

# DRAFT Utah HCBS Setting Transition Plan

## Section 1. Public Notice and Comment Process

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Progress/ Status
Make at least two statements of public notice that include a description of procedures on providing public comment and feedback	State will post public notice in Deseret News and Salt Lake Tribune.	10/9/2014	10/9/2014	 HCBS Meeting Public Notice.pdf  See Other Examples in Public Notice Documents Folder	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Complete
	State will distribute notice through multiple forums including: email, listserv, online, and hard copies.	10/9/2014 10/22/2014	10/9/2014 10/22/2014	 Utah Home and Community Based S  See Other Examples in Public Notice Documents Folder	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Complete
Disseminate Draft Transition Plan	State will widely disseminate draft Transition Plan through the following channels: <ul style="list-style-type: none"> <li>• DOH Website <a href="http://health.utah.gov/ltc/hcbstransition">http://health.utah.gov/ltc/hcbstransition</a></li> <li>• DOH and DHS Listservs</li> <li>• Distribute electronic copies and links to known advocacy and stakeholder organizations and request distribution to constituencies</li> <li>• Provide info on accessing plan at regularly scheduled stakeholder meetings</li> <li>• Make hard copies of plan available upon request through the Medicaid agency, through case management agencies and local DHS offices.</li> </ul>	V1 10/22/2014  V2 2/2/2015  V3 12/11/2015  V4 7/30/2016	V1 12/1/2014  V2 3/5/2015  V3 1/15/2016  V4 8/28/2016	Draft Transition Plan	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Ongoing with each iteration
For each iteration of the HCBS Setting Transition Plan, make at least two statements of public notice that include a description of on providing public comment and feedback	State will post public notice in Deseret News and Salt Lake Tribune. Upon request from CMS, the state will provide records of notices similar to the notices imbedded from the initial public notice 10/2014.	With Each Iteration			HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Ongoing
	State will distribute notice through multiple forums including: email, listserv, online, and hard copies. In addition, the State will request that stakeholders who receive notice disseminate it throughout constituent communities through their individualized communication channels.					HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Progress/Status
Hold Transition Plan Meetings	State will hold a public meeting to discuss draft Transition Plan. State will publish notice on the Utah Public Notice Website: <a href="http://www.utah.gov/pmnsitemap/notice/237217.html">http://www.utah.gov/pmnsitemap/notice/237217.html</a>	10/29/2014	10/29/2014	Draft Transition Plan	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Complete
	State will discuss draft Transition Plan at multiple stakeholder meetings to include but not limited to: Utah Indian Health Advisory Board, Medical Care Advisory Committee, Utah Developmental Disabilities Council, Disability Advisory Council, Utah Assisted Living Facility Association, Utah Health Care Association, Utah Association of Community Services Providers.	10/22/2014	12/1/2014	Draft Transition Plan	See Description Section	Complete
Accept Public Comment for Initial Draft	State will accept public comment via: <b>Website:</b> <a href="http://health.utah.gov/ltc/hcbstransition">http://health.utah.gov/ltc/hcbstransition</a> OR <b>Mail:</b> Utah Department of Health Division of Medicaid and Health Financing Attn: HCBS TRANSITION PLANNING COMMENTS PO Box 143112 Salt Lake City, UT 84114-3112 OR <b>Fax:</b> 801-323-1588	10/22/2014	12/1/2014	Public Comments	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Complete
For each iteration of the HCBS Setting Transition Plan, Accept Public Comment	For a minimum 30-day comment period State will accept public comment via: <b>Website:</b> <a href="http://health.utah.gov/ltc/hcbstransition">http://health.utah.gov/ltc/hcbstransition</a> OR <b>Mail:</b> Utah Department of Health Division of Medicaid and Health Financing Attn: HCBS TRANSITION PLANNING COMMENTS PO Box 143112 Salt Lake City, UT 84114-3112 OR <b>Fax:</b> 801-323-1588	With Each Iteration		Public Comments	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Ongoing
State will share assessment and remediation tools with stakeholders	To solicit additional stakeholder feedback, the State will share assessment and remediation tools with stakeholders as they are developed. Assessment and remediation tools will include those to evaluate both residential and non-residential settings. The State will provide the ability for stakeholders to provide feedback through the same mechanisms established for general Transition Plan feedback.	With Each Iteration of tool or document				Ongoing
Retain and Summarize Public Comment for all Transition Plan Iterations	State will: <ul style="list-style-type: none"> <li>• Compile all public comments received during the public comment period</li> <li>• Carefully consider public comments and modify the Transition Plan as it deems appropriate</li> <li>• Provide to CMS, a summary of the public comments received and an explanation of whether comments resulted in modifications to the Transition Plan, including the rationale for the decision.</li> </ul>	12/1/2014  2/2/2015	3/13/2015	Public Comments	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Complete
Publish Transition Plan Iterations	State will publish all iterations of the Transition Plan and will include the rationale as changes are made.	10/22/2014	3/17/2019	Public Comments, CMS Approval	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	Ongoing
State will Provide CMS and Stakeholders with Quarterly Updates until Section 1. of the Transition Plan is Completed						

## Section 2. Assessment Process

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
Establish Transition Plan Workgroup	In addition to the general public input process, a Transition Plan Workgroup will be created and will be comprised of HCBS stakeholders. The workgroup will meet periodically to review draft documents, including evaluation tools, interim reports and progress throughout the life-cycle of the transition planning and implementation process. The group will also work to disseminate information to a broader group of stakeholders and to assist constituencies to participate in public comment opportunities.	1/1/2015 First meeting scheduled on 2/25/15	When Transition Plan is Fully Implemented	N/A	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	N/A	Ongoing
State will conduct a review of HCBS Waiver Sites of Services and will make preliminary categorization. State will report the results of the review as an attachment to the State's Transition Plan.	State will identify the universe of current residential and non-residential providers and their corresponding sites of service for each of its seven HCBS waivers.  In this stage of the review, the State will only identify services as "presumed to be fully compliant" when the services are not related to settings and that are direct services to the waiver participant. For example, in the Medicaid Autism Waiver, Applied Behavioral Analysis is a service that is provided directly to the child. The service is provided in the child's home or other naturally occurring setting in the community. Accordingly, this service is presumed to be fully compliant with the HCBS regulations.	11/1/2014	2/2/2015	Review Enrolled HCBS Medicaid Providers/Provider Types (MMIS)	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	40	<b>Complete</b>  Preliminary Compliance Report
Disseminate Provider Informational Letters	State will send an informational letter to residential and non-residential providers that describes appropriate HCBS setting requirements, transition plan assessment steps that will include State review and provider self-assessment. Letter will describe provider's ability to remediate issues to come into compliance within deadlines and that technical assistance will be available throughout the process.	2/1/2016	3/31/2016	Informational Letter  DRAFT Provider Letter HCBS Settings	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	40	<b>Complete</b>
Complete Preliminary Categorization of Sites as Fully Compliant, Not Yet Compliant or Not Compliant	Using tools from the CMS HCBS Settings Review Toolkit, the State will conduct a preliminary screening to categorize which settings are likely to be Fully Compliant, Not Yet Compliant or Not Compliant with HCBS characteristics.	2/9/2015	3/31/2015	Review Enrolled HCBS Medicaid Providers/Provider Types (MMIS)	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	80	<b>Complete</b> See Preliminary Compliance Report

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
Employ multiple processes to evaluate sites that are potentially Not Yet Compliant or Not Compliant with HCBS characteristics (This process will include determining sites that are presumed to have institutional like qualities). These sites will be identified as requiring heightened scrutiny.	<p>State has created Residential and Non-Residential Provider Self-Assessment Tools. The tools include questions to identify any sites that may be presumed to have institutional like qualities. Development was supported by Exploratory Questions to Assist States in Assessment of Residential Settings, as provided by CMS.</p> <p>The Self-Assessment Tools were released on November 23, 2015 for a 30 day public comment period. Public Comment will be addressed and incorporated during the public comment period.</p>	5/1/2015	1/15/2016	<p>Provider Self-Assessment Tool</p>  <p>DRAFT Instructions NonResidential</p>  <p>DRAFT Tool NonResidential</p>  <p>DRAFT Instructions Residential</p>  <p>DRAFT Tool Residential</p>	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	80	Complete
	<p>Once public comment has been addressed and incorporated into the tools, the Department will disseminate the tools to all residential and non-residential providers preliminarily categorized by the State as Not Yet Compliant or Not Compliant. Providers will be given 60 days to complete the tool and submit the results to the State for review.</p> <p>Per CMS guidance, the State presumes the enrollee’s private home or the relative’s home in which an enrollee resides meet the requirements of HCB settings. In accordance with this guidance, the following services which are provided in the participant’s own home will not be assessed for Settings compliance using the tools developed by the State: Home Health, Home Delivered Meals, In-Home Therapy, and Personal Care.</p> <p>Per CMS guidance, Respite settings do not require assessment for compliance with Settings requirements.</p> <p>Additionally, Financial Management, Medical Equipment Supply, Home and Vehicle Modifications, Support Coordination/Case Management, Transportation, and Emergency Response services do not provide a setting for the participant which can be reviewed against Settings requirements.</p> <p>All other HCBS settings identified in the Utah Medicaid HCBS Waiver programs will be assessed for full compliance with the Settings Requirements using the tools developed by the State. See the <i>Preliminary HCBS Transition Planning Compliance Report</i> for additional detail on the evaluation of Utah HCBS settings.</p>	5/1/2016	7/8/2016		HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS		Complete

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
	Providers who are required to participate in the self-assessment process and fail to complete the tool within the required time frame could be subjected to a sanction. Sanctions could include a freeze on enrollment or a hold on payments.						
	State will review and document results from provider self-assessments.	7/1/2016	8/31/2016		HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS		In Progress
	The State will compile a formal report in which the Provider Self-Assessment results are summarized by setting type, to be made available for a 30 day public comment period. The report will include the number of settings that are compliant, can be compliant with changes, are not and cannot be compliant, and are presumed to have institutional qualities or characteristics that isolate, as well as a detailed explanation on how those determinations were made.	9/30/2016	11/30/2016	Provider Self-Assessment Tools	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS		
	State will develop and modify evaluation tools used in contract, certification or licensing reviews of all residential and non-residential providers that are subject to the Settings Rule.	5/1/2016	5/31/2017	Modify and Develop State Evaluation Tools	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	80	
	<p>State will validate Residential and Non-Residential Provider Self-Assessments through on-site reviews. On-site reviews will include observation along with interviews/surveys of participants and staff and document reviews.</p> <p>State will select a stratified random sample of settings where sample size will require a 5% margin of error, 95% confidence level, and 50% response distribution using the following settings categories: Adult Day Care, Day Support Services, Residential Facility, Supported Living, and Supported Employment.</p> <p>State employees conducting validation reviews will require evidence to confirm all responses provided by the setting in the Self-Assessment Tool. Additionally, validation reviewers will interview participants using questions taken from the Exploratory Questions to Assist States in Assessment of HCBS Settings.</p> <p>The State will leverage DSPD Community Based Services Reviewers for validation of DSPD settings. State employees will perform validation visits and interviews for all other waiver programs. Validation Findings requiring remediation will be added to State Findings and must be incorporated into an amended Remediation Plan.</p> <p>It has come to the State's attention that some setting types presumed to be Not Compliant or Not Yet Compliant by the State in the Preliminary Compliance Report may in fact be fully compliant with HCBS Settings Rules. In the event that some</p>	6/1/2016	6/30/2017	State intends to leverage existing licensing and contracting review schedules and resources as a component of this process.	HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS		

