

LOUISIANA STATEWIDE TRANSITION PLAN: ADDENDUM

I. **Public Comment/Notice Period Process:**

The Louisiana Department of Health (LDH) submitted this STP Addendum for public comment on February 23, 2018. The STP Addendum Public Notice (*PUBLIC NOTICE: Louisiana Department of Health: Home and Community-Based Services Settings Rule Statewide Transition Plan*) was published in eight (8) Louisiana newspapers detailing how to gain access to the Addendum and/or receive a hard copy. Comments could be submitted electronically or via mail. The deadline for submitting public comments to LDH was March 25, 2018.

The Addendum was further revised in 2019 to address additional comments and questions received from CMS. The public notice period for the revised Addendum began August 9, 2019 and will end September 8, 2019.

Comments received: OAAS, OBH, and OCDD received no public comments.

CMS follow up: Please clarify the state's intent regarding the Addendum and if the state will be including this information in the main STP narrative, attaching it to the STP, or including a link to the STP within the Addendum to make a complete document with opportunity for meaningful comment before the next time the state goes out for public comment. Please note public comment will need to be completed after the results of the validation are completed before coming back in for final approval.

Please describe the second form of public notice (electronic.)

Please note any relevant updates or progress made should be included in the STP either via updating the STP or including the following documents as attachments to the STP, "Progress Tracking for Louisiana Statewide Transition Plan, 2017 Q1," "2017 Quarter 1 Current Louisiana Work Plan Master," and "Site Specific Assessment and Validation Analysis, office of Aging and Adult Services, January 31, 2017"

OBH response: Once the addendum is approved, the state plans to incorporate this information into the STP using tracked changes and recirculate the updated STP for public comment.

Electronic notice is sent to the OBH-HCBS listserv, which includes providers, advocates, and other stakeholders who have expressed interest in receiving updates about the Statewide Transition Plan.

II. **Setting Categorization**

- **Individual, Private Homes**

OAAS is presuming all individual, private homes to be fully compliant with HCBS characteristics. If there are any issues with a participant's housing or living situation, issues can be discussed and addressed through monthly support coordination contact. As an additional means of validation, OAAS staff interviewed a representative, statistically valid (95% CL) sample of all waiver participants (composite sample of ADHC and CCW populations) as part of its annual 1915(c) quality assurance monitoring. OAAS monitors visited participants in their homes and interviewed them about their experience with their services as it pertains to the HCBS Settings Rule. Utilizing a person centered interview approach, OAAS Regional Office staff gathered important information on choice of setting, service, and the degree or extent the participant is engaged in the community. OAAS will collect this information directly from participants annually to gauge ongoing compliance with the HCBS Settings Rule. The participant interview and home observation items may be viewed here: [Support Coordination Monitoring: Participant Interview Interpretive Guidelines](#) .

For OBH, Wrap Around Agencies (WAAs) report on members' home settings on a monthly basis to the CSoC contractor. OBH is notified immediately regarding any exceptions.

For OCDD, in terms of monitoring compliance of individual, private homes, as part of the systemic assessment process, OCDD had Support Coordination complete Individual Experience Surveys for all persons participating in waiver services. This group was included in that process. In addition to the Individual Experience Survey, we also sampled some of the residential service providers via the self-assessment and site visits. Between both of these activities, the State is confident that we have monitored this group.

In the future, the State will access Support Coordination during monthly, quarterly, and/or annual periods to evaluate ongoing compliance. As a validation process, OCDD will be able to utilize Support Coordination monitoring to assure that the practice is completed. If through this process areas of non-compliance are identified, the State would require a corrective action plan to address the areas of non-compliance.

[CMS follow up:](#) Please clarify that the state will assess settings where a beneficiary lives in a private residence owned by an unrelated caregiver (who is paid for providing HCBS services to the individual) as a provider owned or controlled setting.

[OAAS:](#) OAAS does not allow participants to receive services while living in an unrelated paid caregiver's home. "Recipients are not permitted to receive PAS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services and providers are prohibited from providing and billing for services

under these circumstances. Recipients may not live in the home of a direct support worker unless the direct support worker is related by blood or marriage to the recipient (see link for “Who Can Be a Direct Support Worker (DSW flowchart) for PAS and LT-PCS?” in Appendix B of this manual chapter). These provisions may be waived with prior written approval by OAAS or its designee on a case by-case basis.” [Community Choices Waiver Provider Manual](#)

OCDD: Settings identified as a private residence owned by an unrelated caregiver, or provider owned controlled setting were included in the assessment process.

