

The Hilltop Institute



analysis to advance the health of vulnerable populations

HCBS Community Settings Final Rule: Provider Self-Assessment Summary

August 02, 2016

Suggested Citation: Mood, M.A. (2016, August). *HCBS final rule: Provider self-assessment summary*. Baltimore, MD: The Hilltop Institute, UMBC.



The Hilltop Institute

HCBS Final Rule: Provider Self-Assessment Summary

Table of Contents

Introduction	1
Methods	1
Pilot Study	1
Providers Completing the Assessment.....	2
Assessment Launch	2
Analysis Scheme.....	2
Results	4
Next Steps	11
Appendices	
A. Maryland HCBS Waiver Provider Self-Assessment, 2016	12
B. Crosswalk of MD Provider Self-Assessment Questions with HCBS Final Rule Community Settings Regulatory Criteria	32
C. Analysis Scheme for Specific Regulation in Final Rule for HCBS Provider Self- Assessment 2016	51
D. Detailed Summary of Service Setting Compliance by Regulation.....	61



HCBS Final Rule: Provider Self-Assessment Summary

Introduction

The Maryland Department of Health and Mental Hygiene (DHMH) requested that The Hilltop Institute develop a provider self-assessment to assist the state in determining the compliance of home and community-based services (HCBS) waiver providers with the HCBS settings final rule criteria set forth by the Centers for Medicare and Medicaid Services (CMS) on January 16, 2014.¹ This report presents the methods for this study, the development of the analysis scheme, a series of summary results tables, and next steps. The appendices contain the assessment instrument, a crosswalk of the assessment instrument with the HCBS final rule, the full analysis scheme, and a detailed table of compliance by regulation for each service setting. Additionally, DHMH was given an excel file with the names of the providers who are compliant on all questions/indicators in the analysis scheme, and a listing of providers by service setting, detailing which questions in each portion of the regulation were non-compliant.

Methods

To develop the provider self-assessment instrument, Hilltop reviewed questions from CMS's exploratory questions documents.² Additionally, Hilltop staff attended DHMH's transition team meetings to gather feedback from stakeholders on drafts of the self-assessment instrument. Hilltop also prepared a crosswalk of the self-assessment instrument with the regulatory criteria to assist the state and stakeholders in determining if all aspects of the final rule were covered thoroughly. One instrument was developed for both non-residential and residential providers; however, residential providers did have to complete additional residential-specific questions.

Pilot Study

A pilot study was conducted prior to the launch of the self-assessment to all providers. The purpose of the pilot study was to determine:

- Clarity of questions
- Ease of use of the electronic instrument
- Sufficient coverage of all areas of the community settings regulation
- Presence of unnecessary questions

¹ <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services.html>

² Same link as above



- Completion time

Minor changes were made to the instrument based on the results of the pilot, including slight wording changes to clarify questions and reinforce to providers the necessity of completing the assessment for every site operated.

Providers Completing the Assessment

DHMH determined that Home and Community-Based Options (HCBO or CO), Medical Day, and Autism Waiver providers would complete the self-assessment. The specific service settings included assisted living, medical day care, residential habilitation (for the Autism Waiver), senior center plus, and therapeutic integration (for the Autism Waiver).

Assessment Launch

DHMH sent letters to providers containing a link to a PDF version of the assessment to review, as well as the link to take the actual assessment online. The online assessment opened on January 4, 2016. A webinar held on January 11, 2016, walked providers through the assessment and responded to questions.

The online assessment remained open to all providers until the end of April 2016, after which it was reopened at DHMH's request at the end of May and again in mid-July. This analysis includes data through July 13, 2016.

Analysis Scheme

Relevant questions/indicators were linked to specific regulations within the HCBS community settings final rule criteria. DHMH developed a compliant/non-compliant analysis scheme in which providers who were non-compliant on any one indicator for a specific regulation were deemed non-compliant for that specific regulation. As noted earlier, tables of the non-compliant providers are organized by service setting for each portion of regulation. The number of questions/indicators for each regulation on which a provider was non-compliant was also included in the tables.

Additional key questions were denoted as "red flag questions". Providers who were deemed non-compliant on these questions may require more immediate attention from DHMH. A summary of the analysis scheme is presented below; the full scheme can be found in Appendix C.



Table 1. Summary of Analysis Scheme

Regulation	Number of Questions/Summary of Question(s)
One: Setting is institutional	1 – Is the site located in one of the following? (choices include institutional types and none of the above)
Two: Setting has presumed qualities of an institution	7 – Physical location of setting, service provisions, and members of the community at the site
Three: Setting is integrated and supports full access to the community	6 – Do participants control funds and access the community?
Four: Setting is picked by the individual—including non-disability specific settings and a choice of a private bedroom	2 – Are services received in non-disability specific settings, and is an option of a private bedroom given (for residential settings)?
Five: Setting ensures individuals' rights to privacy, dignity, respect, and freedom from coercion and restraint	3 –Are participants assisted privately and is informed consent regarding cameras and restrictive interventions granted?
Six: Setting optimizes individual autonomy and independence in making life choices	1 – Are participants able choose who to interact with during group activities?
Seven: Setting facilitates individual choice regarding services and supports	2 – Are participants asked about needs and preferences regarding services, and given information regarding how to make changes?
Eight: Individuals must have a lease or residency agreement (residential setting)	1 – Do participants have a lease or other legally enforceable document that describes their rights?
Nine: Individuals must have privacy in their sleeping or living units (residential setting)	14 – Do participants have roommate choice, locking doors and key access, private space for communication with others, and freedom to decorate?
Ten: Individuals are free to control their own schedules and have access to food at any time	4 – Are participants free to come and go and access food (including when, where and what type)?
Eleven: Individuals are able to have visitors at any time (residential setting)	1 – Are participants able to have visitors 24 hours a day?
Twelve: Setting is physically accessible to the individuals (residential setting)	1 – Is a kitchen physically accessible to participants?



Results

The figures and tables presented below show the distribution of assessment responses by service settings, overall compliance, non-compliance with red flag questions, and a summary of provider service setting compliance by regulation. A more detailed table of provider service setting compliance by regulation can be found in Appendix D.

There are 864 completed assessments, but some providers offer more than one service at a site, which accounts for the 883 service settings identified.

Figure 1. Service Settings of Providers

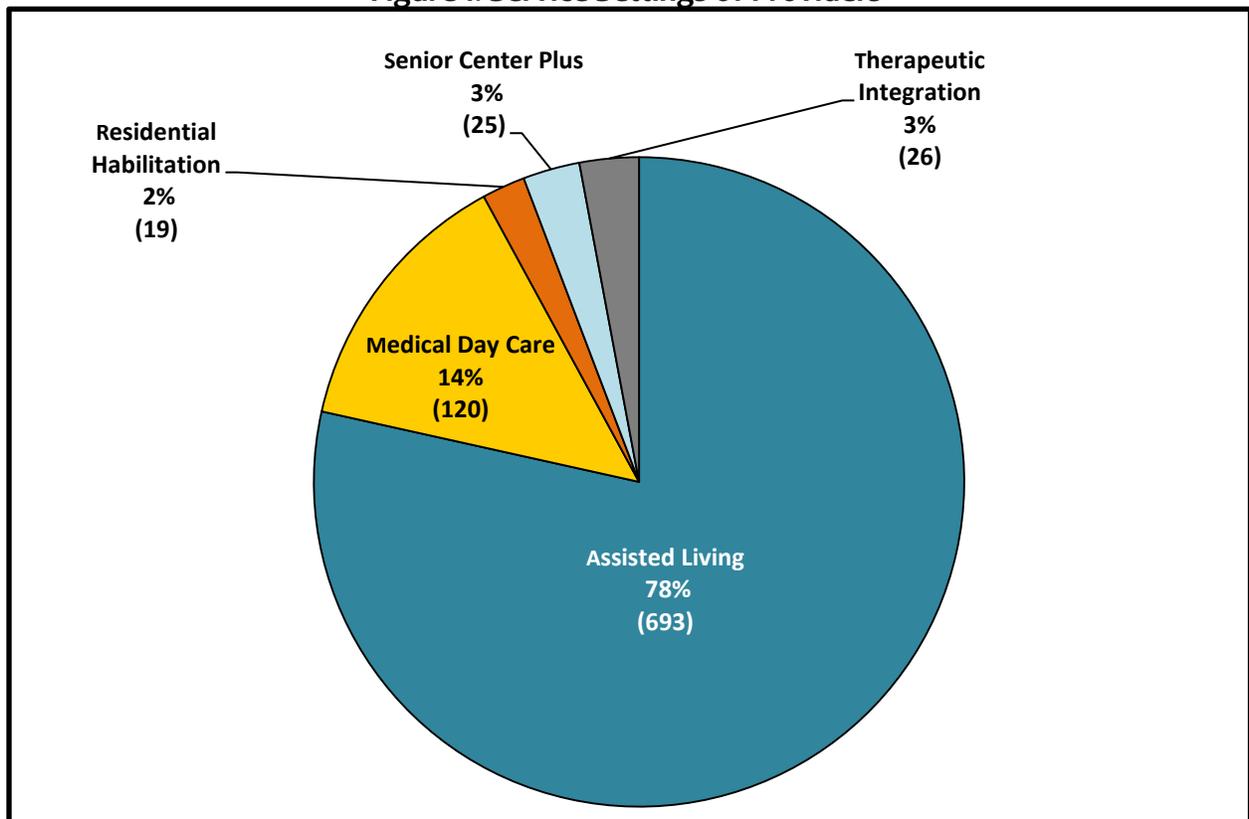


Table 2 illustrates that the majority of providers are not currently compliant with all aspects of the HCBS final rule. This was not unexpected since the intent of the provider self-assessment was to determine current areas of non-compliance so that the state may assist providers in coming into full compliance by March 2019.

Table 2. Overall Compliance by Service Setting*

Service Setting	Non-Compliant	Compliant	Compliance Rate for Each Service Setting
Assisted Living	691	2	0.3%
Medical Day Care	115	5	4.2%
Residential Habilitation	19	0	0.0%
Senior Center Plus	25	0	0.0%
Therapeutic Integration	25	1	3.8%
Overall Compliance of all Service Settings	875	8	0.9%

*864 assessments were completed, however some providers indicated offering more than one service, hence the total number of service settings is 883. Compliance is defined as being compliant on all questions/indicators included in the analysis scheme.