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
	setting types do not require remediation following the Self-Assessment, their compliance may be updated to Presumed to be Compliant, or a more limited sample may be drawn for on-site validation reviews.						
	State will begin utilizing modified evaluation tools in scheduled contract, certification or licensing reviews of all residential and non-residential HCBS providers that are subject to the Settings Rule on an ongoing basis.	5/31/2017	Ongoing	Results of State Modified Evaluation Tools	Providers, DMHF, DSPD, and DAAS	600	
Review State's standards, rules regulations and provider contracts	The State will evaluate relevant standards, rules, regulations and provider contracts to determine need for modification to comply for federal settings regulations.	9/1/2015	7/1/2016	State Administrative Rules, Licensing Tools, Provider Input, Contracts, SIP's, Provider Manuals	Providers, DMHF, DSPD, and DAAS		<b>Complete</b>
Notify Individual Providers of Assessment Findings	<p>State will present each provider with assessment of their organizational HCBS setting as determined through State review, Provider Self-Assessment, and/or on-site validation visits.</p> <p>State Findings will inform providers of which Settings Rule characteristics will require remediation, and the reason the State has come to this decision. For settings which have identified modifications of the Settings Rule, evidence will be required to ensure that restrictions are specific to the individual and are supported by an assessed and documented need.</p> <p>Following the receipt of findings from the State, the provider will have 30 days to develop and submit a Remediation Plan in order to demonstrate how they will come into compliance.</p>	6/1/2016	2/1/2017	Results of Provider Self-Assessment and State Modified Evaluation Tools	DMHF, DSPD, and DAAS		
Complete Final Categorization of Sites as Fully Compliant, Not Yet Compliant (including those requiring heightened scrutiny) or Not Compliant	<p>State will identify residential and non-residential providers with sites of service that are Fully Compliant, Not Yet Compliant (including those requiring heightened scrutiny) or Not Compliant.</p> <p>For settings presumed to have institutional qualities, State will review the information to determine whether each and every one of the qualities of a home and community based setting outlined in 42 CFR 441.301(c)(4)/ 441.530(a) are met, whether the state can demonstrate that persons receiving services are not isolated from the greater community of individuals not receiving Medicaid HCBS services, and whether there is strong evidence the setting does not meet the criteria for a setting that has the qualities of an institution.</p>	6/1/2017	6/30/2017	<p>Results of Provider Self-Assessment and State Modified Evaluation Tools</p> <p>42 CFR 441.301(c)(4)/ 441.530(a)</p>	DMHF, DSPD, and DAAS	80	<b>In Progress</b>
Heightened Scrutiny Review	In order to identify settings for which heightened scrutiny should be applied, the State incorporated questions regarding the presumption of institutional characteristics into the provider self-assessment tool. These indicators focus directly on the presumed characteristics of an institution as outlined in the Rule:	9/1/2016	9/1/2018	Provider Self-Assessment Tools, Validation Visit Results, PCSP's, Interviews, Provider	DMHF, DSPD, DAAS, HCBS Providers and Participants		

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
	<p>a. The setting is NOT located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment (a NF, IMD, ICF/IID, hospital).</p> <p>b. The setting is NOT located in a building on the grounds of, or immediately adjacent to, a public institution.</p> <p>c. The setting is NOT located in a gated/secured 'community' for people with disabilities.</p> <p>d. The setting is located among other residential buildings, private businesses, retail businesses, restaurants, etc. that facilitates integration with the greater community.</p> <p>A Self-Assessment and/or Validation response to any of the above indicators that denotes non-compliance will require that the State pull the setting for Heightened Scrutiny review. Additionally, State employees reviewing Self-Assessments or conducting Validation site visits will be trained on CMS' guidance for <i>Settings that Isolate</i> (<a href="https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/settings-that-isolate.pdf">https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/settings-that-isolate.pdf</a>). Any setting determined through the application of this guidance in the Self-Assessment and/or Validation processes to have the effect of isolating individuals will undergo heightened scrutiny review.</p> <p>The Heightened Scrutiny review process utilized by the State will require a comprehensive review of the setting which includes, but is not limited to:</p> <p>a. An on-site visit and assessment of the physical location and practices of the setting</p> <p>b. A review of person-centered plans for individuals receiving services in the setting</p> <p>c. Interviews with service recipients and/or family members/participant representatives</p> <p>d. A secondary review of policies, training, and other applicable service related documents</p> <p>e. Additional focused review of the setting's proposed Remediation Plan, including how each of the above is expected to be impacted as the plan is implemented.</p> <p>Evidence collected throughout the Heightened Scrutiny review process will be presented to the Settings Transition Workgroup to provide recommendations on submission to CMS.</p> <p>Public input will be incorporated into the State's review process. Public notice will list affected settings by name and location as appropriate, identify the number of individuals served in each</p>			<p>Policies/Training, Provider Remediation Plan</p>  <p>Heightened Scrutiny Flow Chart</p>			

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
	<p>setting, include all justifications as to why the setting is HCB, and provide the public an opportunity to comment.</p> <p>Evidence of how a setting overcomes its presumed institutional qualities will focus on the qualities of the setting and how it is integrated in and supports full access of individuals receiving HCBS into the greater community, not on the aspects and/or severity of the disabilities of the individuals served in the setting.</p>						
State will Provide CMS and Stakeholders with Quarterly Updates until Section 2. of the Transition Plan is Completed							

### Section 3. Remediation Strategies

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
Collaborate to Develop Provider Remediation Plan	<p>Based on individual provider Self-Assessment findings, the State, providers, and stakeholders will collaborate to:</p> <ul style="list-style-type: none"> <li>• Determine the remediation plan for the individual provider, including timelines for completion. The State will allow reasonable timeframes for significant infrastructure changes, but will require submission of routinely scheduled status reports to demonstrate ongoing progress toward remediation. All plans must be fully implemented by 3/17/2019.</li> <li>• For individual waiver clients, assure that any modification of conditions under 42 CFR §441.301(c)(4)(vi)(A) through (D) are supported by a specific assessed need and justified in the individual client’s person-centered service plan</li> <li>• Determine final disposition of sites identified as requiring heightened scrutiny.</li> </ul>	6/1/2016	9/30/2017		Providers, DMHF, DSPD, and DAAS	2000	
Remediation Activities	<p>The Settings Transition Workgroup will supply recommendations to the State for the evaluation of Provider Remediation Plans to ensure the plans meet HCBS regulations. The workgroup will provide critical insight as the State determines if providers have submitted satisfactory Remediation Plans.</p> <p>In order to communicate the recommendations of the State and the Settings Transition Workgroup, the State will supply each provider with a response detailing the findings and the areas that they must change to come into compliance with the regulations. The State will provide guidance for Provider Remediation Plans that do not fully demonstrate how compliance will be achieved. These responses will be issued within 60 calendar days of the receipt of the Provider Remediation Plan.</p>	8/1/2016	9/30/2017				
	<p>Each provider will have 30 calendar days to provide the State with additional information rebutting the response, if they choose. This submission will trigger a review process through which the Workgroup/State will make a final determination on the areas that must be remediated. The Workgroup/State will make a final determination within 30 calendar days. The State will then send the provider a final response detailing the decision and identify changes that must be addressed in the provider’s Remediation Plan. All providers must submit their Final Remediation Plan no later than October 2017.</p>	8/1/2016	3/31/2018				
	<p>For providers needing assistance to come into compliance the State will:</p> <ul style="list-style-type: none"> <li>• Facilitate groups of providers to talk through specific issues and problem-solve how to achieve compliance together. Participation will be voluntary and can include individuals and family members who may aid in the problem-solving process.</li> <li>• Provide technical assistance at the request of the provider.</li> </ul>	2/1/2016	3/17/2019				

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
	<ul style="list-style-type: none"> <li>• Provide information on the HCBS website to guide providers in making the necessary changes.</li> </ul> <p>The State will ensure that sites are making progress toward compliance through service delivery system staff which will include Support Coordinators and Case Managers, and contract review staff.</p> <p>The public may provide ongoing feedback through the State's HCBS Transition website which accepts public comments by fax or by written correspondence with the State.</p>						
Develop Compliance Tools	<p>State will:</p> <ul style="list-style-type: none"> <li>• Develop tool to assess level of compliance with HCBS setting requirements at each of the provider's settings</li> <li>• Develop tool to ensure that person-centered planning requirements are met when there is any modification of conditions under 42 CFR §441.301(c)(4)(vi)(A) through (D).</li> </ul>	5/1/2016	5/31/2017		HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	120	

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
Track Provider Status	State will create a system to track provider progress toward, and completion of, individual remediation plans. System will have the ability to show compliance by waiver and for all HCBS waiver programs.	4/1/2016	3/17/2019		DMHF, DSPD, and DAAS	200	In Progress
Conduct Onsite Compliance Reviews	After the provider has completed its individual provider remediation plan, State will conduct onsite reviews using newly developed compliance tools to confirm full implementation of the remediation plan.	1/1/2016	3/17/2019		DMHF, DSPD, and DAAS	2000	
Inform and Transition Individuals to Compliant Settings or Settings not Funded by HCBS	<p>State will send a formal notification letter to the Operating Agency that outlines the specific reasons for settings that must be transitioned and the due process procedure and timeline available to the person and if applicable his/her guardian/representative no less than 45 days prior to the transition. The Operating Agency will then send the current provider of service and the participant and/or representative/guardian a formal notification letter indicating the intent to transition the person supported no less than 30 days prior to the transition. The Operating Agency will be responsible to inform and transition individuals to compliant settings or to ensure participants understand that the receipt of continued services in these settings will not be funded by HCBS.</p> <p>State assures that it will provide reasonable notice and due process to any participant that needs to transition to another setting. Through the person-centered planning process the Support Coordinator or Case Manager will ensure that the participant is provided information about alternative settings that comply with HCBS settings requirements and allow them to make an informed choice of an alternative setting. The Support Coordinator or Case Manager will ensure that all services are in place in advance of a participant's transition and will monitor the transition to ensure successful placement and continuity of services.</p> <p>Contracted entities will provide the State with transition updates as defined by the State.</p> <p>While Support Coordinators and Case Managers will provide information on options and encourage participants to transition to a setting that complies with the HCBS settings requirements, some participants may choose to remain in their current setting and either disenroll from the waiver program or continue to receive services without HCBS funding.</p>	8/1/2016	3/17/2019				
Provider Sanctions and Disenrollments	State will disenroll and/or sanction providers that have failed to implement the individual Provider Remediation Plan or those determined through the Heightened Scrutiny process to have institutional like qualities that cannot be remediated.	8/1/2016	3/17/2019		DMHF, DSPD, and DAAS	100	