Group Settings

OAAS assessed compliance of its Adult Day Health Care Centers using a multi-faceted approach of a provider self-assessment, site-specific assessment, and participant interviews. The site specific assessment component was completed using a provider self-assessment tool ([HCBS Settings Rule Provider Self-Assessment](#)). The tool was drafted using CMS’ guidance for non-residential settings and incorporated stakeholder comment that was received after it was circulated and posted for review. Self-assessments were made available online following a training session with providers where OAAS provided an overview of the HCBS Settings Rule and instructions for completing the assessment. ADHC providers completed self-assessments in two phases (May-June 2015 and April 2016) with all providers submitting completed surveys by May 2016. A summary analysis of the self-assessment process and results was posted to the OAAS website and circulated for public review in May 2016. OAAS required each provider to assemble a workgroup to both assess the ADHC setting and complete the survey. Members included provider staff, participants and family members, other providers (e.g. support coordinators), advocates, and other community stakeholders.

Following completion of the site specific assessment (self-assessments), OAAS will conduct site visits on all ADHC centers (100%, 33 ADHC centers) as its primary method to validate the self-assessment data submitted by providers (see Appendix B.4; link: [OAAS HCBS Settings Transition Plan](#)). OAAS regional office staff will be responsible for conducting site visits for each ADHC setting to both verify the accuracy of the self-assessment data and to provide technical assistance with completing any necessary remediation. Furthermore, OAAS will ensure that regional office staff is trained on the various aspects of the HCBS Settings Rule, particularly its requirements and assessing these requirements from the participant’s experience, prior to conducting site visits.

OBH employs the same process used for individual, private homes. WAAs report on members’ home settings on a monthly basis to the CSoC contractor. OBH is notified immediately regarding any exceptions.

The only group settings that OCDD has identified are the facility-based vocational/habilitation settings. For all settings the service providers were asked to complete a self-assessment and OCDD in partnership with the LGE offices have visited every vocational setting statewide to validate findings. In addition to this process, OCDD enlisted assistance from Support Coordination to complete Individual Experience Surveys with all persons accessing all waiver services, which would have included any person that may be in a group setting.

CMS follow up: Please verify the state classifies small group supported employment, where services are provided to two or more individuals, as a group setting to be assessed as a provider-owned or controlled setting.

OAAS: OAAS does not have supported employment as a service in their waivers.

OCDD: All settings for both residential and non-resident service types were included in the process inclusive of small group employment. Each setting that is considered top not be in compliance will complete a transition plan detailing how they will come into compliance.

III. Site-Specific Setting Assessment & Validation Processes

- **OAAS Validation:**

Providers completed self-assessments of their service setting and self-reported their current level of compliance. OAAS staff subsequently verified these reports during an onsite assessment. Information from the self-assessment was returned by providers to the respective Program Office for a compliance review. Office staff determined whether: 1) the setting is in compliance; 2) the setting will be in compliance with additional modifications; or 3) the setting is out of compliance. OAAS utilized a multi-faceted approach including site visits, desk audits, participant interviews, or other evidence (e.g. photographs) to verify compliance following remediation activities. Corrective action plans were drafted and sent to providers when either the self-assessments or site visits identified any instance of noncompliance. OAAS staff provided technical assistance, recommendations for achieving compliance when necessary, and monitored the status of remediation activities. OAAS will also utilize an annual participant interview as part of its 1915(c) quality monitoring process to assess participants' experience with the HCBS Settings Rule both initially and going forward.

OAAS staff will interview a representative, statistically valid (95% CI) sample of all waiver participants (composite sample of ADHC and CCW) as part of its annual 1915(c) quality assurance monitoring. OAAS monitors will visit participants in their homes and interview them about their experience with their services as it pertains to

the Settings Rule. Utilizing a person-centered interview approach will render important information on choice of setting, service, and the degree or extent the participant is engaged in their community. OAAS will collect this information directly from participants annually to gauge ongoing compliance with the HCBS Settings Rule. OAAS matched participants to their respective ADHC setting. If there was a discrepancy found, OAAS staff followed up during its annual 1915 (c) quality assurance monitoring.

CMS follow up: Please describe the process that is used to address and rectify any disagreements between interview responses and the provider self-assessment results. Please describe how the state selected participants to complete the in-person interview and verify that they were completed independent of the provider.

OAAS: All instances of non-compliance, whether through provider or participant survey, will be flagged for follow up at the state level. For example, if there is non-compliance on one type of survey response, it will still be flagged and addressed even through another survey response indicated compliance. OAAS state office will verify and address any disagreements between interview responses and provider self-assessment results.