Because overall non-compliance is high, the state identified six red flag questions to help prioritize who may need assistance first in coming into compliance, as listed below.

1. Is the site located in one of the following? (Answer choices included each of the institutional settings and a “none of the above” response.)
2. Is the site located on the grounds of, adjacent to, or in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment?
3. Are multiple types of services (e.g., housing, day services, medical, behavioral, and/or social and recreational activities) provided at this site?
4. Is the site physically isolated from the greater community (e.g., gate setting, secured community, farm community, or campus setting)?
5. Do participants access the broader community (i.e., go to places not located at the site)?
6. Are participants and/or their legal representatives given information regarding how to make changes to their services?

Table 3 shows the percentage of non-compliant red flag questions by service setting. It is important to understand that being non-compliant on zero red flag questions means that, conversely, a provider setting *was* compliant on all of the red flag questions. As such, the assisted living service settings have the highest percentage of compliance at 39.7 percent. Following this, 43.2 percent of assisted living settings are non-compliant on one red flag question. Alternatively, the residential habilitation service settings have the highest percentage



of overall red-flag question non-compliance at 84.2 percent. There are no service settings that were non-compliant on all of the red flag questions.

Table 3. Percentage of Non-Compliant Red Flag Questions by Service Setting

Number of Non-Compliant Red Flag Questions*	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
0	39.7% (275)	25.8% (31)	15.8% (3)	28.0% (7)	26.9% (7)
1	43.2% (299)	47.2% (59)	57.9% (11)	52.0% (13)	42.3% (11)
2	12.4% (86)	19.2% (23)	21.1% (4)	16.0% (4)	19.2% (5)
3	3.9% (27)	5.8% (7)	5.3% (1)	4.0% (1)	7.7% (2)
4	0.7% (5)	0.0% (0)	0.0% (0)	0.0% (0)	3.9% (1)
5	0.1% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Total Number of Service Settings	693	120	19	25	26

*There were a total of six red flag questions

Table 4 presents the compliance rate of each service setting by each portion of the regulation. This table gives a better understanding of areas in which the majority of service settings are compliant and areas of higher non-compliance. As illustrated, the vast majority of service settings are compliant on Regulation One—site is located at a nursing facility, an institution for mental disease, an intermediate care facility for individuals with ID, or a hospital. For example, 100 percent of therapeutic integration and senior center plus service settings are not located in an institutional setting. However, for Regulation Two—setting has presumed qualities of an institution—between 77 and 100 percent of the service settings are non-compliant on one or more of the indicators.

The table illustrates that areas of compliance may vary by service setting. For instance, Regulation Three—setting is integrated and supports full access of HCBS waiver participants to the greater community—highlights that a higher percentage of assisted living and residential habilitation service settings (74.0 percent and 84.2 percent respectively) are non-compliant compared to the medical day care, senior center plus, and therapeutic integration service settings. This difference in compliance may be due to providing residential versus non-residential services.



This same table is presented in Appendix D, but it shows the percentage of providers who are non-compliant by the number of indicators within each regulation.



Table 4. Summary of Service Setting Compliance by Regulation

Regulation	Compliance	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
One: Site is located at a nursing facility, an institution for mental disease, an intermediate care facility for individuals with ID, or a hospital	Compliant on Single Indicator	94.8% (657)	95.0% (114)	94.7% (18)	100.0% (25)	100.0% (26)
	Non-Compliant on Single Indicator	5.2% (36)	5.0% (6)	5.3% (1)	0.0% (0)	0.0% (0)
Two: Setting has presumed qualities of an institution	Compliant on All Indicators	22.1% (153)	22.5% (27)	0.0% (0)	16.0% (4)	7.7% (2)
	Non-Compliant on One or More Indicators	77.9% (540)	77.5% (93)	100.0% (19)	84.0% (21)	92.3% (24)
Three: Setting is integrated and supports full access of HCBS waiver participants to the greater community	Compliant on All Indicators	26.0% (180)	81.7% (98)	15.8% (3)	56.0% (14)	69.2% (18)
	Non-Compliant on One or More Indicators	74.0% (513)	18.3% (22)	84.2% (16)	44.0% (11)	30.8% (8)
Four: Setting is selected by the participant, including the option of a private room, and services are based on the needs and preferences of the individual	Compliant on All Indicators	44.2% (306)	60.8% (73)	68.4% (13)	48.0% (12)	69.2% (18)
	Non-Compliant on One or More Indicators	55.8% (387)	39.2% (47)	31.6% (6)	52.0% (13)	30.8% (8)
Five: Setting ensures a participant's rights of privacy, dignity, respect, and freedom from coercion and restraint	Compliant on All Indicators	92.8% (643)	85.0% (102)	94.7% (18)	88.0% (22)	80.8% (21)
	Non-Compliant on One or More Indicators	7.2% (50)	15.0% (18)	5.3% (1)	12.0% (3)	19.2% (5)



Regulation	Compliance	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Six: Setting optimizes, but does not regiment individual autonomy and independence in making life choices	Compliant on the Single Indicator	99.0% (686)	100.0% (120)	100.0% (19)	100.0% (25)	84.6% (22)
	Non-Compliant on the Single Indicator	1.0% (7)	0.0% (0)	0.0% (0)	0.0% (0)	15.4% (4)
Seven: Setting facilitates individual choice regarding services and supports, and who provides them	Compliant on All Indicators	82.4% (571)	88.3% (106)	73.7% (14)	84.0% (21)	69.2% (18)
	Non-Compliant on One or More Indicators	17.6% (122)	11.7% (14)	26.3% (5)	16.0% (4)	30.8% (8)
Eight: Participants must have a lease or residency agreement	Compliant on the Single Indicator	98.4% (682)	100.0%* (120)	36.8% (7)	100.0%* (25)	96.2% (25)
	Non-Compliant on the Single Indicator	1.6% (11)	0.0% (0)	63.2% (12)	0.0% (0)	3.9% ³ (1)
Nine: Participants must have privacy in the sleeping or living unit	Compliant on All Indicators	8.1% (56)	98.3% (118)	5.3% (1)	100.0%* (25)	96.2% (25)
	Non-Compliant on One or More Indicators	91.9% (637)	1.7% ¹ (2)	94.7% (18)	0.0% (0)	3.9% ³ (1)
Ten: Participants have the freedom to support and control their own schedules and activities, and have access to food at any time	Compliant on All Indicators	68.4% (474)	51.7% (62)	63.2% (12)	44.0% (11)	76.9% (20)
	Non-Compliant on One or More Indicators	31.6% (219)	48.3% (58)	36.8% (7)	56.0% (14)	23.1% (6)



Regulation	Compliance	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Eleven: Participants are able to have visitors at any time	Compliant on the Single Indicator	82.8% (574)	100.0%* (120)	79.0% (15)	100.0%* (25)	96.2% (25)
	Non-Compliant on the Single Indicator	17.2% (119)	0.0% (0)	21.1% (4)	0.0% (0)	3.9% ³ (1)
Twelve: The setting is physically accessible to the individual	Compliant on the Single Indicator	59.2% (410)	97.5% (117)	89.5% (17)	100.0%* (25)	96.2% (25)
	Non-Compliant on the Single Indicator	40.8% (283)	2.5% (3) ^{1,2}	10.5% (2)	0.0% (0)	3.9% ³ (1)

*100 percent compliance because this is a residential provider regulation and this is a non-residential service setting

¹Provider identified as MDC and AL provider

²MDC provider who mistakenly answered physical accessibility questions

³TI provider (who is actually respite provider) stated provided residential services, so responded to the question



Next Steps

DHMH will use the data from the analysis to help providers become compliant with the HCBS final rule by March 2019. As noted earlier, a detailed Excel file that identified provider non-compliance by setting and regulation was also sent to DHMH. This detailed file will allow DHMH to better assist providers in becoming compliant.



Appendix A.



Maryland HCBS Waiver Provider Self-Assessment, 2016

Introduction

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued a final rule to ensure that Medicaid home and community-based services (HCBS) waiver programs provide full access to the benefits of community living and offer services in the most integrated settings to program participants.

CMS has directed states to determine the compliance of settings with this final rule. This self-assessment is specific to the following service settings:

1. Medical Day Care (a service on the Home and Community-Based Options (CO), Medical Day Care, Model, Community Pathways (CP), and Brain Injury (BI) Waivers)
2. Senior Center Plus (a service on the CO Waiver)
3. Therapeutic Integration (a service on the Autism Waiver)
4. Assisted Living (a service on the CO Waiver)
5. Residential Habilitation (this assessment is targeting residential habilitation services for Autism Waiver participants only)

As a provider you must complete this mandatory self-assessment for each SITE operated. Answering each question honestly will enable the State to assist providers in areas that may not currently be compliant with the new rule. At the end of the assessment, you will submit your assessment by clicking the "Done" button. Clicking "Done" submits your assessment but also returns you to the beginning of the self-assessment. If you only have one site, you may then close the tab on your browser because you are finished. If you are operating more than one site, you will then complete your next self-assessment. .

Within the self-assessment, at the bottom of the screen, you will click on the "Next" button to advance the assessment. You may click on the "Previous" button if you need to go back to a previous screen in the assessment. Once you have clicked on "Done" at the end of the assessment, you will not be able to return to your self-assessment. All questions must be answered and you will not be permitted to move forward in the assessment if you have skipped any questions on the screen. The asterisk (*) beside each question indicates that the question must be answered.

If you have any questions about this assessment, please contact MaryAnn Mood, Policy Analyst at The Hilltop Institute, 410-455-6395, hcbs@hilltop.umbc.edu.



If you have any questions about the final rule or the necessity of completing this assessment, please contact Rebecca Oliver or Ernest Le at DHMH, 410-767-5212, dhmh.hcbsetting@maryland.gov.

This assessment should take approximately 20 minutes to complete. All questions must be answered. There is space at the end of the assessment for additional comments.

Section 1. Background Information

1. Contact information of person completing this assessment.

1. Name of person completing assessment: _____

2. Title of person completing assessment: _____

3. Phone number of person completing assessment (e.g.,4104551111): _____

4. E-mail address of person completing assessment: _____

2. Name of provider organization: _____

3. Site address:

1. Street (include suite numbers, etc...): _____

2. City/Town: _____

3. ZIP: _____

4. Please indicate the services provided at this site. **Check all that apply.**

Medical day care

Senior center plus

Therapeutic integration

Assisted living

Residential habilitation

5. How many services were noted in the previous question as being provided at this site?

Two

Three

Four

Five



Please enter all unique Medicaid provider numbers for this site for the services noted on this assessment.