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
Ongoing Monitoring	<p>Once overall compliance is achieved, strategies to ensure ongoing compliance for all residential and non-residential providers will include:</p> <ul style="list-style-type: none"> <li>• Conducting periodic Participant Experience Surveys;</li> <li>• Building questions from the HCBS Settings Rule into annual service planning processes;</li> <li>• Settings policy guidance as defined by provider manuals and State Implementation Plans;</li> <li>• Ongoing provider certification that they have received information about and understand the HCBS Setting Requirements;</li> </ul> <p>Utah's existing quality assurance system will include ongoing HCBS setting compliance monitoring to ensure that settings continue to comply with the HCBS Setting Rule.</p> <p>The State will continue to engage Stakeholders to evaluate progress, identify areas of concern, and propose solutions.</p>	3/2015	Ongoing		DMHF, DSPD, and DAAS		In Progress
	<p>Conducting Participant Experience Surveys: State will develop a survey for HCBS participants to assess their individual experience in a Utah HCBS setting as a part of ongoing monitoring activities. Surveys will be administered throughout the cycle of implementation plans. In addition to the creation of the survey, the number of participants to be sampled along with the method of administration (in-person; telephone; mail) will be determined.</p> <p>Existing Participant Experience Surveys for DSPD HCBS Medicaid Waivers will be updated/reviewed to include questions pertaining specifically to the Settings Rule. For waivers without an existing Participant Experience Survey, tools will be created and methodologies to sample participants will be defined.</p>	7/1/2017	10/2017		DMHF, DSPD, and DAAS		
	<p>Building questions from the HCBS Settings Rule into annual service planning processes: The State piloted an Addendum to the care planning process for the New Choices Waiver beginning July 1, 2015. The State will evaluate the pilot and make the required modifications for implementation across the remaining waiver programs.</p>	7/1/2015	1/1/2019		DMHF, DSPD, and DAAS		In Progress
	<p>Settings policy guidance as defined by provider manuals: HCBS provider agreements/manuals/contracts will be updated to include requirements for ongoing compliance and initial enrollment.</p>	11/2016	7/2017		DMHF, DSPD, and DAAS		
	<p>Settings policy guidance as defined by State Implementation Plans: State Implementation Plans will be updated as amendments/renewals are processed.</p>	3/2015	3/17/2019		DMHF, DSPD, and DAAS		In Progress

Action Item	Description	Proposed Start Date	Proposed End Date	Sources	Stakeholders	Estimated Hours Involved	Progress/ Status
	<p>Ongoing provider certification that they have received information about and understand the HCBS Setting Requirements:</p> <p>State will modify HCBS Waiver provider enrollment documents for all residential and non-residential providers to supply education and confirm compliance with HCBS setting requirements prior to enrolling new Medicaid providers. Providers will be required to certify that they have received information about and understand the HCBS setting requirements.</p> <p>The State has developed an Attestation form for new HCBS providers and existing HCBS providers with new settings which states they will adhere to all requirements of the Settings Rule. This will be incorporated into the Provider Enrollment process for all waiver programs.</p> <p>Providers may reach out to Operating Agency and State staff for guidance on the application of the rule. Indicators adapted from the Exploratory Questions to Assist States in Assessment of HCBS Settings are included with each characteristic in the Attestation document.</p> <p>During State provided training sessions, providers will receive training/materials regarding the Settings Rule.</p>	7/1/2016	Ongoing		HCBS Clients, Advocates, Providers, DMHF, DSPD, and DAAS	80 to update documents, then ongoing part of business process	Ongoing
State will Provide CMS and Stakeholders with Quarterly Updates until Section 3. of the Transition Plan is Completed							

**Acronyms**

- CFR – Code of Federal Regulations
- CMS – Centers for Medicare and Medicaid Services
- DAAS – Division of Aging and Adult Services
- DHS – Department of Human Services
- DMHF – Division of Medicaid and Health Financing
- DOH – Department of Health
- DSPD – Division of Services for People with Disabilities
- HCBS – Home and Community Based Services
- MMIS – Medicaid Management Information System

# APPENDIX 1

## SETTINGS TRANSITION DOCUMENTS

### TABLE OF CONTENTS

**State:** Utah

**Programs:** Medicaid 1915(c) Home and Community Based Waivers

**Bureau:** Authorization and Community Based Services

Preliminary HCBS Transition Planning Compliance Report	A-1
Provider Informational Letter	A-14
Provider Self-Assessment Tool Instructions	A-15
Provider Self-Assessment Tool: Residential	A-16
Provider Self-Assessment Tool: Non-Residential	A-27
BACBS Heightened Scrutiny Review Flow Chart	A-35
Attestation Tool for Residential Settings	A-37
Attestation Tool for Non-Residential Settings	A-40
Public Comment Summary STP Version One	A-42
Public Comment Summary STP Version Two	A-44
Public Comment Summary STP Version Three	A-46
Provider and Stakeholder HCBS Settings Presentation	A-54

## Preliminary HCBS Transition Planning Compliance Report

An action item identified in the Utah HCBS Setting Transition Plan describes that the State will conduct an initial review of the HCBS Waiver Service Sites. The State has completed this review. This report provides the review results.

The Department of Health queried the Medicaid Management Information System (MMIS) to identify all enrolled HCBS waiver providers. Each waiver and its associated services are reported separately. The State conducted its preliminary categorization by describing services as either “presumed to be compliant” or “requires additional review”. In addition, a listing of provider types and the number of providers has been supplied to help assess the scope of the in-depth reviews that will occur in the upcoming months.

The Department of Health took a conservative approach when designating providers as “presumed to be compliant”. The State only identified services as “presumed to be compliant” when the services are not dependent on the setting and that are direct services provided to the waiver participant. For example, in the Medicaid Autism Waiver, Applied Behavioral Analysis is a service that is provided directly to the child. The service is provided in the child’s home or other naturally occurring setting in the community. Accordingly, this service is presumed to be fully compliant with the HCBS regulations. In addition, providers that offer multiple types of services, were categorized as “requires additional review” if the provider had any possibility of providing a service that may not be compliant. For example, if a provider is enrolled to offer Personal Budget Assistance, Respite Care, Behavioral Consultation and Residential Habilitation, the provider as a whole would be classified as a ‘Residential Service Provider’ and designated as “requires additional review” to ensure all sites will be fully assessed.

When services are listed as “presumed to be compliant” a brief narrative explanation of the category is provided.

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Acquired Brain Injury Waiver

### Community Based - Needs Review

#### Day Support Services

	Total Providers	Percent of Total
Requires Additional Review	18	100.00%
<b>Totals</b>	<b>18</b>	<b>100%</b>

#### Supported Employment

	Total Providers	Percent of Total
Requires Additional Review	3	100.00%
<b>Totals</b>	<b>3</b>	<b>100%</b>

### Facility-Based

#### Facility Based Respite Services

Facility-based respite services are provided to give temporary relief to the primary caregiver. This service is time limited (less than 14 days) and is allowed to be provided in a facility-based setting.

	Total Providers	Percent of Total
Presumed Compliant	1	100.00%
<b>Totals</b>	<b>1</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Acquired Brain Injury Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant maximum flexibility in hiring staff of their choosing. Many Acquired Brain Injury Waiver services are provided through SAS.

	Total Providers	Percent of Total
Presumed Compliant	5	100.00%
<b>Totals</b>	<b>5</b>	<b>100%</b>

#### Support Coordination Agency

Support Coordination Services are services provided to coordinate the array of services the participant receives. Services are provided to the participant and are not dependent on a setting.

	Total Providers	Percent of Total
Presumed Compliant	74	100.00%
<b>Totals</b>	<b>74</b>	<b>100%</b>

#### Emergency Response Services

Emergency Response Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	5	100.00%
<b>Totals</b>	<b>5</b>	<b>100%</b>

## Residential - Needs Review

### Residential Facility / Supported Living

	Total Providers	Percent of Total
Requires Additional Review	94	100.00%
<b>Totals</b>	<b>94</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Aging Waiver

### Community Based - Needs Review

#### Adult Day Care

	Total Providers	Percent of Total
Requires Additional Review	16	100.00%
<b>Totals</b>	<b>16</b>	<b>100%</b>

### Facility-Based

#### Facility Based Respite Services

Facility-based respite services are provided to give temporary relief to the primary caregiver. This service is time limited (less than 14 days) and is allowed to be provided in a facility-based setting.

	Total Providers	Percent of Total
Presumed Compliant	21	100.00%
<b>Totals</b>	<b>21</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Aging Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant maximum flexibility in hiring staff or their choosing. In the Aging Waiver, Personal Care Services are available through SAS.

	Total Providers	Percent of Total
Presumed Compliant	13	100.00%
<b>Totals</b>	<b>13</b>	<b>100%</b>

#### Medical Equipment Supplier

Medical Equipment Supplies are provided in the home and community to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	10	100.00%
<b>Totals</b>	<b>10</b>	<b>100%</b>

#### Emergency Response Services

Emergency Response Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	50	100.00%
<b>Totals</b>	<b>50</b>	<b>100%</b>

#### Home and Vehicle Modifications

Home and Vehicle Modifications are provided in the home and community to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	4	100.00%
<b>Totals</b>	<b>4</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Aging Waiver

### Case Management Agency

Case Management Agency Services are services provided to coordinate the array of services the participant receives. Services are provided to the participant and are not dependent on a setting.

	Total Providers	Percent of Total
Presumed Compliant	24	100.00%
<b>Totals</b>	<b>24</b>	<b>100%</b>

## In-Home

### Home Health Agency

Home Health Agency Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	135	100.00%
<b>Totals</b>	<b>135</b>	<b>100%</b>

### Home Delivered Meals

Home Delivered Meals are provided in the home to assure the participant's nutritional health in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	12	100.00%
<b>Totals</b>	<b>12</b>	<b>100%</b>

### Personal Care Provider

Personal Care Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	202	100.00%
<b>Totals</b>	<b>202</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Aging Waiver

### Transportation Services

#### Transportation Services

Non- Medical Transportation Services are provided to assist the participant in accessing the community.

	Total Providers	Percent of Total
Presumed Compliant	41	100.00%
<b>Totals</b>	<b>41</b>	<b>100%</b>

## Autism Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant or their family maximum flexibility in hiring staff or their choosing. In the Autism Waiver, Respite Care Services are available through SAS.

	Total Providers	Percent of Total
Presumed Compliant	3	100.00%
<b>Totals</b>	<b>3</b>	<b>100%</b>

## In-Home

#### In-Home Therapy

In-Home Therapy (Applied Behavioral Analysis) is provided directly to the child to improve the child's development. The service is provided in the child's home or other naturally occurring setting in the community.

	Total Providers	Percent of Total
Presumed Compliant	11	100.00%
<b>Totals</b>	<b>11</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Community Supports Waiver

### Community Based - Needs Review

#### Day Support Services

	Total Providers	Percent of Total
Requires Additional Review	14	100.00%
<b>Totals</b>	<b>14</b>	<b>100%</b>

#### Supported Employment

	Total Providers	Percent of Total
Requires Additional Review	10	100.00%
<b>Totals</b>	<b>10</b>	<b>100%</b>

### Facility-Based

#### Facility Based Respite Services

Facility-based respite services are provided to give temporary relief to the primary caregiver. This service is time limited (less than 14 days) and is allowed to be provided in a facility-based setting.

	Total Providers	Percent of Total
Presumed Compliant	1	100.00%
<b>Totals</b>	<b>1</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Community Supports Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant maximum flexibility in hiring staff of their choosing. Many Community Supports Waiver services are provided through SAS.

	Total Providers	Percent of Total
Presumed Compliant	5	100.00%
<b>Totals</b>	<b>5</b>	<b>100%</b>

#### Support Coordination Agency

Support Coordination Services are services provided to coordinate the array of services the participant receives. Services are provided to the participant and are not dependent on a setting.