- **OBH Validation Strategy:**

- a. Confirmed site visits are conducted on 100% of the providers every 3 years. The 2,200 settings presumed to be compliant was based on the total number of members enrolled in CSoC, less any members in group homes.

CMS follow up: Please clarify if the site visits were conducted on 100% of the settings. Please also clarify if assessments were completed on the group homes.

OBH response: Site visits were conducted on 100% of the provider settings. Assessments were not completed on any group homes, as these settings are not compliant with the HCBS Settings rule.

The CSoC contractor assesses compliance during initial and re-credential site visits and annual onsite audits to monitor ongoing compliance between credentialing reviews. Compliance in both audit types are monitored using the LDH/Medicaid approved assessment tool. Re-credentialing reviews are conducted every 3 years.

CMS follow up: Please clarify if the LDH/Medicaid approved assessment tool includes all of the settings criteria.

OBH response: The approved assessment tool (OBH Provider Survey included in Appendix C.3 of the STP) includes all of the setting criteria.

- **OCDD Validation Activities:**
 - a. Additional site visits were not conducted with residential providers. Individual Experience Surveys were utilized as the other option to validate provider self-assessment.
 - b. OCDD requested that the Support Coordination Agencies complete the Individual Experience Survey with all individuals receiving waiver services through OCDD. While completing the analysis, OCDD will confirm that at least 80% of the total persons supported by a specific service provider participated in the IES.

CMS follow up: Please clarify that all settings received at least one of the state’s strategies for validation.

All settings received at least one of the validation strategies noted above.

IV. Assessment & Validation Results

- **OAAS**

Initial numbers provided were based on participant/program counts at the time. The numbers included in the table below reflect waiver counts as of 2/7/2018.

Description of Settings	OAAS
Setting presumed to be fully compliant with HCBS Characteristics	5,125
Settings that could come into full compliance with modifications	0*
Settings that cannot comply with the HCBS requirements or are presumptively institutional in nature	1 – Adult Day Health Care Center located on the grounds of, or adjacent to a public institution

*All settings that were assessed and validated requiring remediation submitted corrective action plans that were subsequently verified by OAAS staff as meeting compliance with the HCBS Settings Rule.

Initial numbers provided were based on participant/program counts at the time. The numbers included in the table below reflect waiver counts as of 3/25/2019.

Description of Settings	OAAS
Setting presumed to be fully compliant with	4,645
Settings that could come into full compliance	0*
Settings that cannot comply with the HCBS requirements or are presumptively	0 – Adult Day Health Care Center located on the grounds of, or adjacent to a public institution

Service	# of Sites	# of participants receiving ADHC waiver
ADHC	23	518
CCW	4,127	4,127
Total	4,150	4,645

*All settings that were assessed and validated requiring remediation submitted corrective action plans that were subsequently verified by OAAS staff as meeting compliance with the HCBS Settings Rule.

OBH

Description of Settings	OBH
Settings presumed to be fully compliant with HCBS Characteristics	2,200
Settings that could come into full compliance with modifications	None
Settings that cannot comply with the HCBS requirements or are presumptively institutional in nature	4

- **OCDD**

While OCDD had hoped to have all activities related to the validation activities completed by the end of 12/2017, the amount of data to be processed is quite large. OCDD is still in process of entering data to complete analysis and provide a clear delineation of compliance results across categories and settings. OCDD will make sure to develop a report that confirms number of settings in each of the categories noted and provide a report that will be easy for the public to review. The Milestone template will be updated to reflect the additional time needed to complete these tasks.

CMS follow up: After the validation activities are completed by OCDD and before going back out for public input please clarify the following information in the validation result charts above:

- Please separate out the categories of settings that cannot comply from the settings that are presumptively institutional in nature that the state will submit for Heightened Scrutiny.

OCDD: 1 non-residential setting that will require HS

OBH response: OBH will not have any settings submitted for Heightened Scrutiny.

Please delineate how many settings of each type fall into each *Description of Settings* category.

Service	# of licensed providers	# of people receiving services
In home supports-IFS, CLS,	464	9961
Supported Employment (all types)	86	1517
Pre-Vocational Services	86	135
Day Habilitation	86	2556

Description of Setting	Residential	Non-Residential
Fully compliant	440	4
Settings that could come into full compliance with modifications	24	79
Settings that cannot comply with the HCBS requirements or are presumptively institutional in nature	0	1-heightened scrutiny 2-indicate that they do not plan to bring SE and pre-voc programs into compliance.