6. How many unique Medicaid provider numbers does this site have?

- One
- Two
- Three
- Four
- Five

7. Please indicate the first/only unique provider Medicaid number. _____

8. Is there a second unique provider number for this site?

- Yes
- No → **Skip to question #16**

9. Please indicate the second unique provider Medicaid number. _____

10. Is there a third unique provider number for this site?

- Yes
- No → **Skip to question #16**

11. Please indicate the third unique provider Medicaid number. _____

12. Is there a fourth unique provider number for this site?

- Yes
- No → **Skip to question #16**

13. Please indicate the fourth unique provider Medicaid number. _____

14. Is there a fifth unique provider number for this site?

- Yes
- No → **Skip to question #16**

15. Please indicate the fifth unique provider Medicaid number. _____



Section 2. Physical Characteristics and Community Involvement at Setting

Unless otherwise noted, for multiple choice questions, only one circle should be filled in.

16. Is the site located in one of the following?

- A nursing facility
- An institution for mental diseases
- An intermediate care facility for individuals with intellectual disabilities
- A hospital
- None of the above

17. Is the site located on the grounds of, adjacent to, or in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment?

- Yes
- No

18. Are multiple types of services (e.g., housing, day services, medical, behavioral, and/or social and recreational activities) provided at this site?

- Yes
- No

19. Is the site near (i.e., within ¼ mile of) other sites that **YOUR provider organization** operates for people receiving home and community-based (HCB) waiver services?

- Yes
- No

20. Is the site physically isolated from the greater community? (i.e., gated setting, secured community, farm community, or campus setting)

- Yes
- No

21. Is the site near (i.e., within ¼ mile of) other private residences or retail businesses? (Industrial parks are not considered retail businesses.)

- Yes
- No

22. Do HCBS waiver participants receive services in a separate area from non-HCBS waiver participants at the site?

- Yes
- No
- Not applicable. Only serve HCBS waiver participants.



23. During a one-month time frame, on average, how frequently do members of the larger community (i.e., individuals who are not family members or friends of participants, or paid employees) visit and/or volunteer at the site?
- 16 or more days a month
 - 11 to 15 days a month
 - 6 to 10 days a month
 - 1 to 5 days a month
 - 0 days a month



Section 3. Physical Accessibility of the Setting

24. Does the site have physically accessible bathrooms for participants to use?

- Yes, and no modifications are necessary for participants to access them.
- Yes, with the necessary modifications for participants to access them. (e.g., grab bars or raised toilet seats.)
- No bathrooms are physically accessible.

25. Does the site have physically accessible furniture (e.g., tables and desks that allow room for wheelchairs) for participants to use?

- Yes
- No

26. In general, are modifications provided as needed so that participants have full access to the site? (e.g., widened doorways or ramps for wheelchairs.)

- Always
- Sometimes
- Never
- Not applicable. No modifications are needed.

27. Do participants have unrestricted access to public areas at the site? (i.e., there are no restrictive devices such as gates or locked doors prohibiting them from areas that are open to the public.)

- Yes
- No

Optional clarification to answer (up to 500 characters):



Section 4. Personal Resources, Community Integration, and Services in the Community

28. Are participants and/or their legal representatives informed about community activities/events? (e.g., festivals, religious activities, concerts, sporting events, and movies.)

Yes

No → **Skip to question #30**

29. How are participants and/or their legal representatives informed about community activities/events?

Check all that apply.

Staff tell the participants and/or their legal representatives.

Information is posted on a bulletin board in an area accessible to participants and/or their legal representatives.

Staff send participants and/or their legal representatives information electronically. (i.e., e-mail.)

Printed materials (e.g., letters or flyers) are mailed or sent home with the participant.

Other, please specify (up to 300 characters):

30. Are participants asked how often they want to engage in community activities located off-site?

Yes

No

31. Do participants access the broader community (i.e., go to places not located at the site)?

Yes

No → **Skip to question #35**

32. Identify the resources that are available for participants to access the broader community. **Check all that apply.**

Public transportation

Staff help participants by assisting (e.g., providing rides, help with walking, or use of a wheelchair) them.

Friends help participants by assisting (e.g., providing rides, help with walking, or use of a wheelchair) them.

Family members help participants by assisting (e.g., providing rides, help with walking, or use of a wheelchair) them.

Volunteers help participants by assisting (e.g., providing rides, help with walking, or use of a wheelchair) them.

Other, please specify (up to 300 characters):



33. In a one-month time frame, on average, how frequently do participants engage in activities (e.g., going to a restaurant, park, sporting event, or religious service) in the broader community (i.e., not at the site)?
- 16 or more days a month
 - 11 to 15 days a month
 - 6 to 10 days a month
 - 1 to 5 days a month
34. When participants engage in activities in the broader community (i.e., not at the site), on average, what is the level of interaction with community members who are not receiving HCBS services?
- Very frequent
 - Moderately frequent
 - Not very frequent
 - No interaction takes place with community members.
35. In a one-month time frame, on average, how frequently do participants receive services in non-disability specific settings (based on availability in the community)? (e.g., are participants offered the chance to participate in activities at a local YMCA or volunteer in the community at a local animal shelter?)
- 16 or more days a month
 - 11 to 15 days a month
 - 6 to 10 days a month
 - 1 to 5 days a month
 - 0 days a month
36. Are participants and/or their legal representatives asked what their needs and preferences are regarding the types of activities at the site? (i.e., at an adult day care or a therapeutic integration site, are participants asked what activities they want to do?)
- Yes
 - No
37. Are participants who want to work in integrated employment settings* encouraged to do this?
- Yes
 - No
 - Not applicable. Employment related services are not offered at this site.

The United States Department of Labor defines an **integrated employment setting as one where the majority of the persons employed are not persons with disabilities, employees earn at least the minimum wage, and employees are paid directly by their employer.*



38. Are participants and/or their legal representatives given information regarding how to make changes to their services? (HCBS non-residential or residential services.)

Yes

No → **Skip to question #40**

39. Indicate the type of information that is given to participants and/or their legal representatives regarding how to make changes to their services (HCBS non-residential or residential services). **Check all that apply.**

How to request additional services

How to change current services

How to request a new provider of current services

Other, please specify (up to 500 characters):



Section 5. Right to Privacy, Respect, and Freedom from Restraint

40. Are staff available to assist participants privately? (e.g., if a participant needs help using the bathroom or help with personal hygiene.)
- Yes
 - No
41. Is all personal information about participants kept in a secure and private location? (e.g., in a locked file cabinet.)
- Yes
 - No
42. Are participants and/or their legal representatives asked to grant informed consent regarding the use of cameras to monitor participants?
- Yes
 - No
 - Not applicable. Cameras are not used at this site.
43. Are participants addressed in a manner that they prefer? (e.g., by their preferred name or nickname.)
- Yes
 - No
44. Do staff communicate (i.e., in the participants' native language or using adaptive equipment) with participants in a manner easily understood by them?
- Yes
 - No
45. Are participants and/or their legal representatives asked to grant informed consent regarding the use of restraints and/or restrictive interventions?
- Yes
 - No
 - Not applicable. Restraints and/or restrictive interventions are not used at this site.



Section 6. Right to Independence and Autonomy

46. Are participants permitted to vote if they are 18 years old or older in local, state, and national elections?

- Yes
- No
- Not applicable. No participants are 18 years old or older.

47. Are participants able to choose who they interact with during group activities? (e.g., who they sit with or who they work together with.)

- Yes
- No

48. Is food served at the site?

- Yes
- No → **Skip to question #52**

49. Outside of scheduled times, are participants able to choose *when* they eat?

- Yes, all participants are able to choose when they eat.
- Some participants are not able to choose when they eat, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants are not able to choose when they eat, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants are able to choose when they eat.
- Not applicable. There are no scheduled times food is served.

Optional clarification to answer (up to 500 characters):

50. Are participants able to choose *where* they eat?

- Yes, all participants are able to choose where they eat.
- Some participants are not able to choose where they eat, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants are not able to choose where they eat, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants are able to choose where they eat.

Optional clarification to answer (up to 500 characters):



51. Are participants able to choose *what* they eat?

Yes, all participants are able to choose what they eat.

Some participants are not able to choose what they eat, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.

Some participants are not able to choose what they eat, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.

None of the participants are able to choose what they eat.

Optional clarification to answer (up to 500 characters):



Section 7. Provider Type

52. Please indicate your provider type. “Residential” indicates that assisted living or residential habilitation services (for autism waiver participants) are provided at the site. “Non-residential” indicates that medical day care, senior center plus, or therapeutic integration services are provided at the site.

- Residential
- Non-residential → **Skip to question #75, the end of this self-assessment**
- Both residential and non-residential



Section 8. Residential Settings

53. Does the site have physically accessible laundry facilities (e.g., clothes washer or dryer) for participants to use?

- Yes, and no modifications are necessary for participants to use them.
- Yes, with the necessary modifications for participants to use them. (e.g., front loading clothes washers or dryers.)
- No laundry facilities are physically accessible for participants.

54. Does the site have a physically accessible kitchen for participants to use?

- Yes, and no modifications are necessary for participants to use it.
- Yes, with the necessary modifications for participants to use it. (e.g., cabinets are counters are lowered.)
- No kitchen is physically accessible for participants.

55. Were participants and/or their legal representatives given the option of a unit with a private bedroom? (This would take into account the participant's resources for room and board. "Private bedroom" means that the participant does not have roommates.)

- Yes
- No

56. Do participants and/or their legal representatives have a signed lease or other legally enforceable document that describes their rights?

- Yes, all participants have a signed lease/legally enforceable document.
- Some participants do not have a signed lease/legally enforceable document, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have a signed lease/legally enforceable document, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have a signed lease/legally enforceable document.

Optional clarification to answer (up to 500 characters):



57. If participants are sharing bedrooms, were they and/or their legal representatives given a choice of their roommate(s)?

- Yes, all participants were able to choose their roommate(s) .
- Some participants were not able to choose their roommate(s), and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants were not able to choose their roommate(s), and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants were able to choose their roommate(s).
- Note applicable. Participants are not sharing bedrooms.