	Total Providers	Percent of Total
Presumed Compliant	75	100.00%
<b>Totals</b>	<b>75</b>	<b>100%</b>

#### Emergency Response Services

Emergency Response Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	5	100.00%
<b>Totals</b>	<b>5</b>	<b>100%</b>

### Residential - Needs Review

#### Residential Facility / Supported Living

	Total Providers	Percent of Total
Requires Additional Review	100	100.00%
<b>Totals</b>	<b>100</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## New Choices Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant maximum flexibility in hiring staff of their choosing. In the New Choices Waiver, Personal Care Services are available through SAS.

	<b>Total Providers</b>	<b>Percent of Total</b>
Presumed Compliant	3	100.00%
<b>Totals</b>	<b>3</b>	<b>100%</b>

#### Medical Equipment Supplier

Medical Equipment Supplies are provided in the home and community to assure the participant's health and safety in a manner that promotes independence.

	<b>Total Providers</b>	<b>Percent of Total</b>
Presumed Compliant	14	100.00%
<b>Totals</b>	<b>14</b>	<b>100%</b>

#### Emergency Response Services

Emergency Response Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	<b>Total Providers</b>	<b>Percent of Total</b>
Presumed Compliant	8	100.00%
<b>Totals</b>	<b>8</b>	<b>100%</b>

#### Home and Vehicle Modifications

Home and Vehicle Modifications are provided in the home and community to assure the participant's health and safety in a manner that promotes independence.

	<b>Total Providers</b>	<b>Percent of Total</b>
Presumed Compliant	1	100.00%
<b>Totals</b>	<b>1</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## New Choices Waiver

### Case Management Agency

Case Management Agency Services are services provided to coordinate the array of services the participant receives. Services are provided to the participant and are not dependent on a setting.

	Total Providers	Percent of Total
Presumed Compliant	19	100.00%
<b>Totals</b>	<b>19</b>	<b>100%</b>

## In-Home

### Home Health Agency

Home Health Agency Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	57	100.00%
<b>Totals</b>	<b>57</b>	<b>100%</b>

### Home Delivered Meals

Home Delivered Meals are provided in the home to assure the participant's nutritional health in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	3	100.00%
<b>Totals</b>	<b>3</b>	<b>100%</b>

### Personal Care Provider

Personal Care Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	4	100.00%
<b>Totals</b>	<b>4</b>	<b>100%</b>

## Residential - Needs Review

### Adult Residential / Day Health

	Total Providers	Percent of Total
Requires Additional Review	185	100.00%
<b>Totals</b>	<b>185</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## New Choices Waiver

### Transportation Services

#### Transportation Services

Non- Medical Transportation Services are provided to assist the participant in accessing the community.

	Total Providers	Percent of Total
Presumed Compliant	9	100.00%
<b>Totals</b>	<b>9</b>	<b>100%</b>

## Physical Disabilities Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant maximum flexibility in hiring staff of their choosing. In the Physical Disabilities Waiver, Personal Care Services are available through SAS.

	Total Providers	Percent of Total
Presumed Compliant	5	100.00%
<b>Totals</b>	<b>5</b>	<b>100%</b>

### Support Coordination Agency

	Total Providers	Percent of Total
Presumed Compliant	8	100.00%
<b>Totals</b>	<b>8</b>	<b>100%</b>

#### Emergency Response Services

Emergency Response Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	5	100.00%
<b>Totals</b>	<b>5</b>	<b>100%</b>

# HCBS Transition Planning Compliance Report

This initial report is based on an internal review by the Department of Health. As the Department continues through the evaluation process this information will be updated.

## Technology Dependent Waiver

### Indirect Support Service - No Setting

#### Financial Management Services

Financial Management Services are provided in support of self-directed or self-administered services (SAS). Services delivered through the SAS method enable the participant maximum flexibility in hiring staff of their choosing. In the Technology Dependent Waiver, Respite Services are available through SAS.

	Total Providers	Percent of Total
Presumed Compliant	2	100.00%
<b>Totals</b>	<b>2</b>	<b>100%</b>

### In-Home

#### Home Health Agency

Home Health Agency Services are provided in the home to assure the participant's health and safety in a manner that promotes independence.

	Total Providers	Percent of Total
Presumed Compliant	15	100.00%
<b>Totals</b>	<b>15</b>	<b>100%</b>

#### In-Home Therapy

In-Home Therapy is provided directly to the child to improve the child's development. The service is provided in the child's home.

	Total Providers	Percent of Total
Presumed Compliant	1	100.00%
<b>Totals</b>	<b>1</b>	<b>100%</b>



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

## Utah Department of Health

JOSEPH K. MINER, MD, MSPH, FACPM  
Executive Director

### Division of Medicaid and Health Financing

NATHAN CHECKETTS  
Deputy Director, Utah Department of Health  
Director, Division of Medicaid and Health Financing

KEVIN BAGLEY  
Director, Bureau of Authorization and  
Community Based Services

DATE: April 26, 2016  
TO: Utah Medicaid HCBS Waiver Providers  
FROM: Kevin Bagley, Director, Bureau of Authorization and Community Based Services  
RE: Compliance with Federal Home and Community Based Services (HCBS) Settings Rule

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On March 17, 2014 the Centers for Medicare and Medicaid Services (CMS) implemented new federal HCBS regulations that provided clarification concerning the required characteristics of service settings. To determine compliance with the new regulations, states must review and evaluate all HCBS residential and non-residential service settings. These rules apply to all Utah HCBS waiver programs.

The final rule establishes an outcome-oriented definition of HCBS settings that focuses on the nature and quality of individuals' experiences. The rule reflects CMS' intent to ensure that individuals receiving services and supports through Medicaid HCBS programs have full access to the benefits of community living and receive services in the most integrated setting possible. Information on the final rule can be found at <http://health.utah.gov/lc/hcbstransition/>.

In accordance with the regulations, Utah Medicaid created an HCBS Setting Transition Plan (the Plan). One of the initial action items in the Plan requires the State to perform a preliminary categorization of providers as those presumed to be *Compliant*, *Not Yet Compliant*, or *Not Compliant* with the setting requirements. A related action item in the Plan requires all settings initially categorized as Not Yet Compliant or Not Compliant to complete and submit to the State, the results of the Provider Self-Assessment Tool. Completion of the Provider Self-Assessment Tool is mandatory and must be completed and returned to the State for each service setting via email, facsimile or mail within 60 days of the date of this letter. The results of your self-assessment must be submitted by: July 1, 2016. Failure to submit completed Provider-Self Assessments may result in suspension of payment or provider disenrollment. Submission instructions are described within the Provider Self-Assessment Tool. Utah Medicaid will be available to provide technical assistance to providers throughout this process and may be reached via email at [HCBSSettings@utah.gov](mailto:HCBSSettings@utah.gov), or by phone at 801-538-6553.

After the provider self-assessment process has been completed, the Plan identifies additional action items. One action item requires the State to confirm the validity of the provider self-assessment process by performing onsite reviews of a statistically valid sample of settings subject to the provider self-assessment process. Another action item requires the State to review results and identify potential areas of non-compliance. Based on provider self-assessment findings and onsite reviews, the State, providers, and stakeholders will collaborate to develop Provider Remediation Plans. Providers will be given the opportunity to remediate issues and come into compliance within timeframes established by the State. Providers who fail to complete a Provider Remediation Plan, or those determined through the heightened scrutiny process to have institutional like qualities that cannot be remediated, will no longer be able to provide Medicaid HCBS services.

Thank you for the services you provide to Medicaid members. If you have questions about the Provider Self-Assessment Tool or process please contact the Bureau of Authorization and Community Based Services via email at [HCBSSettings@utah.gov](mailto:HCBSSettings@utah.gov) or by phone at 801-538-6553.

## **Provider Self-Assessment Tool Instructions**

### **Background:**

On March 17, 2014 the Centers for Medicare and Medicaid Services (CMS) implemented new federal HCBS regulations that provided clarification concerning the required characteristics of service settings. To determine compliance with the new regulations, states must review and evaluate all HCBS residential and non-residential service settings. These rules were developed to ensure that individuals receiving long term services and supports through Medicaid HCBS programs have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate. The following Provider Self-Assessment Tool (the Tool) measures each provider's current level of compliance with the HCBS Setting rules and provides a framework to assist providers with implementing necessary steps to compliance.

### **General Instructions:**

The Tool can be downloaded at the following location: <http://health.utah.gov/ltc/hcbstransition/Documents.html>.

Residential and Non-Residential versions are available, the correct version must be completed for each site depending on the type of services provided. If you are unable to download the Tool, please contact the Bureau of Authorization and Community Based Services for assistance via email at [HCBSSettings@utah.gov](mailto:HCBSSettings@utah.gov) or by phone at 801-538-6553.

The Tool includes a series of YES/NO/NA questions. Supporting information is required for each response to demonstrate why the setting is in compliance or not in compliance. For all N/A responses please explain why the question does not apply to your setting.

Provider Self-Assessment process:

- Providers must complete one self-assessment for each individual HCBS setting they own, co-own, and/or operate.
- The provider will use the Tool to evaluate compliance with a variety of environmental and other factors that help to define the characteristics of the setting.
- Providers will be asked to demonstrate compliance by providing evidence that current policies, procedures and operating practices are in place and that compliance is regularly assessed.
- Compliance information that will be deemed acceptable evidence includes, but is not limited to citation of the following (Please do NOT send copies of these documents):
  - a. Provider Policies/ Procedures
  - b. Participant Handbook
  - c. Staff training curriculum and materials
  - d. Training Schedules
  - e. Letters of support from persons served
- When completing the assessment, providers must evaluate compliance by thinking about both the setting itself and each individual served.

### **Submission:**

RESPONSES TO THE SELF-ASSESSMENT TOOL MUST NOT CONTAIN ANY CONFIDENTIAL OR PROTECTED HEALTH INFORMATION PERTAINING TO CLIENTS. THIS INCLUDES IDENTIFIABLE DEMOGRAPHIC DATA, INFORMATION ABOUT THE PHYSICAL OR MENTAL HEALTH CONDITION(S) OF AN INDIVIDUAL, OR ANY INFORMATION REGARDING TREATMENT REGIMENS OR PAYMENT HISTORY FOR HEALTHCARE SERVICES PROVIDED TO AN INDIVIDUAL.