OBH response:

Settings presumed to be fully compliant with HCBS Characteristics (As of 6/30/2019)	Providers	Members
Home Settings, including residence is owned or leased by the member or a family member (and is not provider owned or controlled) or Therapeutic Foster Care		2201
CSoC Services including Parent Support and Training, Youth Support and Training, Independent Living/Skills Building, and Short-Term Respite Care services	142	

- 2296 total enrolled – 95 in the 90-day transition period
- 142 – unduplicated (providers rendering both STR and ILSB counted once) and the FSO is counted once.

- Please clarify if these numbers are based off of the results from the state’s validation process or an estimate based on the waiver counts. Please note to reach final approval the state must put the aggregation of final validation results out for public comment.

Number of people served for each type of service based on information pulled from waiver counts. Description of setting data –providers level of compliance based on validation results

OBH response: Due to member turnover, results are based off a point-in-time waiver count and confirmed through the validation process.

- Please clarify that OBH is treating the Therapeutic Foster Homes as provider owned or controlled settings and the number in the chart above reflects how many of these settings exist.

OBH response: For Therapeutic Foster Care (TFC)/Foster Care (FC), the member setting may be considered compliant if the member is living with a foster family in a home that is not owned by the provider (DCFS or the entity who pays/oversees the family).

V. Non-Disability Specific Settings

- **OAAS**

Current OAAS rules and participant rights ensure participants are afforded choice in provider and service settings (Louisiana Administrative Code : [LAC 48:1.4239](#) and [Rights and Responsibilities for Applicants/Participants of HCB Waiver Services \(OAAS-RF-10-005, EFF. 9-2-14\), p.1.](#))

- **OBH**

State assures participant access to non-disability specific settings in residential and non-residential services and is addressed with several items in the provider assessment and validation.

- **OCDD**

Through a person centered planning process, the team is identifying individual preferences and discussing choices available, and working on an individual basis to assure that people have information to make an informed choice. Example, prevocational services is not the only option available to individuals receiving our waivers. They can choose to access and/or participate in community based employment. In addition to the above, we have worked with providers to explore options within their communities to link people with options that may exist in the community versus all activities having to occur in the vocational setting. Example, if someone is interested in working out, is there a way to partner with a local gym and have the individual attend that gym versus participating in an exercise regimen in the provider setting. Again, options would need to be provided so that individuals are able to make informed choices regarding their options.

CMS follow up: Please address how the state is strategically investing to build capacity across the state in an effort to assure non-disability specific options.

OAAS: OAAS will continue to build capacity across Louisiana in an effort to assure non-disability specific options by providing initial and ongoing annual training and technical assistance on person centered planning to providers and stakeholders. OAAS also will host an annual resource fair in each of the nine regions of the state. The resource fair will offer an

introduction to of community resources and information to provider agencies and stakeholders.

Each ADHC shall ensure that its setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including the option to seek employment in integrated settings if desired, engaging in community life, and to receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS. In addition, during the site-specific assessment process, each setting was assessed for ability to provide community resources, transportation resources, and staff to help facilitate events and resources outside of the ADHC. If an ADHC was assessed as deficient in any of the above, they submitted a corrective action plan, and OAAS staff validated changes were made to the setting.

OCDD: The state continues to provide training opportunities and technical assistance surrounding best practices related to person center thinking/planning practices, decision making as well as assisting people to make informed choices.

VI. Site-Specific Remedial Actions

- **OAAS**

OAAS conducted site-specific assessment activities (assessment due from providers, conduct site visits, analyze findings from site visits and assessments, participant survey due, analyze findings of participant survey). OAAS submitted a final report to CMS on assessments and participant survey. All of these steps were completed on 1/31/2017.

OAAS identified and sent letters to providers who are not compliant with HCBS settings rule. Providers who are not in compliance and wish to remain enrolled as waiver providers will submit a corrective action plan. Providers who were not in compliance and wished to remain enrolled as waiver providers submitted a corrective action plan by 7/31/2017. OAAS regional office conducted site visits to any provider that submitted a corrective action plan and verified providers were compliant with the HCBS settings rule. This was completed by 11/30/2017.

A disenrollment process of non-compliant providers will be developed and consist of: 1) provider disenrollment; 2) transition plan for participants; and 3) appeal rights for participants and providers. This will be completed by 3/1/18.

Providers that self-identify that they are not going to remediate or come into compliance will complete appropriate documentation by 12/31/17. LDH will partner with its agencies to initiate person-centered planning process and assist

individuals with locating a provider that will be able to meet their needs. This will begin 1/1/18 and continue until 3/1/2020.

