and local activities.

Comment 10 - A parent of a Cardinal Hill participant is very supportive of the programming as well as the location. This parent believes the staff, access to medical facilities, and participation are key to his son's daily care. This parent also stresses that his son is treated with the utmost respect and dignity. Participants are included in personal care plan development and in all other decisions impacting services received.

Comment 11 - This family member is very encouraging of the Cardinal Hill community. Her daughter is well cared for mentally and physically. At Cardinal Hill, she is able to engage fully in community events, participate in developing her own care plan, and is treated with respect and dignity by all of the staff.

Ohio Department of Medicaid

HEIGHTENED SCRUTINY EVIDENCE PACKAGE

Setting Information

Provider's Name		
Monarch Meadows Nursing and Rehabilitation, LLC		
Location of the Setting Seaman, OH	Type of Setting Assisted Living	Number of Individuals Served at the Setting 0 waiver licensed for 12 individuals
Waiver Services Being Provided at the Setting Applying to become an Assisted Living Waiver Provider for the state of Ohio.		

Heightened Scrutiny Prong

- ✔ Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.
- ✔ Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution.
- ☐ Prong 3: Setting has the effect of isolating individuals from the broader community.

Recommendation

As required by 42 CFR 441.301 (c) (5), the State of Ohio submits this request for heightened scrutiny review for the setting identified above. The State has compiled evidence that the setting is integrated and supports full access of individuals to the greater community, is selected by the individual from among disability and non-disability-specific settings, ensures individual rights, and promotes individual initiative, autonomy, choice, and independence.

Section One

On Site Visit Observation

Date(s) Conducted	State Agency that Conducted the On-Site Visit
10/18/2017	Ohio Department of Aging

Description of the Setting

This residential setting is outside a rural town and next door to the Adam's County Cancer Center and Adam's County Regional Medical Center. The setting is surrounded by farmland and individuals living in the area drive less than two miles into town for shopping, entertainment, church services, and other activities. The setting is a privately-owned, single-story building and is co-located in the same building as a nursing home and is adjacent to a public institution.

The setting has a front porch with chairs, along with other outdoor seating areas. There is an exterior sign identifying Monarch Meadows located on the grounds, which is visible from the street. The setting is applying to become a certified provider for Ohio's Assisted Living Program, therefore, there are currently no waiver participants in this setting.

The assisted living (AL) setting has its own sign and separate entrance, which an individual or visitor may easily identify, once on the grounds of Monarch Meadows. Near the main entrance of the AL is a common area where individuals and their visitors may spend time. There are other common areas and dining rooms throughout the setting, along with rooms with private seating areas for individuals and visitors if they need privacy or are hosting a party. The setting provides a monthly calendar of activities for their individuals. There is also a theater, activity room, salon and barbershop, a game room, and library for individuals to access when they wish. There is access to televisions and other electronic devices at the setting for individuals to use at their leisure. The setting also offers complimentary wireless Internet.

The provider offers three meals and snacks daily. Individuals can choose which time they prefer to eat, where, and with whom. The dining room offers a variety of selections and the menu is continually changed, which provides a variety of choices for the individuals. The individuals have the option to eat in their rooms when they desire and they may access the kitchen by way of a call light button system offered in the units. A snack cart is used to accommodate the individuals for around the clock access to food.

There are materials around the setting describing the community and planned activities. There are outings scheduled every month. When it is warmer, there are more activities offered to the individuals residing at the setting. Outings include shopping trips, trips to local parks and events, museums, and lunch and dinner at local restaurants. Internal activities include Ice Cream Socials, Bingo, exercise, morning news, Movie Night, and worship services for various denominations. There are books, newspapers, movies, magazines, puzzles, and other entertainment in the recreation and common areas. Individuals also enjoy visits from the Adams County Library staff. The library brings books to the setting so individuals can easily check them in and out. The library delivers the books to the units and collects them to return.

During the state's observational review, individuals were seen reading newspapers and magazines, drinking coffee, visiting with family and friends, socializing, and casually moving about the setting. Some individuals remained in their units and others chose to go with friends and family into the community. Individuals living at this setting are engaged with the community through outings, family and friends, community supports, and activities.

Many individuals have decorated their bedrooms and doors with family photos and other artwork. Each individual bathroom has a walk in or roll in shower with a hand-held shower head and grab bars. Every unit has a small kitchenette, mini fridge, and microwave. Some individuals choose to have their name on the door. The unit doors can close for privacy and are lockable if needed. Individuals have keys to their rooms and the nurse on duty is the only one with access to the master key. Other privacy supports include locks, doors, and curtains.

There are no seclusion rooms, cameras, or physical restraints in the setting. A public phone is always available in an enclosed area for individuals to make private phone calls. Individuals have landlines in their units to use if they choose and many also have cell phones.