Completed Tools can be submitted to the State Medicaid Agency via email, facsimile, or mail at the following locations:

Email: [HCBSSettings@utah.gov](mailto:HCBSSettings@utah.gov)

Facsimile: (801) 323-1588

Mail: Bureau of Authorization and Community Based Services

Attn: HCBS Settings Transition

P.O. Box 143112

Salt Lake City, UT 84114-3112

## HCBS Settings Transition Provider Self-Assessment Tool: Residential

### Section A: Provider Information

Provider Name:		Date Completed:	
Site Name:		Phone:	
Address:		City:	Zip Code:
Names and Roles of those Completing this Assessment:		Email Address:	
Number of Medicaid HCBS Individuals Served at this Location:		HCBS Provider Type:	<i>Residential Facility, /Supported Living, Assisted Living Facility; if other please specify</i>
Services Provided at this Location:		Waivers Served:	<i>Acquired Brain Injury, Community Supports, New Choices</i>

**RESPONSES TO THIS SELF-ASSESSMENT TOOL MUST NOT CONTAIN ANY CONFIDENTIAL OR PROTECTED HEALTH INFORMATION PERTAINING TO CLIENTS. THIS INCLUDES IDENTIFIABLE DEMOGRAPHIC DATA, INFORMATION ABOUT THE PHYSICAL OR MENTAL HEALTH CONDITION(S) OF AN INDIVIDUAL, OR ANY INFORMATION REGARDING TREATMENT REGIMENS OR PAYMENT HISTORY FOR HEALTHCARE SERVICES PROVIDED TO AN INDIVIDUAL.**

**PLEASE PROVIDE CITATIONS ONLY FOR POLICIES, HANDBOOKS, TRAINING CURRICULUM, & MATERIALS.**

### Section B: CMS HCBS Community Rule: Self-Assessment and Planning Tool for Residential Settings

**Characteristic 1: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)**

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
1. Is the setting in a public or privately-owned facility that provides inpatient treatment? <i>-If yes, please provide the name and type of facility.</i>		
2. Is the setting on the grounds of, or immediately adjacent to a public institution? <i>-If yes, please provide the name and type of public institution.</i>		
3. Is the setting located in a gated/secured community for people with disabilities? <i>-If yes, please provide the name and a description of the community.</i>		
4. Is the setting located among other residential buildings, private businesses, retail businesses, restaurants, etc. that facilitates integration with the greater community? <i>-If no, please describe the setting's location.</i>		
5. Does the setting allow the individual(s) the freedom to move about inside and outside of the setting as opposed to one restricted room or area within the setting? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
<p>6. Does the setting provide individual HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>7. Can the individual(s) come and go at any time?  <i>-If yes, please provide evidence</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>8. Does the setting afford opportunities for individual schedules that focus on the needs and desires of the individual(s) and opportunities for individual growth?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>9. Does the setting restrict individuals from having 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?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>10. In settings where the individual(s) are of working age, is there activity with the individual(s) to pursue work as an option?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>11. In settings where personal budget assistance is part of the service, does the setting facilitate the opportunity for the individual(s) to have a checking or savings account or other means to have access to and control personal funds?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>12. Are the individual(s) informed that they are not required to sign over their paychecks to the provider?  <i>-If yes, please provide evidence.</i>  <i>-If no, what requirements exist and why?</i></p>		
<p>13. Does the setting restrict the individual(s) from receiving information about, or training on, how to access and use means of public transportation, such as buses, taxis, etc., and are these public transportation schedules and telephone numbers available when requested?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
14. Where public transportation is limited, does the setting provide information about resources for the individual(s) to access the broader community, including accessible transportation for individuals who use wheelchairs? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 1</b>		
This setting has demonstrated compliance with Settings Characteristic 1.	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
<b>Characteristic 2: The setting is selected by the individual from among setting options, including nondisability specific settings and an option for a private unit in a residential setting. The settings options are identified and documented in the person-centered plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
15. Does the setting reflect individual needs and preferences and ensure the informed choice of the individual(s), based on their resources? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
16. Is the option of a private room provided to the resident(s) as appropriate? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
17. Does the setting restrict access to 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 a YMCA? <i>-If no, please provide evidence.</i> <i>-If yes, what restrictions exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 2</b>		
This setting has demonstrated compliance with Settings Characteristic 2.	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
<b>Characteristic 3: The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
18. Is all information about the individual(s) 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? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
<p>19. Do setting requirements assure that staff do not talk to other staff about the individual(s) in the presence of others or in the presence of an individual as if he/she were not present?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>20. Does the setting assure that staff interact and communicate with the individual(s) respectfully and in a manner in which they would like to be addressed, while providing assistance during the regular course of daily activities?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>21. Can the individual(s) have a private cell phone, computer or other personal communication device, or does the setting provide access to a telephone or other technology device to use for personal communication in private at any time?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>22. In settings with more than one individual, does the setting 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 every individual receiving support within the setting?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>23. Does the setting offer a secure place for the individual(s) to store personal belongings?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>24. Is information about filing a complaint made readily available and does the setting inform the individual(s) of how to make a complaint?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>25. Can the individual(s) file an anonymous complaint?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>26. Is informal (written and oral) communication conducted in a language that the individual(s) understand?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
27. Does the setting support individuals who need assistance with their personal appearance, dress, and grooming to appear as they desire, and is personal assistance provided in private, as appropriate? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
28. Does the setting afford dignity to the diners (i.e., the individual(s) are treated age appropriately and not required to wear bibs)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 3</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 3.		
<b>Characteristic 4: The setting 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. 42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
29. Does the setting post or provide information on individual rights? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
30. Does the setting allow the individual(s) to engage in legal activities (ex. voting when 18 or older, consuming alcohol when 21 or older) in a manner consistent with individuals in similar and/or the same setting who are not receiving Medicaid funded services and supports? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
31. Does the physical environment support a variety of individual goals and needs (for example, 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)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
32. Does the setting afford the opportunity for tasks and activities matched to individual skills, abilities and desires? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
33. Does the setting afford opportunities for the individual(s) to choose with whom to do activities, either in the setting or outside the setting, and is participation voluntary? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
34. Can the individual(s) sit in any seat in a dining area? <i>-If no, what limitations exist and why?</i>		
35. If an individual desires to eat privately, can he/she do so? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
36. Can the individual(s) request an alternative meal if desired? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 4</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 4.		
<b>Characteristic 5: The setting facilitates individual choice regarding services and supports, and who provides them.</b> <b>42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(v)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
37. Does the setting restrict the services, providers, or supports available to the individual(s)? <i>-If no, please provide evidence.</i> <i>-If yes, what restrictions exist and why?</i>		
38. Does the setting afford the individual(s) the opportunity to update or change their preferences at any time? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
39. Does the setting ensure the individual(s) receive support in developing plans to support their needs and preferences? Is setting staff knowledgeable about the capabilities, interests, preference and needs of the individual(s)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 5</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 5.		
<b>Characteristic 6: The individual has a lease or other legally enforceable agreement providing similar protections.</b> <b>42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(A)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
40. Does the setting provide the individual(s) with a lease or, for settings in which landlord tenant laws do not apply, a written residency agreement? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
41. Does the setting inform the individual(s) of their rights regarding housing and when they could be required to relocate? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
42. Does the setting inform the individual(s) of how to relocate and request new housing? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
43. 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? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 6</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 6.		
<b>Characteristic 7: The setting ensures the individual has privacy in their sleeping or living unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit. 42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(B)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
44. Can the individual(s) close and lock the bedroom door? <i>-If no, what limitations exist and why?</i>		
45. Can the individual(s) close and lock the bathroom door? <i>-If no, what limitations exist and why?</i>		
46. Does staff only use a key to enter a living area or privacy space under limited circumstances agreed upon with the individual(s)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
47. Do staff or other residents always knock and receive permission prior to entering a bedroom, bathroom, or private living space? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
48. Are cameras present in the setting? <i>-If yes, please provide evidence that surveillance equipment has been authorized.</i>		
49. Do the furniture, linens, and other household items reflect individual preferences, interests, and hobbies as desired? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
50. Does the setting provide the individual(s) with the choice of a roommate? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
51. Does the setting inform the individual(s) of how to request a roommate change? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 7</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 7.		
<b>Characteristic 8: The setting ensures the individual has the freedom and support to control his/her own schedule and activities, and have access to food at any time. 42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(C)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
52. Can the individual(s) have a meal at the time of their choosing? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
53. Are snacks accessible and available anytime? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
54. Does the setting require the individual(s) to adhere to a set schedule for waking, bathing, eating, exercising, activities, etc.? <i>-If no, please provide evidence.</i> <i>-If yes, what requirements exist and why?</i>		
55. Does the setting allow the individual(s) to access such things as a television, radio, and leisure activities that interest them and can they schedule such activities at their convenience? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 8</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 8.		
<b>Characteristic 9: The individual can have visitors of his/her choosing at any time. 42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(D)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
56. Can the individual(s) have visitors at any time? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
57. Are visitors welcomed and encouraged? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
58. Can the individual(s) have private visits with family and friends? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
59. Are there restricted visitor's meeting areas? <i>-If no, please provide evidence.</i> <i>-If yes, what restrictions exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 9</b>		
This setting has demonstrated compliance with Settings Characteristic 9.	Yes, No, Partial	Comments or Additional Information
<b>Characteristic 10: The setting is physically accessible to the individual. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)€</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
60. Does the setting ensure there are no gates, Velcro strips, locked doors, or other barriers preventing individuals' entrance to or exit from certain areas of the setting? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
61. Is the setting physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting individuals' mobility in the setting or if they are present are there environmental adaptations such as a stair lift or elevator to ameliorate the obstruction? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
62. Does the setting provide the individual(s) with 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? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
63. 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.? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 10</b>		
This setting has demonstrated compliance with Settings Characteristic 10.	Yes, No, Partial	Comments or Additional Information

**Characteristic 11: The setting ensures that any modification of the HCBS Settings qualities and conditions is supported by a specific assessed need and justified in the person-centered service plan. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(F)**

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
64. Does the plan include a description of the condition that is directly related to the assessed need, data to 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? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
65. Does documentation note if positive interventions and supports were used prior to any plan modifications? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
66. Are less intrusive methods of meeting the need that were tried initially documented? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
67. Does the setting policy require that the individual(s) and/or their representative grant informed consent prior to the use of restraints and/or restrictive interventions and document these interventions in the person-centered plan? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 11</b> This setting has demonstrated compliance with Settings Characteristic 11.	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>

**Characteristic 12: The setting enforces the Home and Community-Based Settings Regulation requirements. 42 CFR 441.301(c)(4)/441.710(a)(1)/441.530(a)(1)**

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
68. Do paid and unpaid staff receive new hire training and continuing education related to the rights of the individual(s) receiving services and member experience as outlined in HCBS rules? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
69. Are provider policies outlining participant rights and experiences made available to the individual(s) receiving services? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
70. Are provider policies on HCBS rules regularly reassessed for compliance and effectiveness and amended, as necessary? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
71. Do you have any additional questions or concerns specific to the Home and Community-Based Settings Regulation requirements?		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 12</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 12.		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR HCBS SETTINGS RULE</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Rule characteristics 1-12.		

The Department of Health, Bureau of Authorization and Community Based Services wishes to thank all providers for taking the time to complete this Self-Assessment.