OAAS has identified one ADHC that will be submitted for heightened scrutiny. This ADHC currently serves two clients. If the ADHC cannot overcome non-compliance, implementation of a transition plan will be developed and implemented for those needing to transfer to an appropriate HCBS Setting. Individuals will be given timely notice and a choice of alternative providers. Transition of individuals will be tracked to ensure successful placement and continuity of service. All affected participants will be transitioned to a compliant setting by 9/1/18.

OAAS will submit a STP with Heightened Scrutiny information to CMS for review by 3/31/18.

CMS follow up: The state indicates above that a disenrollment process of non-compliant providers will be developed by 3/1/18. Please clarify if this has happened and include details of this plan in the next iteration of the STP.

OAAS: All Medicaid providers have agreed to abide by all rules, regulations, policies and procedure established by CMS, LDH, and other state agencies. Providers found to be out of compliance with the HCBS Setting Rules, and are unable to come into compliance, will follow the following disenrollment process:

OAAS's disenrollment process of non-compliant providers can be found at the following link (Page 8-10):

[Community Choices Waiver Provider Manual \(Provider Requirements Section\)](#)

- **OBH**

For any non-compliant settings, a corrective action plan is due within 60 days of notice. The CAP must outline the specific steps and timeline for full compliance not to exceed 12 months.

One provider received notice of non-compliance, and a CAP was submitted within the 60 day timeframe. The CAP included provisions for transferring members to receive services from the provider's alternate locations. OBH worked with the provider and the CSoC contractor to ensure no disruption in services to members.

CMS follow up: Please describe the notice process that was used for those affected by the transfer. Please also describe how those individuals were informed of and given choice of providers.

OBH noted 4 settings in their assessment and validation results “that cannot comply with the HCBS requirements or are presumptively institutional in nature”. Please provide the details on the remedial actions, timeframes, and the number of participants that may reside in these settings.

Additionally the state indicated on pg. 20 of the *Louisiana Department of Health: Home and Community-Based Services Settings Rule Statewide Transition Plan* that Group Homes do not comply with HCBS. Please clarify if there are plans to bring these settings into compliance, and if not what is the plan for alternative funding sources or transitions to compliant settings for these individuals. Please clarify how many individuals will be affected.

OBH response:

The list of affected members was provided to the WAA with instructions to update the member’s Plan of Care with the new provider location during the next scheduled Child and Family Team meeting. Members were notified that the change in provider location would not impact receiving or accessing services. Independent Living/Skills Building (ILSB) was the only waiver service provided from the non-compliant location, and all ILSB services are provided in the member’s home and community and not at the physical facility location.

Regarding choice of providers, before the child/youth is enrolled in CSoC, the WAA must ensure that the parent/legal guardian understands that they have the option of accepting services through CSoC in their home and community or accepting behavioral health services provided in an institution/hospital setting. If the family agrees to services through CSoC, they sign the CSoC Freedom of Choice (FOC) form indicating CSoC is their choice.

At the time of the initial estimates for members residing in noncompliant settings, four (4) members were residing in group homes. No remedial actions were taken due to natural attrition, with the expectation that these 4 members would transition to a compliant setting, age out, or discharge out of CSoC.

Group homes are characterized as non-compliant with the HCBS rule. If a child/youth is referred to CSoC while residing in a group home or other non-HCBS setting, the WAA is responsible for collaborating with the facility treatment team, the member, and family to assist in comprehensive discharge and treatment planning to reduce disruption and to improve stabilization upon the member’s reentry to a home and community environment. If the member is not transitioned to a compliant HCBS setting within 90 days, the CSoC Contractor Care Manager will warm transfer the member/family back to the appropriate MCO for referral and connection to behavioral health services and resources that may be available within their plan.

- **OCDD**

Information has been updated in the milestone template. For all agencies that either self-identified or after a site visit were found to be out of compliance, they received a letter indicating the need for a transition plan. For all service providers that have received a letter based on activities noted above, corrective action plans have been submitted.

State has requested that each Service Provider complete a transition plan detailing the actions and/or changes they will be making to bring settings into compliance.

- a. A template was provided to the service providers and training was completed on how to complete the transition plan document. Results from the site visits identified specific areas that the service provider would need to address. During training it was explained that each provider should evaluate areas that need to come into compliance and begin planning for approach/actions to be taken specific to those areas. Representatives from both State office and LGE office have made themselves available to assist with this process. Adjusted timeline for submission to account for completion of the analysis of the Individual Experience Surveys.
- b. Service providers have been asked to submit updates minimally on a quarterly basis to the LGE office indicating the progress that has been made. OCDD is working with the LGEs to identify a frequency at which visits will occur to monitor progress.