Optional clarification to answer (up to 500 characters):

58. Do the entrance doors (i.e., the front door) to the unit(s) lock?

- Yes, all participants have lockable entrance doors.
- Some participants have do not have lockable entrance doors, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have lockable entrance doors, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have lockable entrance doors.

Optional clarification to answer (up to 500 characters):

59. What staff have keys to the participant's entrance doors (i.e., the front doors)?

- All staff have keys to the entrance doors.
- Only the designated staff have keys to the entrance doors.
- No staff have keys to the entrance doors.
- Not applicable. The entrance doors are not lockable.



60. Do participants have keys to their entrance doors (i.e., the front door)?

- Yes, all participants have keys to their entrance doors.
- Some participants do not have keys to their entrance doors, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have keys to their entrance doors, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have keys to their entrance doors.
- Not applicable. Keys are not necessary as the entrance doors are not lockable.

61. Do participants have lockable bedroom doors?

- Yes, all participants have lockable bedroom doors.
- Some participants do not have lockable bedroom doors, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have lockable bedroom doors, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have a lock on their bedroom door.

Optional clarification to answer (up to 500 characters):

62. What staff have keys to the bedroom doors?

- All staff have keys to the bedroom doors.
- Only designated staff have keys to the bedroom doors.
- No staff have keys to the bedroom doors.
- Not applicable. The bedroom doors are not lockable.

63. Do participants have keys to their bedroom doors?

- Yes, all participants have keys to their bedroom doors.
- Some participants do not have keys to their bedroom doors, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have keys to their bedroom doors, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have keys to their bedroom doors.
- Not applicable. Keys are not necessary as the bedroom doors are not lockable.

64. Do staff knock and ask for permission to enter before entering a participant's bedroom?

- Yes
- No



65. Do participants have lockable bathroom doors?

- Yes
- No

66. Do staff knock and ask for permission to enter before entering the bathroom when a participant is using it?

- Yes
- No

67. Do participants have a private space to meet with their visitors?

- Yes
- No

68. Do participants have a private space to have phone and/or electronic communication (i.e., a computer or an iPad/tablet)?

- Yes
- No

69. Are participants able to access the phone and/or electronic communication devices at any time?

- Yes
- No

70. Do participants have the freedom to decorate their own space (within limits, as agreed upon with the provider) with items of their choosing? (e.g., they can hang their own pictures or pick their own curtains or other furnishings.)

- Yes, all participants have the freedom to decorate their own space.
- Some participants do not have the freedom to decorate their own space, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have the freedom to decorate their own space, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have the freedom to decorate their own space.

Optional clarification to answer (up to 500 characters):



71. Do participants have the freedom to come and go as they wish?

- Yes, all participants have the freedom to come and go as they wish.
- Some participants do not have the freedom to come and go as they wish, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants do not have the freedom to come and go as they wish, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants have the freedom to come and go as they wish.

Optional clarification to answer (up to 500 characters):

72. Are participants able to have visitors at any time of the day (i.e., 24 hours a day)?

- Yes, all participants are able to have visitors at any time of the day.
- Some participants are not able to have visitors at any time of the day, and the reasons specific to each of these participants ARE documented in all of these participants' person-centered plans.
- Some participants are not able to have visitors at any time of the day, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans.
- None of the participants are able to have visitors at any time of the day.

Optional clarification to answer (up to 500 characters):

73. Do participants control their own funds? (i.e., participants have their own checking or savings accounts that they manage.)

- Yes, all participants control their own funds.
- Some participants control their own funds.
- None of the participants control their own funds.

Optional clarification to answer (up to 500 characters):



74. Are participants who are 21 or older permitted to drink alcohol at this site?

- Yes, all participants of legal age are permitted.
- Some participants of legal age are permitted.
- None of the participants of legal age are permitted.
- Not applicable. There are no participants who are 21 or older at the site.

Optional clarification to answer (up to 500 characters):



Section 9. Comments

75. Additional Comments (up to 1000 characters)?

Thank you for completing the self-assessment for this site. If you have another site to complete a self-assessment for, once you click "DONE" you will be returned to the beginning of the assessment. If you do not have any more sites, you may close the tab on your browser.



Appendix B. Crosswalk of MD Provider Self-Assessment Questions with HCBS Final Rule Community Settings Regulatory Criteria

(Questions meeting more than one criterion have been color coded and background questions are not included)

Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
<i>Settings that are not Home and Community-Based Settings</i>				
1915c: 441.301(c)(5)(i)-(iv)	The setting cannot be: 1. A nursing facility 2. An institute for mental disease 3. An intermediate care facility for individuals with intellectual disabilities 4. A hospital	16	Is the site located in one of the following? ○ A nursing facility (NF) ○ An institute for mental disease (IMD) ○ A hospital ○ An intermediate care facility for individuals with intellectual disabilities (ICF/IID) ○ None of the above	These are the settings identified in the rule that home and community-based services cannot be provided in.
<i>Settings Presumed to have the Qualities of an Institution</i>				



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(5)(v)	Any other location that has the qualities of an institutional setting, as determined by the Secretary. 1. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment 2. Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution 3. Any setting that has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS	17	Is the site located on the grounds of, adjacent to, or in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment?	<p><u>From HCBS Worksheet for Assessing Services and Settings:</u></p> <ol style="list-style-type: none"> 1. The setting is designed to provide people with multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities 2. People in the setting have limited, if any, interaction with the broader community 3. Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion). Examples include: <ol style="list-style-type: none"> a. Farmstead or a disability specific farm community b. Gated/secure "community" for people with disabilities c. Residential schools d. Multiple settings that are co-located and operationally related (i.e. operated and controlled by the same provider) that congregate a large number of people with disabilities together and provide for significant shared programming and staff, such that people's ability to interact with the community is limited. <p><u>From CMS Residential Tool Kit:</u></p> <p>The setting does not isolate individuals from individuals not receiving Medicaid HCBS in the broader community:</p> <ol style="list-style-type: none"> 4. Do individuals receiving HCBS live/receive services in a different area of the setting separate from individuals not receiving Medicaid HCBS? (also in CMS Non-Residential Tool Kit) 5. Is the setting in the community among other private residences, retail businesses? (also in CMS Non-Residential Tool Kit) 6. Is the community traffic pattern consistent around the setting? (For example, individuals do not cross the street when passing to avoid the setting?) 7. Do individuals on the street greet/acknowledge individuals receiving services when they encounter them? (also in CMS Non-Residential Tool Kit)
		18	Are multiple types of services (e.g., housing, day services, medical, behavioral, and/or social and recreational activities) provided at this site?	
		19	Is the site near (i.e., within ¼ mile of) other sites that YOUR provider organization operates for people receiving home and community based (HCB) waiver services?	
		20	Is the site physically isolated from the greater community? (i.e., gated setting, secured community, farm community, or campus setting)	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(5)(v) cont.		21	Is the site near (i.e., within ¼ mile of) other private residences or retail businesses? (Industrial parks are not considered businesses.)	From CMS Non-Residential Tool Kit (from integrated criteria section): 8. Does the setting encourage visitors or other people from the greater community (aside from paid staff) to be present, and is there evidence that visitors have been present at regular frequencies? For example, are visiting hours unrestricted, or does the setting otherwise encourage interaction with the public (for example, as customers in a pre-vocational setting)?
		22	Do HCBS waiver participants receive services in a separate area from non-HCBS waiver participants at the site?	
		23	During a one month time frame, on average, how frequently do members of the larger community (i.e., individuals who are not family members or friends of participants, or paid employees) visit or volunteer at the site? (Responses measured in days per month.)	
Settings Meet the Regulatory Requirements				
1915c: 441.301(c)(4)(i)	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including: 1. Opportunities to seek employment and work in competitive integrated settings 2. Engage in community life	28	Are participants and/or their legal representatives informed about community activities/events? (e.g., festivals, religious activities, concerts, sporting events, and movies.)	From CMS Residential Tool Kit: The individual participates in unscheduled and scheduled community activities in the same manner as individuals not receiving Medicaid HCBS services: 1. Does the individual regularly access the community and is s/he able to describe how s/he accesses the community, who assists in facilitating the activity, and where s/he goes?