## HCBS Settings Transition Provider Self-Assessment Tool: Non-Residential

### Section A: Provider Information

Provider Name:		Date Completed:	
Site Name:		Phone:	
Address:		City:	Zip Code:
Names and Roles of those Completing this Assessment:		Email Address:	
Number of Medicaid HCBS Individuals Served at this Location:		HCBS Provider Type:	<i>Residential Facility, /Supported Living, Assisted Living Facility; if other please specify</i>
Services Provided at this Location:		Waivers Served:	<i>Acquired Brain Injury, Aging Waiver, Community Supports, New Choices</i>

**RESPONSES TO THIS SELF-ASSESSMENT TOOL MUST NOT CONTAIN ANY CONFIDENTIAL OR PROTECTED HEALTH INFORMATION PERTAINING TO CLIENTS. THIS INCLUDES IDENTIFIABLE DEMOGRAPHIC DATA, INFORMATION ABOUT THE PHYSICAL OR MENTAL HEALTH CONDITION(S) OF AN INDIVIDUAL, OR ANY INFORMATION REGARDING TREATMENT REGIMENS OR PAYMENT HISTORY FOR HEALTHCARE SERVICES PROVIDED TO AN INDIVIDUAL.**

**PLEASE PROVIDE CITATIONS ONLY FOR POLICIES, HANDBOOKS, TRAINING CURRICULUM, & MATERIALS.**

### Section B: CMS HCBS Community Rule: Self-Assessment and Planning Tool for Non-Residential Settings

**Characteristic 1: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)**

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
1. Is the setting in a public or privately-owned facility that provides inpatient treatment? <i>-If yes, please provide the name and type of facility.</i>		
2. Is the setting on the grounds of, or immediately adjacent to, a public institution? <i>-If yes, please provide the name and type of public institution.</i>		
3. Is the setting located in a gated/secured community for people with disabilities? <i>-If yes, please provide the name and a description of the community.</i>		
4. Is the setting in the community/building located among other residential buildings, private businesses, retail businesses, restaurants, etc. that facilitates integration with the greater community? <i>-If no, please describe the setting's location.</i>		
5. Does the setting allow the individual(s) the freedom to move about inside and outside of the setting as opposed to one restricted room or area within the setting? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
<p>6. Does the setting provide individual HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>7. Can the individual(s) come and go at any time?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>8. Is the setting physically accessible, including access to bathrooms and break rooms, and are appliances, equipment, and tables/desks 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 stair lift or elevator to ameliorate the obstructions?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>9. Can the individual(s) have visitors at any time?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>10. Are visitors welcomed and encouraged?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>11. Does the setting afford opportunities for individual schedules that focus on the needs and desires of the individual(s) and opportunities for individual growth?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>12. Does the setting restrict individuals from having 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?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		
<p>13. In settings where the individual(s) are of working age, is there activity with the individual(s) to pursue work as an option?  <i>-If yes, please provide evidence.</i>  <i>-If no, what limitations exist and why?</i></p>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
14. Do employment settings provide the individual(s) with the opportunity to participate in negotiating their work schedule, break/lunch times and leave and medical benefits with the employer to the same extent as individuals not receiving Medicaid funded HCBS? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
15. In settings where personal budget assistance is part of the service, does the setting facilitate the opportunity for the individual(s) to have a checking or savings account or other means to have access to and control personal funds? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
16. Are the individual(s) informed that they are not required to sign over their paychecks to the provider? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
17. Does the setting provide the individual(s) 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? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
18. Where public transportation is limited, does the setting provide information about resources for the individual(s) to access the broader community, including accessible transportation for individuals who use wheelchairs? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 1</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 1.		
<b>Characteristic 2: 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 plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
19. Does the setting reflect individual needs and preferences? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
20. Does the setting restrict access to 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 a YMCA? <i>-If no, please provide evidence.</i> <i>-If yes, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 2</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 2.		
<b>Characteristic 3: The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
21. Is all information about individual(s) 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 the individual(s) for PT, OT, medications, restricted diet, etc., in a general open area? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
22. Do setting requirements assure that staff do not talk to other staff about the individual(s) in the presence of other persons or in the presence of an individual as if he/she were not present? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
23. Does the setting assure that staff interact and communicate with the individual(s) respectfully and in a manner in which they would like to be addressed, while providing assistance during the regular course of daily activities? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
24. In settings with more than one individual, does the setting 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? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
25. In settings with more than one individual, does the setting ensure that each individual's supports and plans to address behavioral needs are not restrictive to the rights of every individual receiving support within the setting? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
26. Does the setting policy require that the individual(s) and/or their representative grant informed consent prior to the use of restraints and/or restrictive interventions and document these interventions in the person-centered plan? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
27. Does the setting offer a secure place for the individual(s) to store personal belongings? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
28. Is information about filing a complaint made readily available and does the setting inform the individual(s) of how to make a complaint? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
29. Is informal (written and oral) communication conducted in a language that the individual(s) understand? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
30. Does the setting support individuals who need assistance with their personal appearance, dress, and grooming to appear as they desire, and is personal assistance provided in private, as appropriate? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 3</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 3.		
<b>Characteristic 4: The setting 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. 42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
31. Does the setting ensure there are no gates, Velcro strips, locked doors, fences or other barriers preventing individuals' entrance to or exit from certain areas of the setting? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
32. If the setting modifies the HCBS Settings qualities and conditions, is this modification supported by an assessed need justified in the person-centered service plan prior to implementation? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

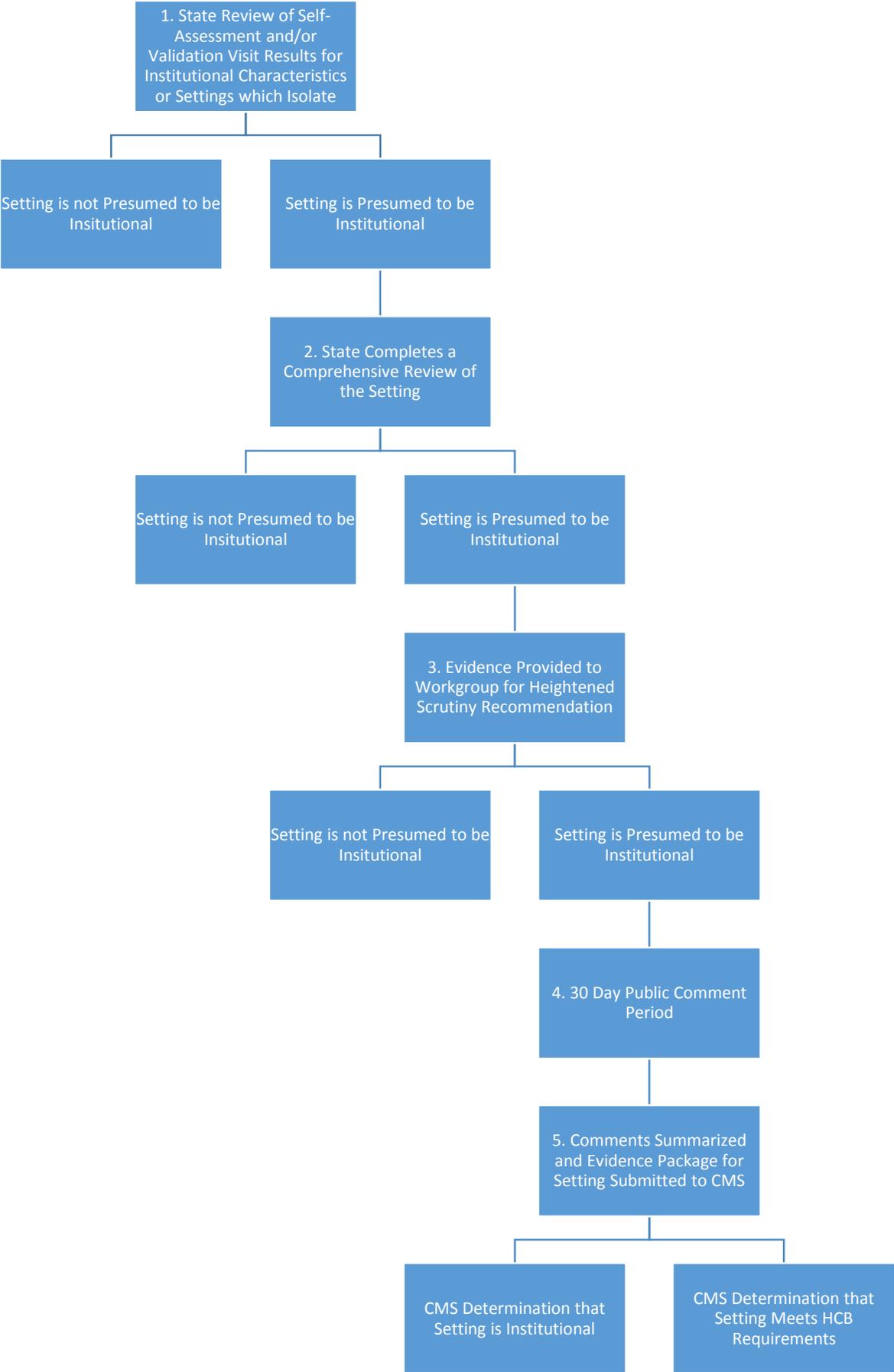
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
33. Does documentation note the positive interventions and supports that were used prior to any plan modifications? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
34. Does documentation note the less intrusive methods of meeting the need that were used prior to any plan modifications? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
35. Does the setting post or provide information on individual rights? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
36. Does the setting allow the individual(s) to engage in legal activities (ex. voting when 18 or older, consuming alcohol when 21 or older) in a manner consistent with individuals who are not receiving Medicaid funded services and supports? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
37. Does the physical environment support a variety of individual goals and needs (for example, 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)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
38. Does the setting afford the opportunity for tasks and activities matched to individual skills, abilities and desires? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
39. Does the setting afford opportunities for the individual(s) to choose with whom to do activities, either in the setting or outside the setting, and is participation voluntary? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
40. Can the individual(s) have a meal/snacks at the time and place of their choosing? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
41. Does the setting afford the individual(s) full access to a dining area with comfortable seating and opportunity to converse with others during break or meal times? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
42. In settings where meals are provided, does the setting provide for an alternative meal and/or private dining if requested by the individual(s)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
43. Do individuals have access to food at any time consistent with individuals who are not receiving Medicaid-funded services and supports? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
44. Does the setting afford dignity to the diners (i.e., the individual(s) are treated age appropriately and not required to wear bibs)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 4</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 4.		
<b>Characteristic 5: The setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(v)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
45. Does the setting restrict the services, providers, or supports available to the individual(s)? <i>-If no, please provide evidence.</i> <i>-If yes, what limitations exist and why?</i>		
46. Does the setting afford the individual(s) the opportunity to update or change their preferences at any time? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
47. Does the setting post or provide information to the individual(s) about how to make a request for additional HCBS, or changes to their current HCBS? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
48. Does the setting ensure the individual(s) receive support in developing plans to support their needs and preferences? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
49. Is setting staff knowledgeable about the capabilities, interests, preferences and needs of the individual(s)? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		

Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
50. Does the setting ensure the individual(s) are supported to make decisions and exercise autonomy to the greatest extent possible? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 5</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 5.		
<b>Characteristic 6: The setting enforces the Home and Community-Based Settings Regulation requirements. 42 CFR 441.301(c)(4)/441.710(a)(1)/441.530(a)(1)</b>		
Indicator	Yes, No, N/A	Evidence and Analysis to Demonstrate why the Setting is in Compliance or Not in Compliance
51. Do paid and unpaid staff receive new hire training and continuing education related to the rights of the individual(s) receiving services and member experience as outlined in HCBS Settings rules? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
52. Are provider policies outlining participant rights and experiences made available when requested to the individual(s) receiving services? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
53. Are provider policies on HCBS Settings rules regularly reassessed for compliance and effectiveness and amended, as necessary? <i>-If yes, please provide evidence.</i> <i>-If no, what limitations exist and why?</i>		
54. Do you have any additional questions or concerns specific to the Home and Community-Based Settings Regulation requirements?		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR CHARACTERISTIC 6</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Characteristic 6.		
<b>OVERALL ASSESSMENT OF COMPLIANCE FOR HCBS SETTINGS RULE</b>	<b>Yes, No, Partial</b>	<b>Comments or Additional Information</b>
This setting has demonstrated compliance with Settings Rule Characteristics 1-6.		

The Department of Health, Bureau of Authorization and Community Based Services wishes to thank all providers for taking the time to complete this Self-Assessment.

# BACBS Heightened Scrutiny Review



1. In order to identify settings for which heightened scrutiny should be applied, the State incorporated questions regarding the presumption of institutional characteristics into the provider self-assessment tool. These indicators focus directly on the presumed characteristics of an institution as outlined in the Rule:

- a. The setting is NOT located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment (a NF, IMD, ICF/IID, hospital).
- b. The setting is NOT located in a building on the grounds of, or immediately adjacent to, a public institution.
- c. The setting is NOT located in a gated/secured 'community' for people with disabilities.
- d. The setting is located among other residential buildings, private businesses, retail businesses, restaurants, etc. that facilitates integration with the greater community.