If a Provider is not compliant:

- a. OCDD believes that all settings will be able to come into compliance.
- b. OCDD intends to implement a transition plan for those needing to transfer to a different setting. Individuals will be given timely notice and a choice of alternative providers.

CMS follow up: Please provide the details of the transition plan for those who may need to transfer to a different setting to include the associated timeframes, a description and timeline for how the state will provide beneficiaries and their support team with proper notice of the setting will not come into compliance with the settings criteria, assurance of choice of settings for relocation, and assurance that there will be no disruption of services during the transition period and an explanation of how the state will ensure that needed services and supports are in place in advance of the individual's transition.

1. OCDD intends for Service Providers to have completed implementation of transition plans and validation that agencies are in compliance by March 2020
2. Once settings that will not remain in compliance have been identified OCDD will begin sending notification regarding disenrollment process to all entities involved and request that the SC agencies begin person centered planning practices to identify options to transition persons to preferred options. Additionally, OCDD with LGE offices will develop a transition plan for each agency/individual impacted to assure that there is no disruption in service.
3. Provider agencies/individuals will be given opportunity to appeal decision.
4. This process will begin 5/2020 with anticipated completion 2/2021

VII. Heightened Scrutiny

- **OAAS**

OAAS has identified one ADHC that will be submitted for heightened scrutiny. This ADHC currently serves two clients. If the ADHC cannot overcome non-compliance, implementation of a transition plan will be developed and implemented for those needing to transfer to an appropriate HCBS Setting. Individuals will be given timely notice and a choice of alternative providers. Transition of individuals will be tracked to ensure successful placement and continuity of service. All affected participants will be transitioned to a compliant setting by 9/1/18.

OAAS will submit a STP with Heightened Scrutiny information to CMS for review by 3/31/18.

OAAS will conduct heightened scrutiny reviews to determine if any ADHCs are located on the grounds of, or adjacent to, a public institution; located in a publically or privately-owned inpatient facility treatment. (info from above section moved to HS for consistency of review)

OAAS- The identified ADHC is no longer serving HCBS ADHC participants as of 07/30/2018. They independently disenrolled from the Medicaid HCBS waiver.

- **OBH**

OBH has determined that all sites are compliant and will not require the heightened scrutiny process.

- **OCDD**

OCDD is currently collating all information to finalize a list of agencies that may require the heightened scrutiny process.

For OCDD, the heightened scrutiny process will be much like the process utilized for the systemic assessment. After a provider has identified completion in terms of the implementation of the transition plan, OCDD will validate that the transition plan has been implemented and that the setting has achieved community status. Only after OCDD has verified this finding would the site be lifted to CMS for review. Information/Evidence would be submitted to describe how the setting was evaluated, information regarding implementation of transition plan, and overall results of a validation visit to confirm that it has achieved community status. (info from above section moved to HS for consistency of review)

CMS follow up: the date has passed for the 3/31/18 submission of the OAAS HS information the state indicated it planned to submit. Please clarify the new date by which the state intends to submit this information.

OAAS:

OAAS's Heightened Scrutiny Policy is as follows:

When determining whether to move a setting forward to CMS for heightened scrutiny review, OAAS will consider information or comments received from participants, families, case management staff, or LDH staff. OAAS also considers information or comments received from external partners such as the disability rights organizations, stakeholders or other advocacy groups. OAAS conducts a site visit at the setting and interview staff and administrators to determine if the setting's design, policies and practices. In addition, OAAS will review to see if they are designed to meet all participants needs within the setting, restricts or poses barriers to accessing the local community or if they do not support participant access to the local community. This includes interviewing participants to determine if their experience in the setting is isolating and if so whether that isolation is caused by systemic conditions inherent in the setting's design, policies or practices.

OAAS will move a setting forward to CMS for heightened scrutiny review when the state determines the setting is located in a building that is also a publically or privately operated facility that provides inpatient institutional treatment. The setting will be move forward if it is located in a building on the grounds of, or immediately adjacent to a public institution. Another decision to move a setting forward is if the setting's design, policies or practices systemically isolate participants from their greater community.