Individuals may access transportation, with or without assistance of the AL staff. Taxis, Senior Transportation, and other options are available. Family members and friends also help with transportation needs. The setting has parking available for those individuals with their own cars. There are no transportation charges for activities arranged by the setting.

All exterior doors are locked from 6:00 p.m. to 6:00 a.m. Individuals and visitors may use a key pad to access the setting after hours. The access code is provided to all individuals for their convenience. They may also call ahead to the setting if they wish to access the setting after hours.

AL staff are separate from the nursing facility staff. All AL staff, new or old, receive specific training during orientation and continuing education during the year. Staff training is taken on-line and occasionally in person with topics varying by staff position. When a shift on the AL side needs to be covered, AL staff are offered first opportunity to cover, before offering to the nursing facility staff.

Section Two

Community Integration Observations and Input from Individuals, Family Members/Guardians, and Staff

The individuals were interviewed without the presence of administrative staff. The questions are a set of standard questions used in a conversational tone with individuals to ensure the individuals are at ease during the interviews. All three individuals interviewed stated they enjoy their living arrangements. The individuals chose this setting after visiting other settings. The individuals reported they choose their own daily schedules and activities and have flexibility in receiving services and supports during the time of their choosing. Each individual agreed the staff respect their privacy and always knock and wait, unless there is an emergency, these individuals had key to their rooms; in an emergency the master key, which only the nurse on duty as access to, is used. The interviewees acknowledged they knew how to file a grievance and confirmed they are not assigned seats in the dining and may eat meals when and where they choose. They enjoy activities in the community and at the setting and are not required to participate in activities. The individuals report they can come and go as they please, and they can have visitors when and where they want. The individuals enjoy the food and they all know how to ask for a different meal, if needed. The individuals also stated snacks and drinks are always available in the kitchen, when wanted.

The employees were interviewed without the presence of administrative staff. All three staff members interviewed stated they knock before entering a unit, always close doors, and let the individual direct the help they need. Staff reported the master key is locked away and only used when an individual does not respond to the knocking or an emergency and only the nurse on duty has access to the master key. Staff reported the individuals leave the setting regularly, whether on their own, with friends, family, or a scheduled outing. Staff also noted individuals leave the setting at least 1-2 times per week to go into the community for activities including shopping, movies, hiking, and getting ice cream. Some individuals enjoyed sharing these activities with friends and family. Staff confirmed individuals have the flexibility to receive services and supports during the time and place of their choosing. If an individual wants a snack they can go to the kitchen, dining room, or contact staff. According to the staff, most individuals usually have snacks in their room.

Section Three

Additional Evidence

The following evidence has been compiled that demonstrates the setting is integrated in and supports full access of individuals receiving HCBS into the greater community.

The considered all the following to demonstrate the setting is integrated into the greater community and will support full access of individuals receiving HCBS:

- Abuse Policy
- Activity Calendar
- Assessment Care Meetings
- Assisted Living Service
- Dining and Food Availability
- Floor Plan and Aerial shots
- Food Menus
- Freedom of Choice and Control Schedule Activity
- Grievance Policy
- Incident Reporting
- Key and lock Policy
- ODH Survey
- Photos
- Physical Environment Provisions of Services
- Physical and Chemical Restraint Policy
- RCF Survey
- Resident Accommodations and Right to Decorate
- Resident Agreement
- Resident Council
- Resident Employment
- Resident Handbook
- Resident Interviews
- Resident Rights
- Resident Survey
- Staff Interviews
- Staff Schedule
- Staff Training
- Telephone and Electronic Devices
- Transfer Discharge

Section Four

Public Comments Summary

Public Comment Period
Summary of Public Comments Received

Summary of the State's Response to the Public Comment Received

Kentucky 1915 (c) Waiver Statewide Transition Plan

I. Background

On March 17, 2014, updated Home and Community Based Services (HCBS) final rules became effective in the Federal Register for 1915(c) waivers, 1915(i) state plan services, and 1915(k) community first choice state plan option. As they pertain to 1915(c) waivers, these rules include requirements for several areas of HCBS: all residential and non-residential settings, provider-owned residential settings, person-centered planning process, service plan requirements, and conflict-free case management. The goal of the HCBS final rules is to improve the services rendered to HCBS participants and to maximize the opportunities to receive services in integrated settings and realize the benefits of community living. The Centers for Medicare & Medicaid Services (CMS) is allowing five years (until March 17, 2019) for states and providers to transition into compliance with the all settings and provider-owned settings requirements.

As part of the five year transition period, states must submit transition plans to CMS that document their plan for compliance. The first of these transition plans is a waiver-specific transition plan and is required when a state submits a waiver renewal or amendment. The other required transition plan is a statewide transition plan to bring all 1915(c) waivers into compliance, and is due 120 days after the submission of the first transition plan. This statewide transition plan describes the process to bring all 1915(c) waivers for a state into compliance with the HCBS all-settings and provider-owned settings requirements.