A Self-Assessment and/or Validation response to any of the above indicators that denotes non-compliance will require that the State pull the setting for Heightened Scrutiny review. Additionally, State employees reviewing Self-Assessments or conducting Validation site visits will be trained on CMS' guidance for *Settings that Isolate* (<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/settings-that-isolate.pdf>). Any setting determined through the application of this guidance in the Self-Assessment and/or Validation processes to have the effect of isolating individuals will undergo heightened scrutiny review.

2. The Heightened Scrutiny review process utilized by the State will require a comprehensive review of the setting which includes, but is not limited to:

- a. An on-site visit and assessment of the physical location and practices of the setting
- b. A review of person-centered plans for individuals receiving services in the setting
- c. Interviews with service recipients and/or family members/participant representatives
- d. A secondary review of policies, training, and other applicable service related documents
- e. Additional focused review of the setting's proposed Remediation Plan, including how each of the above is expected to be impacted as the plan is implemented.

3. Evidence collected throughout the Heightened Scrutiny review process will be presented to the Settings Transition Workgroup to provide recommendations on submission to CMS.

4. Public input will be incorporated into the State's review process. Public notice will list affected settings by name and location as appropriate, identify the number of individuals served in each setting, include all justifications as to why the setting is HCB, and provide the public an opportunity to comment.

5. Evidence of how a setting overcomes its presumed institutional qualities will focus on the qualities of the setting and how it is integrated in and supports full access of individuals receiving HCBS into the greater community, not on the aspects and/or severity of the disabilities of the individuals served in the setting.

## HCBS Settings Rule: Attestation Tool for Residential Settings

**Attest to the setting's compliance with the following characteristics by checking "Yes" or "No." All settings must be fully compliant with Characteristics 1-12 in order to provide Medicaid HCBS services.**

**Characteristic 1: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)**

Yes  No

### Indicators

The setting is not in a public or privately-owned facility that provides inpatient treatment; is not on the grounds of, or immediately adjacent to, a public institution; is not located in a gated or secured community for people with disabilities; is located among other residential buildings, private businesses, retail businesses, restaurants, etc. that facilitates integration with the greater community.

The setting allows the freedom to move about inside and outside of the setting; provides HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS; affords opportunities for individual schedules; does not restrict access to information regarding age-appropriate activities including competitive work, shopping, attending religious services, medical appointments, dining out, etc. outside of the setting; has activities to pursue work as an option (if applicable); provides contact information, access to and training on the use of public transportation, such as buses, taxis, etc., and has public transportation schedules and telephone numbers available in a convenient location; where public transportation is limited, provides information about resources to access the broader community, including wheelchair accessible transportation.

Should Personal Budget Assistance be provided, the setting facilitates the opportunity for the individual(s) to have a checking or savings account or other means to access and control personal funds.

Individual(s) can come and go at any time and are informed they are not required to sign over their paychecks to the provider.

**Characteristic 2: 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 plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)**

Yes  No

### Indicators

The Setting reflects individual needs and preferences and ensures informed choice based on individual resources; does not restrict access to non-disability-specific settings; provides the option of a private room to the resident(s), as appropriate.

**Characteristic 3: The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)**

Yes  No

### Indicators

The setting assures staff interact and communicate respectfully and in a manner in which the individual(s) would like to be addressed; keeps all information about the individual(s) private; ensures that individual supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting (if applicable); ensures that individual supports and plans to address behavioral needs are not restrictive to the rights of every individual receiving support within the setting (if applicable); offers a secure place to store personal belongings; ensures information about filing a complaint is made readily available and informs the individual(s) of how to make a complaint; provides assistance with personal appearance, dress, and grooming to appear as the individual desires, and provides personal assistance in private, as appropriate; assures that staff do not talk to other staff about the individual(s) in the presence of others or in the presence of an individual as if he/she were not present; affords dignity to the diners.

Informal communication (written and oral) is conducted in a language that the individual(s) understand.

The Individual(s) can have a private cell phone, computer or other personal communication device, or the setting provides access to a telephone or other technology to use for personal communication in private at any time; can file an anonymous complaint.

**Characteristic 4: The setting 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.**

**42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)**

Yes  No

**Indicators**

The setting posts or provides information on individual rights; allows the individual(s) to engage in legal activities (ex. vote when 18 or older, consume alcohol when 21 or older) in a manner consistent with individuals in similar and/or the same setting who are not receiving Medicaid funded services and supports; affords the opportunity for tasks and activities matched to individual skills, abilities, and desires; affords opportunities for individual(s) to choose with whom to do activities, either in the setting or outside the setting, and participation is voluntary.

The Individual(s) can sit in any seat in a dining area; can eat privately if desired; can request an alternative meal if desired.

The physical environment supports a variety of individual goals and needs (for example, indoor and outdoor gathering spaces, larger group activities as well as solitary activities, stimulating as well as calming activities).

**Characteristic 5: The setting facilitates individual choice regarding services and supports, and who provides them.**

**42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(v)**

Yes  No

**Indicators**

The setting does not restrict the services, providers, or supports made available; affords the opportunity to update/change individual preferences at any time; ensures individual(s) receive support to develop plans supporting their needs and preferences; staff is knowledgeable about interests, preferences, and needs of the individual(s).

**Characteristic 6: The individual has a lease or other legally enforceable agreement providing similar protections.**

**42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(A)**

Yes  No

**Indicators**

The setting provides a lease or, for settings in which landlord tenant laws do not apply, a written residency agreement; informs the individual(s) of their rights regarding housing and when they could be required to relocate; informs the individual(s) of how to relocate and request new housing; in the written agreement, includes language that provides protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant laws.

**Characteristic 7: The setting ensures the individual has privacy in their sleeping or living unit including lockable doors, choice of roommates, and freedom to furnish or decorate the unit. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(B)**

Yes  No

**Indicators**

The setting does not have cameras present; provides the individual(s) with the choice of a roommate; informs the individual(s) of how to request a roommate change.

The Individual(s) can close and lock the bedroom and bathroom doors; can have furniture, linens, and other household items which reflect preferences, interests, and hobbies as desired.

The Staff only use a key to enter a living area or privacy space under limited circumstances agreed upon with the individual(s); or along with other residents, always knock and receive permission prior to entering a bedroom, bathroom, or private living space.

**Characteristic 8: The setting ensures the individual has the freedom and support to control his/her own schedule and activities, and have access to food at any time. 42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(vi)(C)**

Yes  No

**Indicators**

The Setting assures snacks are accessible and available anytime; does not require a set schedule for waking, bathing, eating, exercising, activities, etc.; provides access to such things as a television, radio, and leisure activities that interest the individual(s), and permits the scheduling of these activities at the individuals' convenience. The Individual(s) can have a meal at the time of their choosing.

**Characteristic 9: The individual can have visitors of his/her choosing at any time.**

**42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(D)**

Yes  No

**Indicators**

The individual(s) can have visitors at any time; can have private visits with family and friends; are not restricted in visitors' meeting areas. Visitors are welcomed and encouraged.

**Characteristic 10: The setting is physically accessible to the individual.**

**42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)€**

Yes  No

**Indicators**

The Setting ensures there are no gates, Velcro strips, locked doors, or other barriers preventing entrance to or exit from certain areas of the setting; is physically accessible and there are no obstructions such as steps, lips in a doorway, narrow hallways, etc., limiting mobility in the setting or if they are present are there environmental adaptations to ameliorate the obstruction; provides 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; provides supports for those who need it to move about the setting as they choose, such as grab bars, seats in the bathroom, ramps, viable exits for emergencies, etc.

**Characteristic 11: The setting ensures that any modification of the HCBS Settings qualities and conditions is supported by a specific assessed need and justified in the person-centered service plan.**

**42 CFR 441.301(c)(4)(v)441.710(a)(1)(v)/441.530(a)(1)(vi)(F)**

Yes  No

**Indicators**

The plan includes a description of the condition that is directly related to the assessed need; data to support ongoing effectiveness of the intervention; time limits for periodic reviews to determine the ongoing necessity of the modification; informed individual consent; assurance that the intervention will not cause the individual harm.

The individual(s) and/or their representative grant informed consent prior to the use of restraints and/or restrictive interventions, and these interventions are documented in the person-centered plan.

Documentation notes if positive interventions and supports were used prior to any plan modifications; that less intrusive methods of meeting the need were tried.

**Characteristic 12: The setting enforces the Home and Community-Based Settings Regulation requirements.**

**42 CFR 441.301(c)(4)/441.710(a)(1)/441.530(a)(1)**

Yes  No

**Indicators**

Staff receive new hire training and continuing education related to the rights of the individual(s) and member experience as outlined in HCBS Settings rules. Policies on participant rights and experiences are made available when requested. Policies on HCBS Settings rules are regularly reassessed for compliance and effectiveness.

By signing this form, I attest that all settings that I currently provide Home and Community-Based Services from, and any new settings I use in the future, will comply with the characteristics described and all Federal regulations they pertain to. I understand that Medicaid home and community-based services provided in a setting which does not abide by these requirements are not eligible for Medicaid payment. Claims that I submit while my site is not in compliance with these regulations may be subject to recoupment.

Name of Authorized Representative (Printed or Typed)	Title	
Signature	Date	Telephone Number

## HCBS Settings Rule: Attestation Tool for Non-Residential Settings

Attest to the setting's compliance with the following characteristics by checking "Yes" or "No." All settings must be fully compliant with Characteristics 1-12 in order to provide Medicaid HCBS services.

**Characteristic 1: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. 42 CFR 441.301(c)(4)(i)/441.710(a)(1)(i)/441.530(a)(1)(i)**

Yes  No

### Indicators

The setting is not in a public or privately-owned facility that provides inpatient treatment; is not on the grounds of, or immediately adjacent to, a public institution; is not located in a gated or secured community for people with disabilities; is in a location that facilitates integration with the greater community; is physically accessible.

The setting allows the freedom to move about inside and outside of the setting; provides HCBS in an area of the setting that is fully integrated with individuals not receiving Medicaid HCBS; affords opportunities for individual schedules; does not restrict individuals from having knowledge of or access to information regarding age-appropriate activities outside of the setting, including transportation, and providers in the setting facilitate and support access to these activities; has activities to pursue work as an option (if applicable); welcomes and encourages visitors.

The individual(s) can come and go at any time; can have visitors at any time; are informed that they are not required to sign over their paychecks to the provider.

Employment Settings: The setting provides the opportunity for individuals to participate in negotiating work schedules, break or lunch times, and benefits with the employer to the same extent as individuals not receiving Medicaid funded HCBS.

Where Personal Budget Assistance is Provided: The Setting facilitates the opportunity for the individual(s) to have a checking or savings account or other means to access and control personal funds (where PBA is part of services).

**Characteristic 2: 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 plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. 42 CFR 441.301(c)(4)(ii)/ 441.710(a)(1)(ii)/441.530(a)(1)(ii)**

Yes  No

### Indicators

The setting reflects individual needs and preferences and does not restrict access to non-disability-specific settings.