When the state submits a setting to CMS for heightened scrutiny review, the evidentiary package will include the following:

- The name and location of the facility;
- The characteristics of the setting or other reason the setting was identified for heightened scrutiny;
- How the setting was assessed for having the effect of isolating participants from the broader community;
- How the state performed the heightened scrutiny review;

- What information was collected in addition to onsite reviews and interviews;
- The results of the participant, staff and administrator interviews, provider self-assessment, and provider site visit;
- The results of observations made during the onsite review will include how the setting is integrated in and considered a part of the local community. In addition, it will include how individuals participate in typical community activities and engage in community life. In the case of a setting located in a building providing inpatient institutional treatment or in a building on the grounds of or immediately adjacent to a public institution, the state will also provide the following information:
- When applicable, a copy of the setting's corrective action plan, and include issues and characteristics that are not fully in alignment with the HCBS Settings Rule, the actions the setting will take to address identified issues, the state's approval of the corrective action plan, milestones, and the proposed date of completion, and the state's plan to monitor. Monitoring will include the setting's achievement of the milestones outlined in the corrective action plan; and participant experience post implementation of the setting's corrective action plan.

For OAAS, OCDD, and OBH please clarify the following information related to heightened scrutiny:

- Describe the process the state used to identify settings that are presumed to have the qualities of an institution for each of the three categories.

OCDD worked collaboratively with the LGE offices to identify potential settings that might require heightened scrutiny review based on the criteria identified by CMS

OBH response: The approved assessment tool (OBH Provider Survey included in Appendix C.3 of the STP) is used to ensure provider facilities meet the HCBS requirements.

- Categorization of each specific setting flagged for heightened scrutiny by each of the three categories (i.e., settings located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment; settings located in a building on the grounds of, or immediately adjacent to, a public institution; and settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS).

OCDD: 1 setting was identified to require heightened scrutiny review as it is a setting located in a building that is a privately operated facility providing inpatient institutional care. This particular provider provides and non-residential services.

OBH response: Provider facilities are flagged as non-compliant if the setting does not meeting following requirements: (1) integrated within the community of the members served, (2) not located in a building that also provides inpatient institutional treatment, and (3) not located in a building on the grounds of or immediately adjacent to a public institution such as a nursing

facility/home, IMD, ICF/IID, or hospital. OBH will not have any settings submitted for Heightened Scrutiny.

- A timeline of milestones for implementing a plan for completing the heightened scrutiny process by the state including the public notice processes for these settings.

OCDD: Initial site visit post provider self-assessment. Identified areas to be considered and asked agency to complete a transition plan. As part of the follow up process to assure progress is being met on transition plan, OCDD will partner with the LGE office to validate that the provider has implemented completely their transition plan.

OBH response: OBH will not have any settings submitted for Heightened Scrutiny.

- CMS requests the state clearly articulate how the final decision will be made on whether or not to move a setting to CMS for HS review. Please clarify the threshold and determining factors that bring the state to a yes or no for moving the setting forward.

OCDD: Once the service provider has indicated that they have completed their transition process, OCDD will request that a provider self-assessment be completed to confirm that they are able to demonstrate compliance with all areas of the regulation. Upon receipt of the provider self-assessment a site visit will be conducted to validate information in the provider self-assessment. A statistically significant sample of individuals supported by the agency will be interviewed to validate/confirm that experiences reported reflect the intent of the regulation. Reviewing evidence from onsite visit and survey results-with at least 90% of the individuals interviewed confirming their experiences, OCDD will consider this as success in terms of overcoming the presumption of institutionalization. A report of findings will be drafted and the results will be posted for 30 days for public comment. Submission of packet for HS to CMS will occur after public comment period. Timeline to complete review and submit to CMS for HS 3/2020.

If the state level review does not result in evidence supporting that the setting has overcome the presumption of institutionalization, OCDD will begin the disenrollment process as outlined in earlier section. Following the timelines noted.

OBH response: OBH will not have any settings submitted for Heightened Scrutiny.

VIII. Monitoring of Settings for Ongoing Compliance

- **OAAS**

A participant survey will be administered annually to monitor the individual's experience and corresponding compliance with the HCBS Settings Rule. Participant survey data will also be analyzed annually to identify any instances requiring

follow-up from the program office. If there were any discrepancies found between the participant interviews and provider self-assessments, OAAS staff will follow up during its annual 1915 (c) quality assurance monitoring.