II. Introduction

The Commonwealth of Kentucky (KY) Department for Medicaid Services (DMS) operates six HCBS waivers under the 1915(c) benefit: Acquired Brain Injury (ABI), Acquired Brain Injury-Long Term Care (ABI-LTC), Home and Community-Based (HCB), Michelle P. (MPW), Model Waiver II (MIIW), and Supports for Community Living (SCL). ABI, ABI-LTC, and SCL waivers are residential, while HCB, MPW, MIIW are non-residential. Each waiver, except for MIIW, includes the option for Participant Directed Services (PDS). The following descriptions offer a high-level summary of the scope and participation for each of KY's HCBS waivers:

writing of the decision to terminate a provider within 30 days of the decision to terminate, and with a minimum of 60 days remaining before the provider termination. As part of the notification to the participant, CHFS will require that a person-centered team meeting be conducted, where the participant will be given the opportunity, the information, and the supports necessary to make an informed choice of an alternate setting. The CHFS waiver staff will provide reasonable notice and due process to all parties. The transition from the non-compliant provider will not occur until all critical service and supports are in place for the participant to assure consistency in services.

1. **Settings presumed not to be HCB (heightened scrutiny process)**

Settings were identified as presumed not to be home and community-based through the results of provider self-assessments and validation, including mapping. Settings that are located inside of a building that are also publicly or privately operated facilities that provide inpatient treatment were identified. Additional settings that have the effect of isolating individuals from the broader community because the setting is a farmstead or is co-located and operationally related to other HCBS settings were identified. No waiver settings in Kentucky are located on the grounds of, or immediately adjacent to, a public institution, so this component of the definition of settings presumed not to be HCB is not applicable in Kentucky. As stated previously, Kentucky does not believe that any setting, based solely on setting type and/or the services provided, are institutional in nature nor that they automatically comply with the HCBS Final Rules. Therefore, no group of settings based solely on setting type were presumed not to be home and community-based.

All settings in category 4 received an on-site visit. The on-site visit process was developed with input from self-advocates, family members, advocates, and providers. DMS conducted on-site visits of settings presumed not to be home and community-based between 4/1/16 and 8/31/16, and will continue coordinating closely with these category 4 providers and settings. Providers were offered opportunities to submit additional documentation to demonstrate they have the qualities of a HCB setting.

To assist providers in establishing documentation that they have the qualities of a HCB setting, CHFS waiver staff has completed the following activities.

1. Notified providers that they will be receiving an on-site visit and may need to undergo heightened scrutiny
2. Collaborated with providers on additional documentation that must be presented as evidence of being HCB
3. Developed tools for on-site visits of settings in compliance level four

4. Conducted training sessions for CHFS waiver staff who would be completing the site visits, as well as self-advocates and advocates who volunteered to assist with site visits, on the HCBS Final Rules and the tools that they would use to capture information about each setting during the site visit
5. Completed on-site visits to obtain further information on each setting's home and community-based characteristics
6. Hosted a transition plan training session in order to assist providers in coming into compliance with areas where they are not currently compliant
7. Compiled 10 page heightened scrutiny evidence packages for the first group of settings that summarize site visitor-collected and provider-submitted evidence
8. Conducted a heightened scrutiny evidence review session with self-advocates, family members, advocates, and provider agencies to review the evidence collected for the first group of settings and determine if these settings are ready to go to CMS
9. Published heightened scrutiny evidence packages, with transition plans included, for public comment
10. Incorporated public comments into each setting's heightened scrutiny evidence template
11. Submitted provider's documentation to CMS for determination

Heightened Scrutiny Setting Submission Process

Based on the feedback provided by CMS, Kentucky has decided to adopt a staggered submission process for settings that are presumed not to be HCB. The submissions began in April 2017 and will continue through the end of calendar year 2017. Working with CMS and various stakeholders, including two stakeholder information sessions hosted at the end of September, Kentucky collected input on how to structure the submission process to ensure stakeholders would have ample opportunities to be informed of both the settings being submitted and the overall review process.

Based on this feedback, Kentucky decided to begin the staggered submission process with a group of settings that represent a variety of types of providers, locations of settings, and participants served. The selected providers and 23 settings they collectively operate represent our first submission that was submitted to CMS in April 2017. Stakeholders indicated that a smaller first submission would be helpful in having an understanding of the submission and review process. Kentucky concurred with the stakeholders and also thought that a smaller first submission would allow for testing of the state's review process and procedures, including the approach to incorporating stakeholder participation in the review process.

Once the first submission has been submitted to CMS for review, the state will work to complete reviews and submissions of the remainder of settings presumed not to be HCB periodically, every three to four months. Stakeholders encouraged a regional process for submission in order to provide more localized support through the heightened scrutiny process. Therefore Kentucky has decided to utilize the 15 Area Development Districts as the basis for regionalization. These districts will be grouped in order to form three to four additional submissions to CMS.