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(i) cont.	3. Control personal resources 4. Receive services in the community To the same degree of access as individuals not receiving Medicaid HCBS.	29	How are participants and/or their legal representatives informed about community activities/events. Check all that apply: ○ Staff tell participants and/or their legal representatives ○ Information is posted on a bulletin board in an area accessible ○ Staff send participants and/or their legal representatives information electronically ○ Other, please specify: _____	<p><u>From CMS Residential Tool Kit (cont.):</u></p> <p>2. Is the individual aware of or does s/he have access to materials to become aware of activities occurring outside of the setting?</p> <p>3. Does the individual shop, attend religious services, schedule appointments, have lunch with family and friends, etc., in the community, as the individual chooses?</p> <p>4. Does the individual talk about activities occurring outside of the setting?</p> <p>The individual is employed or active in the community outside of the setting:</p> <p>5. Does the individual work in an integrated community setting?</p> <p>6. If the individual would like to work, are there activities that ensure the option is pursued?</p> <p>7. Does the individual participate regularly in meaningful non-work activities in integrated community settings for the period of time desired by the individual?</p> <p>The individual controls his/her personal resources:</p> <p>8. Does the individual have a checking or savings account or other means to control his/her funds?</p> <p>9. Does the individual have access to his/her funds?</p> <p>10. How is it made clear that the individual is not required to sign over his/her paychecks to the provider?</p>
		30	Are participants asked how often they want to engage in community activities located off-site?	
		31	Do participants access the broader community (i.e., go to places not located at the site)?	
		32	Identify the resources that are available for participants to access the broader community. Check all that apply. ○ Public transportation ○ Staff help participants by assisting (e.g. providing rides) them ○ Friends help by assisting them ○ Family members help by assisting them ○ Volunteers help by assisting them	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(i) cont.		33	In a one-month time frame, on average, how frequently do participants engage in activities (e.g., going to a restaurant, park, sporting event, or religious service) in the broader community (i.e., not at the site)? (Responses measured in days per month.)	<p><u>From CMS Non-Residential Tool Kit (cont):</u></p> <p>11. Does the setting provide opportunities for regular meaningful non-work activities in integrated community settings for the period of time desired by the individual?</p> <p>12. Does the setting afford opportunities for individual schedules that focus on the needs and desires of an individual and an opportunity for individual growth?</p> <p>13. Does the setting afford opportunities for individuals to have knowledge of or access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc... outside of the setting, and who in the setting will facilitate and support access to these activities?</p> <p>14. Do employment settings provide individuals with the opportunity to participate in negotiating his/her work schedule, break/lunch times, and leave and medical benefits with his/her employer to the same extent as individuals not receiving Medicaid funded HCBS?</p> <p>15. In settings where money management is part of the service, does the setting facilitate the opportunity for individuals to have a checking or savings account or other means to have access to and control his/her funds? For example, is it clear that the individual is not required to sign over his/her paychecks to the provider?</p> <p>16. Does the setting provide individuals with contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available in a convenient location?</p> <p>17. Alternatively, where public transportation is limited, does the setting provide information and resources for the individual to access the broader community, including accessible transportation for individuals who use wheelchairs?</p> <p>18. Does the setting assure that tasks and activities are comparable to tasks and activities for people of similar ages who do not receive home and community-based services?</p>
		34	When participants engage in community activities (i.e., not at the site), on average, what is the level of interaction with community members who are not receiving HCB services? (Responses measured by frequency level.)	
		37	Are participants who want to work in integrated employment settings encouraged to do this? (The definition from the US Department of Labor is given for integrated employment setting.)	
		73	Do participants control their own funds? (i.e., participants have their own checking or savings account that they manage.) (Responses measured by all, some, and none.)	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(ii)	The setting is selected by the individual from among setting options including non-disability specific settings, and an option for a private unit in a residential setting. The settings options are identified and documented in the person-centered service plan and are based on the individual's needs and preferences, and for residential settings, resources available for room and board.	35	In a one-month time frame, on average, how frequently do participants receive services in non-disability specific settings (based on availability in the community)? (e.g., are participants offered the chance to participate in activities at a local YMCA or volunteer at a local animal shelter?) (Responses measured in days per month.)	<p><u>From CMS Residential Tool Kit:</u> The setting was selected by the individual:</p> <ol style="list-style-type: none"> 1. Was the individual given a choice of available options regarding where to live/receive services? 2. Was the individual given opportunities to visit other settings? 3. Does the setting reflect the individual's needs and preferences? <p><u>From CMS Non-Residential Tool Kit:</u></p> <ol style="list-style-type: none"> 4. Does the setting reflect individual needs and preferences and do its policies ensure the informed choice of the individual? 5. Do the setting options offered include non-disability specific settings, such as competitive employment in an integrated public setting, volunteering in the community, or engaging in general non-disabled community activities such as those available at the YMCA? 6. Do the setting options include the opportunity for the individual to choose to combine more than one service delivery setting or type of HCBS in any given day/week? (e.g. combine competitive employment with community habilitation)
		55	Were participants and/or their legal representatives given the option of a unit with a private bedroom? (This would take into account the participant's resources for room and board. "Private bedroom" means that the participant does not have roommates.)	
1915c: 441.301(c)(4)(iii)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	40	Are staff available to assist participants privately? (e.g., if a participant needs help using the bathroom or help with personal hygiene.)	<p><u>From CMS Residential Tool Kit:</u> Individuals are free from coercion:</p> <ol style="list-style-type: none"> 1. Is the information about filing a complaint posted in an obvious location and in an understandable format? 2. Is the individual comfortable discussing concerns? 3. Does the individual know the person to contact or the process to make an anonymous complaint?
		41	Is all personal information about participants kept in a secure and private location? (e.g., in a locked file cabinet.)	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(iii) cont.		42	Are participants and/or their legal representatives asked to grant informed consent regarding the use of cameras to monitor participants?	<u>From CMS Residential Tool Kit (cont):</u> 4. Do the individuals in the setting have different haircut/hairstyle and hair color?
		43	Are participants addressed in a manner that they prefer? (e.g., by their preferred name or nickname.)	<u>From CMS Non-Residential Tool Kit:</u> 5. Is all information about individuals kept private? For instance, do paid staff/providers follow confidentiality policy/practices and does staff within the setting ensure that, for example, there are no posted schedules of individuals for PT, OT, medications, restricted diet, etc., in a general open area?
		44	Do staff communicate (i.e., in the participants' native language or using adaptive equipment) with participants in a manner easily understood by them?	6. Does the setting support individuals who need assistance with their personal appearance to appear as they desire, and is personal assistance, provided in private, as appropriate?
		45	Are participants and/or their legal representatives asked to grant informed consent regarding the use of restraints and/or restrictive interventions?	7. Does the setting assure that staff interact and communicate with individuals respectfully and in a manner in which the person would like to be addressed, while providing assistance during the regular course of daily activities? 8. Do setting requirements assure that staff do not talk to other staff about an individual in the presence of other persons or in the presence of the individual as if s/he were not present? 9. Does the setting policy require that the individual and/or representative grant informed consent prior to the use of restraints and/or restrictive interventions and document these interventions in the person-centered plan? 10. Does the setting policy ensure that each individual's supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting and/or restrictive to the rights of everyone individual receiving support within the setting? 11. Does the setting offer a secure place for the individual to store personal belongings?
1915c: 441.301(c)(4)(iv)	Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	27	Do participants have unrestricted access to public areas at the site? (i.e., there are not restrictive devices such as gates or locked doors prohibiting them from areas that are open to the public.) (Optional comment box).	<u>From CMS Residential Tool Kit:</u> The individual chooses and controls a schedule that meets his/her wishes in accordance with a person-centered plan: 1. How is it clear that the individual is not required to adhere to a set schedule for waking, bathing, eating, exercising, activities, etc.? 2. Does the individual's schedule vary from others in the same setting?



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(iv) cont.		46	Are participants permitted to vote if they are 18 years old or older in local, state, and national elections?	From CMS Residential Tool Kit (cont): 3. Does the individual have access to such things as a television, radio, and leisure activities that interest him/her and can s/he schedule such activities at his/her convenience?
		47	Are participants able to choose who they interact with during group activities? (e.g., who they sit with or who they work together with).	From CMS Non-Residential Tool Kit: 4. Are there gates, Velcro strips, locked doors, fences, or other barriers preventing individuals' entrance to or exit from certain areas of the setting?
		74	Are participants who are 21 or older, permitted to drink alcohol on-site? (Responses measured in all, some, or no participants.)	5. Does the setting afford a variety of meaningful non-work activities that are responsive to the goals, interests, and needs of the individuals? Does the physical environment support a variety of individual goals and needs? (e.g., does the setting provide indoor and outdoor gathering spaces? Does the setting provide for larger group activities as well as solitary activities? Does the setting provide for stimulating as well as calming activities?) 6. Does the setting afford opportunities for individuals to choose with whom to do activities with or are individuals assigned only to be with a certain group of people? 7. Does the setting allow for individuals to have a meal/snack at the time and place of their choosing? For instance, does the setting afford individuals full access to a dining area with comfortable seating and opportunity to converse with others during break or meal times, afford dignity to diners (i.e., individuals are treated age-appropriately and not required to wear bibs)? Does the setting provide for an alternative meal and/or private dining if requested by the individual? Do individuals' have access to food at any time consistent with individuals in similar and/or the same setting who are not receiving Medicaid-funded services and supports? 8. Does the setting post or provide information on individual rights? 9. Does the setting prohibit individuals from engaging in legal activities (ex. voting when 18 or older, consuming alcohol when 21 or older) in a manner different from individuals in similar and/or the same setting who are not receiving Medicaid funded services and supports? 10. Does the setting afford the opportunity for tasks and activities matched to individuals' skills, abilities, and desires?



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(v)	Facilitates individual choice regarding services and supports, and who provides them.	36	Are participants and/or their legal representatives asked what their needs and preferences are regarding types of activities at the site? (i.e., at an adult day care or therapeutic integration site, are participants asked what activities they want to do?)	<p><u>From CMS Residential Tool Kit:</u> Individual choices are incorporated into the services and supports received:</p> <ol style="list-style-type: none"> 1. Do staff ask the individual about his/her needs and preferences? 2. Are individuals aware of how to make a service request? 3. Does the individual express satisfaction with the services being received? 4. Are requests for services and supports accommodated as opposed to ignored or denied? 5. Is individual choice facilitated in a manner that leaves the individual feeling empowered to make decisions? <p>The individual chooses from whom they receive services and supports:</p> <ol style="list-style-type: none"> 6. Can the individual identify other providers who render the services s/he receives? 7. Does the individual express satisfaction with the provider selected or has s/he asked for a meeting to discuss a change? 8. Does the individual know how to make a request for a new provider?
		38	Are participants and/or their legal representatives given information regarding how to make changes to their services? (HCBS non-residential and residential services.)	<p><u>From CMS Non-Residential Tool Kit:</u> 9. Was the individual provided a choice regarding services, provider, and settings and the opportunity to visit/understand the options?</p>



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(v) cont.		39	<p>Indicate the type of information that is given to participants and/or their legal representatives regarding how to make changes to their services (HCBS non-residential or residential services). Please check all that apply.</p> <ul style="list-style-type: none"> ○ How to request additional services ○ How to change current services ○ How to request a new provider of current services ○ Other, please specify_____ 	<p><u>From CMS Non-Residential Tool Kit (cont):</u></p> <p>10. Does the setting afford individuals the opportunity to regularly and periodically update or change their preferences?</p> <p>11. Does the setting ensure individuals are supported to make decisions and exercise autonomy to the greatest extent possible? Does the setting afford the individual with the opportunity to participate in meaningful non-work activities in integrated community settings in a manner consistent with the individuals' needs and preferences?</p> <p>12. Does the setting policy ensure the individual is supported in developing plans to support his/her needs and preferences? Is setting staff knowledgeable about the capabilities, interests, preferences, and needs of individuals?</p> <p>13. Does the setting post or provide information to individuals about how to make a request for additional home and community-based services, or changes to their current services?</p>
<i>Provider-Owned or Controlled Residential Settings Meet the New Regulations</i>				



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(A)	In addition to 441.301(c) (4) (i) through (v), the following conditions must also be met: The unit or dwelling is a specific physical space that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	56	Do participants and/or their legal representatives have a lease or other legally enforceable document that describes their rights? This question meets the requirements of (1) have a signed lease and provides answer choices for documented modifications.	<p><u>From CMS Residential Tool Kit:</u> There is a legally enforceable agreement for the unit or dwelling where the individual resides:</p> <ol style="list-style-type: none"> 1. Does the individual have a lease, or for settings in which landlord tenant laws do not apply, a written residency agreement? 2. Does the individual know his/her rights regarding housing and when s/he could be required to relocate? <p>Individuals are protected from eviction and afforded appeal rights in the same manner as all persons in the State who are not receiving Medicaid HCBS:</p> <ol style="list-style-type: none"> 3. Do individuals know how to relocate and request new housing? 4. Does the written agreement include language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws?