Information from the self-assessment will be returned by providers to the respective Program Office for a compliance review. Office staff determine whether: 1) the setting is in compliance; 2) the setting will be in compliance with additional modifications; or 3) the setting is out of compliance. Each Office will utilize a multi-faceted approach including site visits, desk audits, participant interviews, or other evidence (e.g. photographs) to verify compliance following remediation activities. Once the determination of non-compliance is made, the provider will be notified in writing of the issue(s) and will have an opportunity to seek technical assistance from the State. Providers who are not in compliance will be required to submit and implement a State approved corrective action plan. If the corrective action is not received or is inadequate to address the compliance issue, the provider will be disenrolled and another appropriate setting for the participant will be located. The disenrollment process will consist of: 1) provider disenrollment as a Medicaid provider; 2) a Transition Plan for participants; and 3) an internal appeal mechanism for participants and providers. Individuals will be given timely notice and a choice of alternate providers. The transition of each individual will be tracked to ensure successful transition and continuity of services.

CMS follow up: Please clarify if in addition to the Individual Experience Survey being completed annually, provider self-assessments will also be completed annually for ongoing compliance. If it is just the IES being completed annually, please describe how these surveys will be reviewed for ongoing compliance and how issues will be remediated.

Please note: Disenrollment of a Medicaid provider should not occur prior to establishing and carrying out a transition plan for a participant.

OAAS: OAAS staff will interview a representative, statistically valid (95% CI) sample of all waiver participants (composite sample of ADHC and CCW) as part of its annual 1915(c) quality assurance monitoring. OAAS monitors will visit participants in their homes and interview them about their experience with their services as it pertains to the Settings Rule. Utilizing a person-centered interview approach will render important information on choice of setting, service, and the degree or extent the participant is engaged in their community. OAAS will collect this information directly from participants annually to gauge ongoing compliance with the HCBS Settings Rule. OAAS matched participants to their respective ADHC setting. If there was a discrepancy found, OAAS staff followed up during its annual 1915 (c) quality assurance monitoring.

The Individual Experience Survey will be completed annually. The provider self-assessments and the provider site visits will be completed every three years. The next cycle of provider assessments will begin in quarter 3 and 4 of 2019.

- **OBH**

To ensure ongoing monitoring, OBH will sustain the quarterly reporting requirements for provider and member review. All exceptions must be submitted to OBH staff upon discovery.

The provider assessment tool has been incorporated into the credentialing and re-credentialing site visits.

The monitoring plan process includes the ongoing monitoring of individual private homes, non-licensed settings, and any individualized day or supported employment setting for compliance with the HCB settings criteria and is accomplished through quarterly reporting.

CMS follow up: Please clarify how often the re-credentialing cycle takes place. Please clarify if supported employment is a service and setting in the OBH program.
OBH response: Re-credentialing takes place every three years. Supported employment is not a covered service in the CSoc program.

- **OCDD**

The Monitoring process will mimic the process utilized for the STP. It is the intent of OCDD to have individuals at a specified frequency complete a provider self-assessment and that validation would occur via site visits/individual interviews. OCDD is considering a cycle where each residential provider would be reviewed every 5 years. OCDD is considering visiting the non-residential programs on an annual basis.

CMS follow up: Please clarify the monitoring process cycle for each residential provider for ongoing monitoring.

- Please clarify if OCDD will be visiting the non-residential programs on an annual basis.
OCDD does intend for site visits for non-residential settings to occur on an annual basis.
- Please clarify who will be completing these reviews.
OCDD will partner with the LGE offices to complete these reviews.

- Please clarify how OCDD will be completing ongoing monitoring for individual private homes, non-licensed settings, and individualized day or supported employment settings.

OCDD intends to establish a mechanism to complete monitoring for the above identified entities on a 5 year cycle. Specifically, OCDD intends to partner with the LGEs or utilize an in-house monitoring team to complete site visits and interview individuals to assure ongoing compliance with the regulation. We have approximately 464 service providers. These will be divided up over a 5 year period to assure that each provider is seen to conduct monitoring on a regular basis. If there are issues/concerns raised prior to the service providers regularly scheduled review period, then OCDD may opt to complete review at an earlier time and request remediation related to any area that is not in compliance.

IX. 508 Compliance

The state is encouraged to assure that all materials are 508 compliant before going out for public comment. Regardless of format, all Web content or communications materials produced are required to conform to applicable Section 508 standards to allow federal employees and members of the public with disabilities to access information that is comparable to information provided to persons without disabilities. We have reviewed your Statewide Transition Plan and found 508 compliance issues that need to be fixed before the document can be posted onto the CMS Website. The following is a list indicating some, but may not be all, issues identified:

- Document is missing alternative text
- Repeated blank characters in document
- Tables should be checked for reading order
- No headings in document

For additional information on how to ensure Section 508 compliance for your submissions, please refer to the general information on 508 available at [NCRTM Accessibility Resources](#).

State: The State has reviewed Section 508 requirements and have amended this document and the Statewide Transition Plan for the purpose of 508 compliance.