Heightened Scrutiny Evidence Review Process

Before submitting settings presumed not to be HCB to CMS for review, Kentucky will conduct a thorough review of documentation that state staff and volunteers collected during their on-site visit of settings as well as additional information that providers have submitted about their settings. As recommended by CMS, each setting will have a 10 page setting Evidence Summary Package that includes information related to compliance with All Setting (for Non-Residential and Residential settings) and Residential Setting Requirements (for Residential settings). This package will also summarize participant and staff surveys, photos, and information submitted by each provider (as it is available). An Evidence Summary Package template was submitted to CMS for review and feedback at the beginning of October to ensure that Kentucky includes content that CMS requires in order to make a decision.

Kentucky understands that not all settings presumed not to be HCB are in complete compliance and may instead be working towards compliance at the date of their submission to CMS. Therefore, Kentucky decided to include a Transition Plan as part of each setting's evidence summary package. This plan highlights each setting's current area(s) of non-compliance and lists actionable steps, with anticipated dates of completion, the provider is taking to come into compliance. For the first submission, Kentucky hosted a training on completing the Transition Plan and asked the providers included to share some of the steps they were taking to come into compliance with the Federal Final Rules. DMS plans to guide all providers with settings being submitted to CMS as part of heightened scrutiny through this training at some point in 2017. In addition, we hope to include some of our first submission providers in this training to share their experience with the other providers.

Once the Transition Plan is complete, Kentucky has a process to involve stakeholders in the review of documentation, including the Transition Plan, before a decision is made on if the setting is ready to be submitted to CMS. An external contractor is compiling the Evidence Submission packages for each setting to ensure the review process is objective. Once the documentation is compiled, a group of stakeholders including self-advocates, family members, advocates, and providers chosen by Kentucky advocate and provider agencies reviews templates with identifying information removed from the documentation. The stakeholders determine if they think the evidence package overcomes or will overcome, with the modifications outlined in the transition plan, the presumption of not being HCB and if a setting does not overcome the presumption, why it does not. The determining factors for deciding if a setting is ready for CMS review include:

1. Consensus among stakeholders – agreement across the variety of stakeholders that the setting does overcome the presumption
2. Evidence of integration – individual has opportunities to indicate their personal preferences for going out into the community and has supports to go out into the community individually
3. Evidence of individual choice – individual is able to choose their activities and their setting(s) where they receive services
4. Evidence of autonomy – individual has opportunities for independence, including when setting their daily schedule

The stakeholders may identify areas in the evidence summary package that should be strengthened or verified before submission to CMS. The setting and stakeholder recommendation are reviewed by CHFS staff and a recommendation will be made to DMS leadership as to whether a setting is ready to be submitted to CMS or if additional outreach needs to occur with the provider. If the group does not feel a setting is ready, they will determine the next steps that need to be taken for that setting (additional remediation, updates to their Transition Plan, request for additional documentation, etc.).

For non-compliant providers or providers determined not to be a HCB setting after heightened scrutiny is conducted by CMS, the termination process outlined in regulation 907 KAR 7:005 (Certified waiver provider requirements) or 907 KAR 1:671 (Conditions of Medicaid provider participation; withholding overpayments, administrative appeal process, and sanctions) will be followed. If the provider is terminated, the aforementioned participant relocation process will be implemented.

Table 5.5 below includes examples of suggested provider level remedial activities that providers may need to complete to come into compliance with the HCBS federal final rules. These examples are based upon CHFS waiver staff observations in reviewing the providers' compliance plan templates.

Table 5.5 Provider actions for compliance

Provider Requirements	
Rule	**Remedial Actions to be Compliant & Timeline**
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	Staffed Residence/Adult Foster Care (AFC)/Family Home Provider (FHP)/Group Home Providers: • Facilitate participation in the greater community by providing transportation or assisting the participant with accessing public transportation • Encourage community integration by assisting participants to make real connections to their community with the goal of increasing independence and decreasing need for paid supports ADHC/DT Providers:

Provider Requirements	
same degree of access as individuals not receiving Medicaid HCBS;	• Facilitate participation in the greater community based on individual's preferences and interests • Bring the greater community to the day site to interact with the participants in a meaningful way in areas of interest to them, while understanding reverse integration alone is not enough action to make a provider compliant with the Final Rules All Providers: • Ensure participants receive the support and information needed to make choices about the kinds of work and activities they prefer • Support participants in their job search with supported and customized employment • Encourage participants to participate in community activities of their choosing and explore community integration opportunities • Ensure participants have access to personal resources • Work with participants to help them establish valuable relationships within the community • Update mission/values to meet the rule
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;	Staffed Residence/AFC/FHP/Group Home Providers: • Ensure that the participant has options that include non-disability specific settings and a private unit if available in the selected setting • Ensure that the participant is given enough information to make an informed choice based on available options and resources. ADHC/DT Providers: • Document all setting options that were considered in the service plan All Providers: • Provide participants with all setting options available and ensure the participant makes an informed choice for both setting and provider • Case manager must offer each participant a private unit if available in the setting selected • Ensure setting options align with participant's needs and preferences • Provide staff training
Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint;	Staffed Residence/AFC/FHP/Group Home Providers: • Ensure that the participant has privacy in his/her bedroom and living areas ADHC/DT Providers: • Train staff on how to treat participants with respect and dignity