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(B) (1-3)	Each individual has privacy in their sleeping or living unit: 1. Units have entrance doors that are lockable by the individual, with only the appropriate staff having keys to doors 2. Individuals sharing units have a choice of roommates in that setting 3. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement	57	If participants are sharing bedrooms, were they and/or their legal representatives given a choice of their roommate(s)? This question provides answer choices for documented modifications.	<p><u>From: CMS Residential Tool Kit:</u> Individuals have privacy in their sleeping space and toileting facility:</p> <ol style="list-style-type: none"> 1. Is the furniture arranged as individuals prefer and does the arrangement assure privacy and comfort? 2. Can the individual close and lock the bedroom door? 3. Can the individual close and lock the bathroom door? 4. Do staff and other residents always knock and receive permission prior to entering a bedroom or bathroom? <p>The individual has privacy in his/her living space:</p> <ol style="list-style-type: none"> 5. Are cameras present in the setting? 6. Does staff only use a key to enter a living area or privacy space under limited circumstances agreed upon by the individual? <p>Individuals furnish and decorate their sleeping and/or living units in the way that suits them:</p> <ol style="list-style-type: none"> 7. Are individuals' personal items, such as pictures, books, and memorabilia present and arranged as the individual desires? 8. Do the furniture, linens, and other household items reflect the individuals' personal choices? 9. Do individuals' living areas reflect their interests and hobbies? <p>The individual has his/her own bedroom or shares a room with a roommate of choice:</p> <ol style="list-style-type: none"> 10. Was the individual given a choice of a roommate? 11. Does the individual talk about his/her roommate(s) in a positive manner? 12. Does the individual express a desire to remain in a room with his/her roommate? 13. Do married couples share or not share a room by choice? 14. Does the individual know s/he can request a roommate change?
		58	Do the entrance doors (i.e., the front door) to the unit(s) lock? This question provides answer choices for documented modifications.	
		59	What staff have keys to the entrance doors (i.e., the front doors)? (Responses measured in all staff, only designated staff, and no staff.)	
		60	Do participants have keys to their entrance doors (i.e., the front door)? (Responses measured in all participants, some, and no participants.) This question provides answer choices for documented modifications.	
		61	Do participants have lockable bedroom doors? This question provides answer choices for documented modifications.	
		62	What staff have keys to the bedroom doors? (Responses measured in all staff, only designated staff, and no staff.)	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(B) (1-3) cont.		63	Do participants have keys to their bedroom doors? (Responses measured in all participants, some, and none.) This question provides answer choices for documented modifications.	<u>From CMS Residential Tool Kit (cont):</u> The individual has access to make private telephone calls/texts/emails at the individual's preference and convenience: 15. Does the individual have private cell phone, computer, or other personal communication device, or have access to a telephone or other technology device to use for personal communication in private at any time? 16. Is the telephone or other technology device in a location that has space around it to ensure privacy? 17. Do individuals' rooms have a telephone jack, WI-FI or ETHERNET jack?
		64	Do staff knock and ask for permission to enter before entering a participant's bedroom?	
		65	Do participants have lockable bathroom doors?	
		66	Do staff knock and ask for permission to enter before entering the bathroom when a participant is using it?	
		67	Do participants have a private space to meet with their visitors?	
		68	Do participants have a private space to have phone and/or electronic communication (i.e., a computer or an iPad/tablet)?	
		69	Are participants able to access the phone and/or electronic communication devices at any time?	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(B) (1-3) cont		70	Do participants have the freedom to decorate their own space (within limits, as agreed upon with the provider) with items of their choosing? (e.g., they can hang their own pictures or pick their own curtains or other furnishings.) This provides answer choices for documented modifications.	
1915c: 441.301(c)(4)(vi)(C)	Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time	49	Outside of scheduled times, are participants able to choose <i>when</i> they eat? This question meets the requirements of (1) optimizing individual initiative, autonomy, and independence in making life choices, and (2) access to food. This question provides answer choices for documented modifications.	<p><u>From HCBS Worksheet for Assessing Services and Settings:</u></p> <ol style="list-style-type: none"> 1. Do individuals have full access to typical facilities in a home such as a kitchen with cooking facilities, dining area, laundry, and comfortable seating in the shared areas? 2. Do State regulations prohibit individuals' access to food at any time? 3. Do individuals in the setting have different haircut/hairstyle and hair color? <p><u>From CMS Residential Tool Kit:</u> The individual chooses and controls a schedule that meets his/her wishes in accordance with a person centered plan:</p> <ol style="list-style-type: none"> 4. How is it made clear that the individual is not required to adhere to a set schedule for waking, bathing, eating, exercising, activities, etc.? 5. Does the individual's schedule vary from others in the same setting? 6. Does the individual have access to such things as a television, radio, and leisure activities that interest him/her and can s/he schedule such activities at his/her convenience?
		50	Are participants able to choose <i>where</i> they eat? This question provides answer choices for documented modifications.	
		51	Are participants able to choose <i>what</i> they eat? This question provides answer choices for documented modifications.	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(C) cont.		71	Do participants have the freedom to come and go as they wish? This question provides answer choices for documented modifications.	<p><u>From CMS Residential Tool Kit (cont):</u> Individuals have full access to the community: 7. Do individuals come and go at will? 8. Are individuals moving about inside and outside the setting as opposed to sitting by the front door? 9. Is there a curfew or other requirement for a scheduled return to the setting? 10. Do individuals in the setting have access to public transportation? 11. Are there bus stops nearby or are taxis available in the area? 12. Is an accessible van available to transport individuals to appointments, shopping, etc.?</p> <p>Individuals have full access to the community (cont.): 13. Are bus and public transportation schedules and telephone numbers posted in a convenient location? 14. Is training in the use of transportation facilitated? 15. Where public transportation is limited, are other resources provided for the individual to access the broader community?</p> <p>The individual chooses when and what to eat: 16. Does the individual have a meal at the time of his/her choosing? 17. Can the individual request an alternative meal if desired? 18. Are snacks accessible and available at anytime? 19. Does the dining area afford dignity to the diners and are individuals required to wear bibs or use disposable cutlery, plates, and cups?</p> <p>The individual chooses with whom to eat or eat alone: 20. Is the individual required to sit at an assigned seat in a dining area? 21. Does the individual converse with others during meal times? 22. If the individual desires to eat privately, can s/he do so?</p>



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(D)	Individuals are able to have visitors of their choosing at any time.	72	Are participants able to have visitors at any time of the day (i.e., 24 hours a day)? This question provides answer choices for documented modifications.	<p><u>From: HCBS Worksheet for Assessing Services and Settings:</u></p> <ol style="list-style-type: none"> 1. Do State laws require restrictions such as posted visiting hours or schedules? 2. Is the furniture arranged to support small group conversations? <p><u>From CMS Residential Tool Kit:</u> The setting does not isolate individuals from individuals not receiving Medicaid HCBS in the broader community:</p> <ol style="list-style-type: none"> 3. Are visitors present? 4. Are visitors restricted to specified visiting hours? 5. Are visiting hours posted? 6. Is there evidence that visitors have been present at regular frequencies? 7. Are there restricted visitor's meeting areas?
1915c: 441.301(c)(4)(vi)(E)	The setting is physically accessible to the individual.	24	Does the site have physically accessible bathrooms for participants to use? (Responses measured in yes with no modifications, yes with modifications, not accessible.)	<p><u>From CMS Residential Tool Kit:</u> The individual has unrestricted access in the setting:</p> <ol style="list-style-type: none"> 1. Are there gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas? 2. Are individuals' receiving HCBS facilitated in accessing amenities such as a pool or gym used by others on-site? 3. Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc..., limiting individual's mobility in the setting or if they are present, are their environmental adaptations such as a chair lift or elevator to ameliorate the obstruction? <p>The physical environment meets the needs of those individuals who require supports:</p> <ol style="list-style-type: none"> 4. For those individuals who need supports to move about the setting as they choose, are supports provided, such as grab bars, seats in the bathroom, ramps for wheel chairs, viable exits for emergencies, etc..?
		25	Does the site have physically accessible furniture (e.g., tables and desks that allow room for wheelchairs) for participants to use?	
		26	In general, are modifications provided as needed so that participants have full access to the site? (e.g., widened doorways or ramps for wheelchairs.)	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(E) cont.		53	Does the site have physically accessible laundry facilities (e.g., clothes washer or dryer) for participants to use? (Responses measured in yes with no modifications, yes with modifications, not accessible.)	<p><u>From CMS Residential Tool Kit (cont):</u></p> <p>5. Are tables and chairs at convenient heights and locations so that individuals can access and use the furniture comfortably?</p> <p>6. Are appliances accessible to individuals?</p> <p><u>From CMS Non-Residential Tool Kit (from integration criteria section):</u></p> <p>7. Is the setting physically accessible, including access to bathrooms and break rooms, and are appliances, equipment, and tables/desks and chairs at a convenient height and location, with no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting? If obstructions are present, are there environmental adaptations such as a chair lift or elevator to ameliorate the obstructions?</p>
		54	Does the site have a physically accessible kitchen for participants to use? (Responses measured in yes with no modifications, yes with modifications, not accessible.)	
Modification Questions				
1915c: 441.301(c)(4)(vi)(F) (1-8)	The following requirements must be documented in the person-centered plan upon any modification of the additional conditions (441.301(c)(4)(vi)(A) through (D): 1. Identify a specific and assessed need 2. Document the positive interventions and supports used prior to any modifications to the person-centered service plan 3. Document less intrusive methods of meeting the need that have been tried but	49	Outside of scheduled times, are participants able to choose <i>when</i> they eat?. This question provides answer choices for documented modifications.	<p><u>From CMS Residential Tool Kit:</u></p> <p>1. Does documentation note if positive interventions and supports were used prior to any plan modifications?</p> <p>2. Are less intrusive methods of meeting the need that were tried initially documented?</p> <p>3. Does the plan include a description of the condition that is directly proportional to the assessed need, data support ongoing effectiveness of the intervention, time limits for periodic reviews to determine the ongoing necessity of the modification, informed individual consent, and assurance that the intervention will not cause the individual harm?</p>
		50	Are participants able to choose <i>where</i> they eat? This question provides answer choices for documented modifications.	
		51	Are participants able to choose <i>what</i> they eat? This question provides answer choices for documented modifications.	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(F) (1-8) cont.	did not work 4. Include a clear description of the condition that is directly proportionate to the specific assessed need 5. Include a regular collection and review of data to measure the ongoing effectiveness of the modification 6. Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated 7. Include informed consent of the individual 8. Include an assurance that interventions and supports will cause no harm to the individual	56	Do participants and/or their legal representatives have a signed lease or other legally enforceable document that describes their rights? This question provides answer choices for documented modifications.	
		57	If participants are sharing bedrooms, were they and/or their legal representatives given a choice of their roommate(s)? This question provides answer choices for documented modifications.	
		58	Do the entrance doors (i.e., the front door) to the unit(s) lock? This question provides answer choices for documented modifications.	
		60	Do participants have keys to their entrance door (i.e., the front door)? This question provides answer choices for documented modifications.	
		61	Do participants have lockable bedroom doors? This question provides answer choices for documented modifications.	
		63	Do participants have keys to their bedroom doors? (Responses measured in all participants, some, and none.). This question provides answer choices for documented modifications.	



Federal Requirement Reference and Wording		Number (12/23 version)	Self-Assessment Question Wording	Guidance from CMS and HCBS Worksheet for Assessing Services and Settings
Rule	Wording of Rule			
1915c: 441.301(c)(4)(vi)(F) (1-8) cont.		70	Do participants have the freedom to decorate their own space (within limits, as agreed upon with the provider) with items of their choosing? (e.g., they can hang their own pictures or pick their own curtains or other furnishings.) This question provides answer choices for documented modifications.	
		71	Do participants have the freedom to come and go as they wish? This question and provides answer choices for documented modifications.	
		72	Are participants able to have visitors at any time of the day (i.e., 24 hours a day)? This question provides answer choices for documented modifications.	

References: CMS guidance column, adopted and modified here, from non-residential and residential exploratory questions from CMS tool kit

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

HCBS Worksheet for Assessing Services and Settings, authored by NACDD (National Association of Councils on Developmental Disabilities), AUCD (Association of University Centers on Disabilities), National Disability Rights Network (<https://hcsadvocacy.files.wordpress.com/2014/04/hcbs-advocates-worksheet.pdf>)

Final rule: <http://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf>

Last updated: 6/10/2016



Appendix C.
Analysis Scheme for Specific Regulation in Final Rule for HCBS Provider Self-Assessment 2016

Red Flag Questions Noted in Red (6 questions) (Total 43 questions in analysis)

Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
One: 1915c: 441.301(c)(5)(i)-(iv) (Question #16)	Where a setting cannot be.	16	Is the site located in one of the following?	1 -4 = Each of the different inst types (Non-Compliant)
Two: 1915c: 441.301(c)(5)(v) (Question #s 17,18,19,20,21,22,23 - Seven Questions)	Any other location that has the qualities of an institutional setting, as determined by the Secretary. 1. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment 2. Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution 3. Any setting that has the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS	17	Is the site located on the grounds of, adjacent to, or in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment?	1 = Yes (Non-Compliant)
		18	Are multiple types of services (e.g., housing, day services, medical, behavioral, and/or social and recreational activities) provided at this site?	1 = Yes (Non-Compliant)
		19	Is the site near (, within ¼ mile of) other sites that YOUR provider organization operates for people receiving home and community based (HCB) waiver services?	1 = Yes (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
<p>Two: 1915c: 441.301(c)(5)(v) (Question #s 17,18,19,20,21,22,23 - Seven Questions) cont.</p>		20	Is the site physically isolated from the greater community? (i.e. gate setting, secured community, farm community, or campus setting)	1 = Yes (Non-Compliant)
		21	Is the site near (within ¼ mile of) other private residences or retail businesses?	2 = No (Non-Compliant)
		22	Do HCBS waiver participants receive services in a separate area from non-HCBS waiver participants at the site?	1 and 3 = Yes and Not applicable. Only Waiver Participants (Non-Compliant)
		23	During a one-month time frame, on average, how frequently do members of the larger community (i.e., individuals who are not family members or friends of participants, or paid employees) visit or volunteer at the site?	5 = 0 Days a Month (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
<p>Three: 1915c: 441.301.(c)(4)(i) (Question #s 28,30,31,34,37,73 - Six Questions)</p>	<p>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including:</p> <ol style="list-style-type: none"> 1. Opportunities to seek employment and work in competitive integrated settings 2. Engage in community life 3. Control personal resources 4. Receive services in the community <p>To the same degree of access as individuals not receiving Medicaid HCBS.</p>	28	Are participants and/or their legal representatives informed about community activities/events?	2 = No (Non-Compliant)
		30	Are participants asked how often they want to engage in community activities located off-site?	2 = No (Non-Compliant)
		31	Do participants access the broader community (i.e., go to places not located at the site)?	2 = No (Non-Compliant)
		34	When participants engage in community activities (i.e., not at the site), on average, what is the level of interaction with community members who are not receiving HCB services?	4 = No interaction takes place with community members (Non-Compliant) *Only those having a "Pass" or "Yes" on #31 would be responding to this question
		37	Are participants who want to work in integrated employment settings encouraged to do this?	2 = No (Non-Compliant)
		73	Do participants control their own funds? (in residential portion of assessment)	2 and 3 = Some participants control their own funds and None of the participants control their own funds (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
Four: 1915c: 441.301(c)(4)(ii) (Question #s 35, 55 - Two Questions)	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 settings options are identified and documented in the person-centered service plan and are based on the individual's needs and preferences, and—for residential settings—resources available for room and board.	35	In a one-month time frame, on average, how frequently do participants receive services in non-disability specific settings (based on availability in the community)?	5 = 0 days a month (Non-Compliant)
		55	Were participants and/or their legal representatives given the option of a unit with a private bedroom?	2 = No (Non-Compliant)
Five: 1915c: 441.301(c)(4)(iii) (Question #s 40,42,45 - Three Questions)	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	40	Are staff available to assist participants privately?	2 = No (Non-Compliant)
		42	Are participants and/or their legal representatives asked to grant informed consent regarding the use of cameras to monitor participants?	2 = No (Non-Compliant)
		45	Are participants and/or their legal representatives asked to grant informed consent regarding the use of restraints and/or restrictive interventions?	2 = No (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
Six: 1915c: 441.301(c)(4)(iv) (Question 47)	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.	47	Are participants able to choose who they interact with during group activities?	2 = No (Non-Compliant)
Seven: 1915c: 441.301(c)(4)(v) (Question #s 36,38 - Two Questions)	Facilitates individual choice regarding services and supports, and who provides them.	36	Are participants and/or their legal representatives asked what their needs and preferences are regarding types of activities at the site?	2 = No (Non-Compliant)
		38	Are participants and/or their legal representatives given information regarding how to make changes to their services?	2 = No (Non-Compliant)
Eight: 1915c: 441.301(c)(4)(vi)(A) (Question #56)	Must have a lease or residency agreement that protects the consumer's rights.	56	Do participants and/or their legal representatives have a lease or other legally enforceable document that describes their rights?	3 and 4 = Some participants do not have a signed lease/legally enforceable document, and the reasons specific to each of these participants ARE NOT documented in all of these participant's person-centered plans and None of the participants have a signed lease/legally enforceable document (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
<p>Nine 1915c: 441.301(c)(4)(vi)(B)(1-3) (Question #s 57,58,59,60,61,62,63,64,65, 66,67,68,69,70, - Fourteen Questions)</p>	<p>Each individual has privacy in their sleeping or living unit: 1. Units have entrance doors that are lockable by the individual, with only the appropriate staff having keys to doors 2. Individuals sharing units have a choice of roommates in that setting 3. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement</p>	57	If participants are sharing bedrooms, were they and/or their legal representatives given a choice of their roommate(s)?	3 and 4 = Some participants were not able to choose their roommate(s) and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans and None of the participants were able to choose their roommate(s) (Non-Compliant)
		58	Do the entrance doors (i.e., the front door) to the unit(s) lock?	3 and 4 = Some participants do not have lockable entrance doors and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans and None of the participants have lockable entrance doors (Non-Compliant)
		59	What staff have keys to the entrance doors?	1 and 4 = All staff have keys to the entrance doors and Not applicable, the entrance doors are not lockable (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
<p>Nine 1915c: 441.301(c)(4)(vi)(B)(1-3) (Question #s 57,58,59,60,61,62,63,64,65,66 ,68,69,70,67 - Fourteen Questions) cont.</p>		60	Do participants have keys to their entrance doors (i.e., the front door)?	3, 4, and 5 = Some participants do not have keys to their entrance doors, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans and None of the participants have keys to their entrance doors and Not applicable, keys are not necessary as the entrance doors are not lockable (Non-Compliant)
		61	Do participants have lockable bedroom doors?	3 and 4 = Some participants do not have lockable bedroom doors and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans and None of the participants have a lock on their bedroom door (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
<p>Nine 1915c: 441.301(c)(4)(vi)(B)(1-3) (Question #s 57,58,59,60,61,62,63,64,65,66,68,69,70,67 - Fourteen Questions) cont.</p>		62	What staff have keys to the bedroom doors?	1 and 4 = All staff have keys to the bedroom doors and Not applicable, the bedroom doors are not lockable (Non-Compliant)
		63	Do participants have keys to their bedroom doors?	3, 4, and 5 = Some participants do not have keys to their bedroom doors, and the reasons specific to each of these participants ARE NOT documented in all of these participants' person-centered plans and None of the participants have keys to their bedroom doors and Not applicable, keys are not necessary as the bedroom doors are not lockable (Non-Compliant)
		64	Do staff knock and ask for permission to enter before entering a participant's bedroom?	2 = No (Non-Compliant)
		65	Do participants have lockable bathroom doors?	2 = No (Non-Compliant)
		66	Do staff knock and ask for permission to enter before entering the bathroom when a participant is using it?	2 = No (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
Nine 1915c: 441.301(c)(4)(vi)(B)(1-3) (Question #s 57,58,59,60,61,62,63,64,65, 66,67,68,69,70 - Fourteen Questions) cont.		67	Do participants have a private space to meet with their visitors?	2 = No (Non-Compliant)
		68	Do participants have a private space to have phone and/or electronic communication (i.e., a computer or an iPad/tablet)?	2 = No (Non-Compliant)
		69	Are participants able to access the phone and/or electronic communication devices at any time?	2 = No (Non-Compliant)
		70	Do participants have the freedom to decorate their own space (within limits, as agreed upon with the provider) with items of their choosing?	3 and 4 = Some participants are not able to decorate their own space, and it's not documented in their plan and None of the participants are able to decorate their own space (Non-Compliant)
Ten: 1915c: 441.301(c)(4)(vi) (c) (Question #s 49,50,51,71 - Four Questions)	Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	49	Outside of scheduled times, are participants able to choose <i>when</i> they eat?	3 and 4 = Some participants are not able to choose when they eat, and it's not documented in their plan and None of the participants are able to choose when they eat. (Non-Compliant)