Provider Requirements	
	All Providers: • Ensure participant has privacy in all areas • Encourage the participant to come and go as s/he wishes, consistent with the service plan and provide necessary supports to facilitate those needs • Update and implement mission/values and policies to meet the rule
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;	Staffed Residence/AFC/FHP/Group Home Providers: • Empower the participant to make choices about their living arrangements and activities ADHC/DT Providers: • Ensure that the participant has choice of daily activities at the day site All Providers: • Encourage the participant to create his/her own schedule and provide necessary supports to facilitate choice of activities • Encourage the participant to make independent choices during service plan planning and on a daily basis • Establish policies and procedures which encourage individual choice of activities • Update and implement mission/values to meet the rule
Facilitates individual choice regarding services and supports, and who provides them.	Staffed Residence/AFC/FHP/Group Home Providers: • Ensure that the participant has a choice of not only provider setting, but also the direct service provider within that setting • Actively solicit participants' preferences regarding services and staff that provide them All Providers: • Provide necessary information (documents, site visits, etc.) that allows the participant to indicate his/her preferences for services and supports and who provides them • Document all setting and provider options presented and considered by the participant in the service plan • Provide staff training
Home and community-based settings do not include the following:(i) A nursing facility; (ii) An institution for mental diseases; (iii) An intermediate care facility for individuals with intellectual disabilities;	Staffed Residence/AFC/FHP/Group Home Providers: • Consider alternate housing locations when Medicaid HCBS homes are clustered together • Document all integration activities as evidence that the participants are not isolated and that the setting does not have the qualities of an institution ADHC Providers:

Provider Requirements	
(iv) A hospital; or (v) Any other locations that have qualities of an institutional setting, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS will be presumed to be a setting that has the qualities of an institution unless the Secretary determines through heightened scrutiny, based on information presented by the State or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.	• Consider integration options for participants who require a high level of medical services DT Providers: • Consider options for bringing non-Medicaid HCBS individuals to the setting for meaningful interaction based on participants' interests All Providers: • Depending on compliance level, develop compliance plan to become compliant with HCBS rules • Consolidate documentation of community integration among recipients • Provide documentation that the setting does not have qualities of an institution • Remove isolating barriers or institutional qualities • Cooperate with CHFS waiver staff and CMS on-site assessments

Table 5.6 Residential provider actions for compliance

Provider Owned/Controlled Setting Requirements	
Rule	**Actions to be Compliant**
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	Staffed Residence/AFC/FHP/Group Home Providers: • Research state laws for leases to understand how to comply • Draft lease or legally enforceable document that provides participants the same responsibilities and protections from eviction that tenants have under KY law • Include furnishing/decorating guidelines within each lease

Provider Owned/Controlled Setting Requirements	
Rule	**Actions to be Compliant**
that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant and that the document provides protections that address eviction processes and appeals comparable to the jurisdiction's landlord/tenant law.	• Review lease document with each participant or guardian and his/her case manager to reach agreement on the rights and responsibilities included in the lease • Finalize and agree to lease with each participant residing in the home
Each individual has privacy in their sleeping or living unit;	Staffed Residence/AFC/FHP/Group Home Providers: • Continue to offer the participant a private bedroom or explore other options with the service plan team • Define and implement what privacy means to each participant both in bedroom and living areas • Provide staff training on privacy for participants
Units have entrance doors lockable by the individuals, with only appropriate staff having keys;	Staffed Residence/AFC/FHP/Group Home Providers: • Ensure that each participant has a key to his/her sleeping unit, unless there is a modification in the person-centered plan • Provide keys to participant rooms only to appropriate provider staff • Provide staff training on when it is appropriate to enter the participants' rooms • Require each sleeping unit to have a lockable entrance door and ensure that the participant has a key, unless there is a modification in the person-centered plan
Individuals sharing units have a choice of roommates in that setting;	Staffed Residence/AFC/FHP/Group Home Providers: • Continue to ensure that each participant has chosen his/her roommate and/or housemate • Re-locate participants to a different room or home if a change is desired • Include the participant in new housemate discussions
Individuals have freedom to furnish and decorate their sleeping and living areas within the lease or other agreement;	Staffed Residence/AFC/FHP/Group Home Providers: • Allow participants to furnish and decorate sleeping and living areas • Provide staff training

Provider Owned/Controlled Setting Requirements	
Rule	**Actions to be Compliant**
	• Include furnishing/decorating guidelines within each lease
Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time;	Staffed Residence/AFC/FHP/Group Home Providers: • Encourage participants to control their own schedule and provide support to facilitate • Give participants an option to help plan, shop, and cook meals • Give participants support needed to exercise their rights as a citizen • Allow access to appropriate areas of kitchen and food at any time as indicated in the service plan • Provide staff training • Provide supports to enable participants to do unscheduled social/community activities
Individuals are able to have visitors of their choosing at any time;	Staffed Residence/AFC/FHP/Group Home Providers: • Create standard policies related to visitors that are respectful of all participants who are living in the residence, while specifying that participants may have visitors at any time unless there is a modification in the person-centered service plan • Discuss roommate preferences to set appropriate limits to visitor hours, if the participant has a roommate
The setting is physically accessible to the individual.	Staffed Residence/AFC/FHP/Group Home Providers: • Assure that the participants can enter the home at any time, no matter if they are alone or with staff • Consider participants' abilities and safety in the environment and make any needed design modifications to promote access and safety. • Comply with all ADA requirements • Determine how all participants residing in the home will be given independent access to all entrance doors such as keys or keypads

.

VI. Public Comment Process

A. Public Comment – December, 2016 – January, 2017

ARKANSAS DEPARTMENT OF HUMAN SERVICES

HOME AND COMMUNITY-BASED SERVICES (HCBS) STATEWIDE SETTINGS TRANSITION PLAN

certifies the providers to provide care under the waiver(s) once they are enrolled to be Medicaid providers. On-going compliance with the assessment of settings will be monitored collectively with DMS, DDS and DAAS staff.

Licensed and certified settings are subject to periodic compliance site-visits by the DAAS Provider Certification Unit. HCBS Settings requirements will be enforced during those visits. DAAS expects every residential and non-residential setting to receive a visit at least once every three years. These visits will include a site survey and beneficiary experience surveys with a select number of Medicaid beneficiaries. DAAS Registered Nurses, Case Managers, and Provider Certification staff has been trained on the HCBS Settings rule. Information on the HCBS Settings rule will be included in annual training opportunities for DAAS Registered Nurses, Case Managers, and Provider Certification staff. Ongoing training for providers on the HCBS Settings rule will be provided during biannual provider workshops hosted by the DAAS Provider Certification Unit, as well as through annual meetings of provider membership organizations and via updates to the Arkansas HCBS website.

Settings found to have deficiencies will be required to implement corrective actions and can lose their license or certification when noncompliance continues or is egregious. Providers who wish to appeal our findings can follow the appeal rights process described in Section 160.00 Administrative Reconsideration and Appeals of the Arkansas Medicaid Provider Manual (https://www.medicaid.state.ar.us/provider/docs/all.aspx). New waiver providers will also be subject to an assessment of compliance with the HCBS Settings requirements before being approved to provide services for the waiver.

Regularly scheduled on-site visits completed by the DDS Licensure and Certification unit, that oversees HCBS regulatory requirements, will occur to ensure HCBS Settings compliance. DDS expects every residential setting to receive a visit at least once every three years, in addition to the current random home visit procedure (minimum 10% per staff caseload) of DDS Licensure and Certification unit. These visits will include a site survey and beneficiary experience surveys with a select number of Medicaid beneficiaries. DDS ACS Waiver staff and DDS Licensure and Certification staff have been trained on the HCBS Settings rule. Information on the HCBS Settings rule will be included in annual training opportunities for DDS ACS Waiver staff and DDS Licensure and Certification staff. Ongoing training for providers on the HCBS Settings rule will be provided through annual meetings of provider membership organizations and via updates to the Arkansas HCBS website.

Settings found to be out of compliance with the new regulations during these routine reviews will be required to submit and have approved a corrective action plan which includes a timeframe for its completion. Failure to complete that plan may jeopardize the agency's certification and participation in the waiver program. Providers who wish to appeal our findings can follow the appeal rights process described in DDS Policy 1076 Appeals.

Heightened Scrutiny

CMS and the State recognize that certain settings are presumed not to be home and community-based and instead have institutional qualities. However, a process called "heightened scrutiny" allows some such settings, with further review, to be considered compliant with the HCBS rule. To be eligible for possible heightened scrutiny consideration, settings must be in a publicly or privately owned facility that provides inpatient treatment; located on the grounds of, or immediately adjacent to, a public institution; or, have the effect of isolating individuals from the broader community. The state considers properties in which there are multiple provider-owned or operated homes in a cluster as having the effect of isolating individuals and will include them in its Heightened Scrutiny review if appropriate. The residential and non-residential site surveys include a series of questions to determine if the setting has the effect of