Regulation	Brief Description	Question Number	Question	Values Indicating Non-Compliant Original Question
Ten: 1915c: 441.301(c)(4)(vi)(c) (Question #s 49,50,51,71 - Four Questions) cont.		50	Are participants able to choose <i>where</i> they eat?	3 and 4 = Some participants are not able to choose where they eat, and it's not documented in their plan and None of the participants are able to choose where they eat. (Non-Compliant)
		51	Are participants able to choose <i>what</i> they eat?	3 and 4 = Some participants are not able to choose what they eat, and it's not documented in their plan and None of the participants are able to choose what they eat. (Non-Compliant)
		71	Do participants have the freedom to come and go as they wish?	3 and 4 = Some participants are not able to come and go as they wish and it's not documented in their plan and None of the participants are able to come and go as they wish. (Non-Compliant)
Eleven: 1915c: 441.301(c)(4)(vi)(D) (Question # 72)	Individuals are able to have visitors of their choosing at any time.	72	Are participants able to have visitors at any time of the day (i.e., 24 hours a day)?	3 and 4 = Some participants are not able to have visitors at any time and it's not documented in their plan and None of the participants are able to have visitors at any time (Non-Compliant)
Twelve: 1915c: 441.301(c)(4)(vi)(E) (Question #54)	The setting is physically accessible to the individual.	54	Does the site have a physically accessible kitchen for participants to use?	3 = No kitchen is physically accessible for participants (Non-Compliant)



Appendix D. Detailed Summary of Service Setting Compliance by Regulation

Regulation	Compliance	Number of Non-Compliant Indicators	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
One: Site is located at a nursing facility, an institution for mental disease, an intermediate care facility for individuals with ID, or a hospital (One indicator total)	Compliant on Indicator	0	94.8% (657)	95.0% (114)	94.7% (18)	100.0% (25)	100.0% (26)
	Non-Compliant on Indicator	1	5.2% (36)	5.0% (6)	5.3% (1)	0.0% (0)	0.0% (0)
Two: Setting has presumed qualities of an institution (Seven indicators total)*	Compliant on All Indicators	0	22.1% (153)	22.5% (27)	0.0% (0)	16.0% (4)	7.7% (2)
	Number of Indicators Non-Compliant	1	40.7% (282)	30.8% (37)	42.1% (8)	76.0% (19)	26.9% (7)
		2	24.4% (169)	32.5% (39)	36.8% (7)	8.0% (2)	30.8% (8)
		3	10.1% (70)	10.0% (12)	10.5% (2)	0.0% (0)	26.9% (7)
		4	2.2% (15)	3.3% (4)	5.3% (1)	0.0% (0)	7.7% (2)
		5	0.4% (3)	0.8% (1)	5.3% (1)	0.0% (0)	0.0% (0)
		6	0.1% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)



Regulation	Compliance	Number of Non-Compliant Indicators	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Three: Setting is integrated and supports full access of HCBS waiver participants to the greater community (Six Indicators total)*	Compliant on Indicator	0	26.0%(180)	81.7%(98)	15.8%(3)	56.0%(14)	69.2%(18)
	Number of Indicators Non-Compliant	1	60.3% (418)	13.3% (16)	79.0% (15)	24.0% (6)	7.7% (2)
		2	11.4% (79)	3.3% (4)	0.0% (0)	16.0% (4)	23.1% (6)
		3	2.0% (14)	1.7% (2)	0.0% (0)	4.0% (1)	0.0% (0)
		4	0.3% (2)	0.0% (0)	5.3% (1)	0.0% (0)	0.0% (0)
Four: Setting is selected by the participant, including the option of a private room, and services are based on the needs and preferences of the individual (Two Indicators Total)	Compliant on All Indicators	0	44.2% (306)	60.8% (73)	68.4% (13)	48.0% (12)	69.2% (18)
	Number of Indicators Non-Compliant	1	43.3% (300)	39.2% (47)	21.1% (4)	52.0% (13)	30.8% (8)
		2	12.6% (87)	0.0% (0)	10.5% (2)	0.0% (0)	0.0% (0)



Regulation	Compliance	Number of Non-Compliant Indicators	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Five: Setting ensures a participant's rights of privacy, dignity, respect, and freedom from coercion and restraint (Three Indicators Total)*	Compliant on All Indicators	0	92.8% (643)	85.0% (102)	94.7% (18)	88.0% (22)	80.8% (21)
	Number of Indicators Non-Compliant	1	6.6% (46)	15.0% (18)	5.3% (1)	12.0% (3)	19.2% (5)
		2	0.6% (4)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Six: Setting optimizes, but does not regiment individual autonomy and independence in making life choices (One Indicator Total)	Compliant on Indicator	0	99.0% (686)	100.0% (120)	100.0% (19)	100.0% (25)	84.6% (22)
	Non-Compliant on Indicator	1	1.0% (7)	0.0% (0)	0.0% (0)	0.0% (0)	15.4% (4)



Regulation	Compliance	Number of Non-Compliant Indicators	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Seven: Setting facilitates individual choice regarding services and supports, and who provides them (Two Indicators Total)	Compliant on All Indicators	0	82.4%(571)	88.3%(106)	73.7%(14)	84.0%(21)	69.2%(18)
	Number of Indicators Non-Compliant	1	16.6% (115)	10.8% (13)	26.3% (5)	16.0% (4)	19.2% (5)
		2	1.0% (7)	0.8% (1)	0.0% (0)	0.0% (0)	11.5% (3)
Eight: Participants must have a lease or residency agreement (One Indicator Total)	Compliant on Indicator	0	98.4% (682)	100.0%** (120)	36.8% (7)	100.0%** (25)	96.2% (25)
	Non-Compliant on Indicator	1	1.6% (11)	0.0% (0)	63.2% (12)	0.0% (0)	3.9% ³ (1)



Regulation	Compliance	Number of Non-Compliant Indicators	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Nine: Participants must have privacy in the sleeping or living unit (Fourteen Indicators Total)*	Compliant on All Indicators	0	8.1% (56)	98.3% (118)	5.3% (1)	100.0%** (25)	96.2 (25)
	Number of Indicators Non-Compliant	1	7.5% (52)	0.0% (0)	21.1% (4)	0.0% (0)	0.0%
		2	16.3% (113)	0.0% (0)	10.5% (2)	0.0% (0)	0.0%
		3	13.7% (95)	0.0% (0)	0.0% (0)	0.0% (0)	0.0%
		4	17.0% (118)	0.0% (0)	21.1% (4)	0.0% (0)	0.0%
		5	12.6% (87)	1.7% ^{1,2} (2)	26.3% (5)	0.0% (0)	0.0%
		6	11.6% (80)	0.0% (0)	5.3% (1)	0.0% (0)	0.0%
		7	9.4% (65)	0.0% (0)	5.3% (1)	0.0% (0)	0.0%
		8	2.5% (17)	0.0% (0)	5.3% (1)	0.0% (0)	3.9% ³ (1)
		9	1.0% (7)	0.0% (0)	0.0% (0)	0.0% (0)	0.0%
		10	0.4% (3)	0.0% (0)	0.0% (0)	0.0% (0)	0.0%



Regulation	Compliance	Number of Non-Compliant Indicators	Assisted Living	Medical Day Care	Residential Habilitation	Senior Center Plus	Therapeutic Integration
Ten: Participants have the freedom to support and control their own schedules and activities, and have access to food at any time (Four Indicators Total)	Compliant on All Indicators	0	68.4% (474)	51.7% (62)	63.2% (12)	44.0% (11)	76.9% (20)
	Number of Indicators Non-Compliant	1	18.3% (127)	29.2% (35)	21.1% (4)	40.0% (10)	15.4% (4)
		2	7.9% (55)	13.3% (16)	0.0% (0)	16.0% (4)	3.9% (1)
		3	3.9% (27)	5.8% (7)	15.8% (3)	0.0% (0)	3.9% (1)
		4	1.4% (10)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Eleven: Participants are able to have visitors at any time (One Indicator Total)	Compliant on Indicator	0	82.8% (574)	100.0%** (120)	79.0% (15)	100.0%** (25)	96.2% (25)
	Non-Compliant on Indicator	1	17.2% (119)	0.0% (0)	21.1% (4)	0.0% (0)	3.9% ³ (1)
Twelve: The setting is physically accessible to the individual (One Indicator Total)	Compliant on Indicator	0	59.2% (410)	97.5% (117)	89.5% (17)	100.0%** (25)	96.2% (25)
	Non-Compliant on Indicator	1	40.8% (283)	2.5% (3) ^{1,2}	10.5% (2)	0.0% (0)	3.9% ³ (1)

*Total number of indicators for the regulation, number of indicators column only shows the highest number non-compliant on

**100 percent compliance because this is a residential provider regulation and this is a non-residential service setting

¹Provider identified as MDC and AL provider

²MDC provider who mistakenly answered physically accessibility questions

³TI provider (who is actually respite provider) stated provided residential services, so responded to the question





The Hilltop Institute

University of Maryland, Baltimore County
Sondheim Hall, 3rd Floor
1000 Hilltop Circle
Baltimore, MD 21250
410-455-6854
www.hilltopinstitute.org