isolating individuals from the broader community (see Appendix F and Appendix G). However, if DHS determines certain settings demonstrate qualities of an HCBS Setting, DHS will submit these settings to CMS for heightened scrutiny review. DAAS and DDS will use on-site visits to verify the physical location of the settings and will rely on the provider self-assessment, documentation of the on-site visits including beneficiary interviews, and feedback from stakeholders to determine whether the setting has the effect of isolating individuals from the broader community. DAAS conducted site visits on 100% of residential (n=51) and non-residential providers (n=26). DDS also conducted on-site visits on 100% of residential providers which include provider owned or controlled apartments and group homes. Random samples of beneficiaries within each site were selected for a beneficiary survey during the site visit. The State will visit 100% of AFHs (n=5) and a statistically valid sample of DDS Staff Homes using the same methodology outlined on pg. 16. Site visits, including site surveys and beneficiary surveys, will be conducted in each of these settings to determine HCBS compliance and criteria for heightened scrutiny. Site visits and follow-up visits will follow the same process and protocol previously described on pg. 18-20.

To identify settings for which heighted scrutiny should be applied, DHS included questions on the site survey to elicit information about the physical location of the setting and presumed characteristics of an institution (see Appendix F and Appendix G). The information gathered for this section of the site survey relied on reviewer observations and information provided by setting administrators or senior staff persons. Currently, there are 17 ALFs, 43 provider owned or controlled apartments and group homes, and 8 ADCs/ADHCs that meet the CMS definition for possible heightened scrutiny consideration. This information will be updated following the AFH and DDS Staff Home site visits.

Of the 17 ALFs identified, five of these settings are attached to a nursing home/facility, four are adjacent to or immediately across the street from a hospital, nursing home, or public institution and the remaining eight are located on the same street/block as other settings owned by the same provider.

Of the 44 provider owned or controlled apartments and group homes, three are on the grounds of a Human Development Center (HDC) which is a public institution and one on the former grounds of an HDC. Twelve of these settings are adjacent to or immediately across the street from a provider owned ICF/IID, DDTCS, or public institution. The remaining 28 settings are located on the same street/block as other settings owned by the provider.

Of the 8 ADC/ADHCs that meet the criteria for possible heightened scrutiny consideration, two are attached to another setting owned by the same provider, one is attached to a doctor's office, four may have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS, and one is attached to another setting owned by the same provider and may have the effect of isolating individuals receiving HCBS from the broader community of individuals not receiving Medicaid HCBS.

We will be reviewing these settings over the coming months to determine which settings may overcome the presumption of being institutional to submit to CMS for heightened scrutiny. We expect to begin submitting evidentiary packets for these settings to CMS by July 2017 (timeline row A-37, D-21). These evidentiary packets will be submitted for public comment and shared with external stakeholders prior to the CMS submission.

Following the provider self-assessment and on-site visits, settings that meet any of the above heightened scrutiny criteria will be reviewed by the HCBS Settings working group with input from the regional site review teams that conducted the site visits. The regional site review team members and the inter-divisional HCBS Settings working group will receive a refresher course on the HCBS Settings final rule with particular attention paid to the heightened scrutiny process and the characteristics of an HCBS

setting. The staff more intimately involved in leading this project will conduct the training and make the training materials available to the regional site visit teams and inter-divisional HCBS Settings working group throughout the state's heightened scrutiny review process. Most members of these groups have been part of the inter-divisional HCBS Settings working group for the last year, and have participated on state-initiated technical assistance calls with CMS, CMS sponsored SOTA calls, and the 4-week technical assistance series during the summer of 2016. The HCBS Settings working group along with the regional site review team members will be reviewing the provider self-assessment (see Appendices D and E), site survey (see Appendices F and G), beneficiary survey(s) (see Appendices H and I), state-issued provider site visit report (see Appendices J and K), and corrective actions submitted by the provider for each setting that falls under one of the three prongs of heightened scrutiny.

Individual settings (providers) may be asked for additional information to document the HCBS nature of the setting and how the setting is integrated and supports full access of individuals receiving home and community-based services into the greater community. This may include evidence that beneficiaries are involved in the community outside the setting; descriptions of community interactions and how close a setting is to community activities and public transportation (or how transportation is provided for individuals in the setting); campus maps/diagrams to distinguish one setting from another; descriptions of how a setting is connected (or not) with any related institutional facility including information about finances, shared administration or other staff, and shared resources such as transportation and eating facilities; and copies of updated policies/procedures. Some additional examples of documentation might include licensure requirements or other state regulations for the setting that clearly distinguish it from institutional licensure or regulations; residential housing or zoning requirements that demonstrate how the setting is integrated and supports full access to the greater community, description of the proximity to and scope of interactions with community settings used by individuals not receiving Medicaid funded home and community-based services; provider qualifications for staff employed in the setting that indicate training or certification in home and community-based services, and that demonstrate the staff is trained specifically for home and community-based support in a manner consistent with the HCBS Settings regulations; and service definitions that explicitly support the setting requirements.

Based on the accumulation of these findings, the inter-divisional HCBS Settings working group will make a determination on which settings represent a home and community-based setting and should be submitted to CMS for review. The inter-divisional HCBS Settings working group will pay particular attention to beneficiary rights and community integration (as documented in the site survey, beneficiary surveys, provider site visit report and provider-initiated corrective actions) to ensure that the settings submitted to CMS for review reflect the qualities of an HCBS Setting and overcome the presumption of an institutional setting. The HCBS Settings working group will finalize the list of settings to be published for public comment prior to submission to CMS for heightened scrutiny review.

Prior to submission to CMS for heightened scrutiny review, the list of heightened scrutiny settings will be published in a public notice on the state's Medicaid website (https://www.medicaid.state.ar.us/general/comment/comment.aspx) and in the statewide newspaper, *Arkansas Democrat-Gazette*, to allow for public comment. We expect this public comment period to occur during the Summer of 2017 (timeline row A-38, D-22). The public notice will list the settings by name and location, and will identify the number of individuals served at each setting. The public notice will include all justifications as to how and why the setting meets HCBS requirements and will specifically note that the public has an opportunity to comment on the State's evidence. The State will provide responses to these public comments in a subsequent version of the STP.

In cases where the State asks for heightened scrutiny by CMS for certain settings, the inter-divisional HCBS Settings working group will provide CMS with documentation (including site visit reports, site-specific assessment tools/results, corrective action plans or remediation strategies implemented by the

provider/setting, information received during public comment period, information from external stakeholders, information received from the provider/setting, person-centered service plans, etc.) in an effort to demonstrate that the setting does not have the qualities of an institution and that it does have the qualities of a home and community-based setting. Types of evidence in the packet will include information such as pictures of the site and other demonstrable evidence, description of the proximity to avenues of available public transportation or an explanation of how transportation is provided where public transportation is limited, evidence that the provider has procedures in place that indicate support for activities in the greater community according to the individual's preferences and interests, staff training materials that speak of the need to support individuals' chosen activities, and a discussion of how schedules are varied according to the typical flow of the local community and description of the proximity to and scope of interactions with community settings used by individuals not receiving Medicaid funded HCBS. Part of the evidentiary packet submitted to CMS for heightened scrutiny for a particular setting may also include a completed corrective action plan prepared by the setting to remedy any issues highlighted in the site visit report sent to providers following the initial site visits in the Spring and Summer of 2016. We do not intend to submit settings for CMS review for heightened scrutiny unless we believe the setting does in fact have the qualities of a home and community based setting. The HCBS Settings working group will engage in ongoing dialogue with CMS during the heightened scrutiny process and anticipates submitting heightened scrutiny evidence to CMS on a quarterly basis beginning in July 2017.

If transitioning residents to a compliant provider/setting becomes necessary, the HCBS Settings working group will follow the transition process outlined below.

Transition of Beneficiaries to Compliant Provider

To identify settings for which heighted scrutiny should be applied, we included questions on the site survey to elicit information about the physical location of the setting and presumed characteristics of an institution (see Appendix F). Currently, there are 17 ALFs, 44 provider owned or controlled apartments and group homes, and 8 ADCs/ADHCs that meet the CMS definition for heightened scrutiny consideration. We will be reviewing these settings over the coming months to determine which settings may overcome the presumption of being institutional to submit to CMS for heightened scrutiny. The State estimates there are approximately 220 beneficiaries residing in an ALF that meet the CMS definition for heighted scrutiny. In addition, there are approximately 35 beneficiaries receiving services from a ADC/ADHC that meet the CMS definition for heightened scrutiny. Furthermore, the State estimates there are approximately 232 beneficiaries residing in a DDS provider owned or controlled residential setting that meet the CMS definition for heightened scrutiny. The State is confident that most, if not all, of these facilities will overcome the institutional presumption during CMS' heightened scrutiny review. We expect to begin submitting evidentiary packets for these settings to CMS by July 2017 (timeline row A-37, D-21) and on a quarterly basis thereafter through December 2017. These evidentiary packets will be submitted for public comment and shared with external stakeholders prior to the CMS submission. During the public comment process, the settings being submitted for heightened scrutiny to CMS will be identified by name and address, and will identify the number of individuals served at each setting.

If a setting is not in full compliance with the HCBS Setting rule based on information obtained during the provider self-assessment and on-site visit, the expectation is that the setting will come into compliance by drafting and implementing a corrective action plan with reasonable timelines for achieving compliance. We expect these providers to engage with members of the HCBS Settings working group through tailored technical assistance and attend scheduled provider trainings as part of their transition into compliance. If the provider cannot or will not come into compliance by the end of 2017, DHS will begin its process of transitioning beneficiaries from the non-compliant setting to a setting that meets all HCBS settings