**Characteristic 3: The setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)/441.710(a)(1)(iii)/441.530(a)(1)(iii)**

Yes  No

### Indicators

The setting assures staff interact and communicate with the individual(s) respectfully and in a manner in which they would like to be addressed; keeps all information about the individual(s) private, and provides this assistance in private, as appropriate; ensures that individual supports and plans to address behavioral needs are specific to the individual and not the same as everyone else in the setting (if applicable); ensures that individual supports and plans to address behavioral needs are not restrictive to the rights of every individual receiving support within the setting (if applicable); requires that individual(s) and/or their representative grant informed consent prior to use of restraints and/or restrictive interventions and documents these interventions in the PCSP; offers a secure place for the individual(s) to store personal belongings; ensures information about filing a complaint is made readily available and informs the individual(s) of how to make a complaint; communicates (written and oral) in a language that the individual(s) understand.

**Characteristic 4: The setting 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.**

**42 CFR 441.301(c)(4)(iv)/441.710(a)(1)(iv)/441.530(a)(1)(iv)**

Yes  No

**Indicators**

The setting has no barriers preventing entrance to or exit from certain areas of the setting; if modifying the HCBS Settings qualities and conditions, supports this modification with an assessed need justified in the PCSP prior to implementation; documents positive interventions and supports used prior to plan modifications; documents less intrusive methods to meet needs used prior to plan modifications; posts or provides information on individual rights; allows the individual(s) to engage in legal activities in a manner consistent with individuals who are not receiving Medicaid funded services and supports.

The setting affords opportunities for activities matched to individual skills, abilities, and desires; affords opportunities for the individual(s) to choose with whom to do activities, either in the setting or outside the setting, and assures participation is voluntary; affords full access to a dining area, comfortable seating, opportunity to converse with others during break/meal times, and dignity to diners; provides for alternative meals and/or private dining if requested (if applicable); provides access to food at any time consistent with individuals not receiving Medicaid HCBS; supports a variety of individual goals and needs (indoor/outdoor gathering spaces; large group activities and solitary activities; stimulating and calming activities).

**Characteristic 5: The setting facilitates individual choice regarding services and supports, and who provides them.**

**42 CFR 441.301(c)(4)(v)/441.710(a)(1)(v)/441.530(a)(1)(v)**

Yes  No

**Indicators**

The setting does not restrict the services, providers, or supports available to the individual(s); affords the opportunity to update/change individual preferences at any time; provides information to the individual(s) about changes or increases to HCBS; ensures individual(s) receive support to develop plans supporting their needs and preferences; staff is knowledgeable about interests, preferences, and needs of the individual(s); ensures the individual(s) are supported to make decisions and exercise autonomy to the greatest extent possible.

**Characteristic 6: The setting enforces the Home and Community-Based Settings Regulation requirements.**

**42 CFR 441.301(c)(4)/441.710(a)(1)/441.530(a)(1)**

Yes  No

**Indicators**

Staff receive new hire training and continuing education related to the rights of the individual(s) and member experience as outlined in HCBS Settings rules. Policies on participant rights and experiences are made available when requested. Policies on HCBS Settings rules are regularly reassessed for compliance and effectiveness.

By signing this form, I attest that all settings that I currently provide Home and Community-Based Services from, and any new settings I use in the future, will comply with the characteristics described and all Federal regulations they pertain to. I understand that Medicaid home and community-based services provided in a setting which does not abide by these requirements are not eligible for Medicaid payment. Claims that I submit while my site is not in compliance with these regulations may be subject to recoupment.

Name of Authorized Representative (Printed or Typed)	Title	
Signature	Date	Telephone Number

**Utah HCBS Draft Transition Plan - Public Comment Summary**  
**Summary of Public Comments from *October 22, 2014 Version One***

A brief summary of public comments and the State's response to the comments follow:

***Comment:***

Two commenters described that the State should maximize opportunities for transparency in the transition process. The commenters described concerns that the plan lacked sufficient detail and that the remediation measures included plans and compliance tools that will not be developed until after the plan has been developed with no opportunity for public input.

***Response:***

The State views the transition planning process as an iterative process in which additional detail regarding remediation activities and compliance tools will be shared with the public as the transition planning process moves forward. The plan was updated to include action items that require the State to share assessment and remediation tools with stakeholders as they are developed. The plan was also updated to require that the State provide quarterly updates to stakeholders as well as to CMS.

***Comment:***

One commenter encouraged the State to hold additional notice and comment periods as more substantive detail is incorporated into the transition plan.

***Response:***

The State believes that providing additional comment periods when changes are made to the plan is a requirement of the federal rule. It is the State's intent to engage in additional notice and comment periods with each iteration of the plan. The State agrees that additional clarity could be added to the plan. The State updated the plan to include an action item that describes the State will hold notice and comment periods for each new iteration of the plan.

***Comment:***

One commenter expressed concern that a preliminary screening would be conducted without onsite reviews, provider self-assessments, or gathering other sources of information. The concern expressed is that the State could potentially determine that large portions of the HCBS service system are compliant without first gathering evidence to support this presumption.

***Response:***

The State understands the concern expressed, but disagrees that the outcome of the preliminary screening will be the determination that large portions of the HCBS system will be determined compliant without evidence. In its preliminary screening, the State took a conservative approach when designating providers as "presumed to be fully compliant". The State only identified services as "presumed to be fully compliant" when the services are not dependent on the setting and when the services are direct services provided to the waiver participant. For example, in the Medicaid Autism Waiver, Applied Behavioral Analysis is a service that is provided directly to the child. The service is provided in the child's home or other naturally occurring setting in the community. Accordingly, this service is presumed to be fully compliant with the HCBS regulations. In addition, providers that offer multiple types of services, were categorized as "requires further review" if the provider had any possibility of providing a service that may not be compliant. For example, if a provider is enrolled to offer Personal Budget Assistance, Respite Care, Behavioral Consultation and

Residential Habilitation, the provider as a whole would be classified as a 'Residential Service Provider' and designated as "requires further review" to ensure all sites will be fully assessed. Within the preliminary report, when services were listed as "presumed to be fully compliant", the State provided a brief narrative to explain the determination. The preliminary report was submitted to the public for a 30-day comment period on February 2, 2015.

**Comment:**

One commenter expressed concerns that the plan did not include a review of the State's standards, rules and regulations.

**Response:**

The State agrees that the plan should include a review of its standards, rules, regulations and provider contracts. An action item will be added to the plan prior to submission of the plan to CMS.

**Comment:**

One commenter expressed concern that the plan did not include an analysis to identify settings that are presumed to have the qualities of an institution.

**Response:**

The plan included an action item describing that the "state would employ multiple processes to evaluate sites that are potentially not yet compliant or not compliant with HCBS characteristics". In response to the comment, the State amended the plan to include language that the processes will include those to determine whether sites are presumed to have institutional-like qualities and that these sites will be identified as requiring heightened scrutiny.

**Comment:**

One commenter described that the State should actively engage HCBS consumers in the Transition Process. The commenter recommended including specific interventions such as completing consumer experience surveys to determine consumers level of understanding of the transition planning process.

**Response:**

While the State understands that the completion of surveys and other educational opportunities represent enhancements to the process, it does not believe these interventions are required elements to be included in a transition plan. The State believes that the plan as currently drafted meets plan requirements. The State will continue to discuss these items with the Transition Planning Workgroup to find opportunities for additional education and consumer involvement. For example, in the first Transition Plan Workgroup meeting, we discussed inclusion of family members and additional consumers from various programs. Current attendees have agreed to submit names of additional consumers to participate in the Workgroup.

**Comment:**

Two commenters suggested that the State should develop assessment and remediation strategies that are specific to residential and non-residential settings.

**Response:**

The State intends to develop assessment and remediation strategies that are specific to residential and non-residential settings. Utah's plan refers to "waiver sites of service". This is inclusive of both residential and non-residential services. The plan was updated to include action items that require the State to share assessment and remediation tools with stakeholders as they are developed.

**Utah HCBS Draft Transition Plan - Public Comment Summary**  
**Summary of Public Comments from February 2, 2015 Version Two**

A brief summary of public comments and the State's response to the comments follow:

**Comment:**

One commenter described that the plan should include the level of detail provided in the State's Initial HCBS Compliance Report that included details about the process by which the Department of Health queried providers, the standards used to assess providers, and an explanation of the Department's analysis.

**Response:**

The State views the transition planning process as an iterative process in which additional detail regarding remediation activities and compliance tools will be shared with the public as the transition planning process moves forward. The State's Initial HCBS Compliance Report is a good example of the process the State will incorporate as additional details are developed. The plan was updated to include action items that require the State to share assessment and remediation tools with stakeholders as they are developed. The plan was also updated to require that the State provide quarterly updates to stakeholders as well as to CMS.

**Comment:**

One commenter expressed concerns that the plan did not include a review of the State's standards, rules and regulations.

**Response:**

The State agrees that the plan should include a review of its standards, rules, regulations and provider contracts. An action item describing this requirement was added to the transition plan.

**Comment:**

One commenter described that the State should more actively engage HCBS consumers in the Transition Process. The commenter recommended including specific interventions such as completing consumer experience surveys to determine consumers level of understanding of the transition planning process.

**Response:**

While the State understands that the completion of surveys and other educational opportunities represent enhancements to the process, it does not believe these interventions are required elements to be included in a transition plan. The State believes that the plan as currently drafted meets plan requirements. The State will continue to discuss these items with the Transition Planning Workgroup to find opportunities for additional education and consumer involvement. For example, in the first Transition Plan Workgroup meeting, we discussed inclusion of family members and additional consumers from various programs. Current attendees have agreed to submit names of additional consumers to participate in the Workgroup.

**Comment:**

Two commenters suggested that the State should develop assessment and remediation strategies that are specific to residential and non-residential settings.

***Response:***

The State intends to develop assessment and remediation strategies that are specific to residential and non-residential settings. Utah's plan refers to "waiver sites of service". This is inclusive of both residential and non-residential services. The plan was updated to include action items that require the State to share assessment and remediation tools with stakeholders as they are developed.

***Comment:***

One commenter suggested that because support coordination and case management agencies play a significant role in the service delivery system and in the person-centered planning process, the State should not presume these providers are compliant with the new settings rule.

***Response:***

While the State agrees that support coordination and case management agencies play a significant role in the service delivery system, and that provider education about rule requirements will be needed throughout the planning process, the State disagrees that these providers are non-compliant entities with regard to the setting requirements. The State will continue to engage the Workgroup to discuss education and training opportunities for support coordinators and case managers.

**Utah HCBS Draft Transition Plan - Public Comment Summary**  
**Summary of Public Comments from January 15, 2016, Version Three**

The State received public comment from a variety of sources including family, friends and guardians of individuals receiving services, advocacy groups, health care providers, employers, and health care associations. The comments were mixed, with commenters providing both support and disagreement within sections of the Statewide Transition Plan (the Plan). A brief summary of the public comments and the State's responses are set forth below.

***Comment:***

One commenter suggested the current version of the Plan lacks necessary detail with regard to treatment of providers based on their response to provider self-assessments and the Plan does not provide enough detail about the tool that will be used during the validation process at the conclusion of the provider self-assessment period.

***Response:***

As agreed to in the previous versions of the Plan, the State has shared and sought public feedback on draft evaluation tools as they have been created. Prior to disseminating the current version of the Plan (Version 3) for public comment, the Plan was updated to include additional detail about conducting statistically significant sampling of providers after the self-assessment period has concluded (regardless of self-reported compliance level). The State views the transition planning process as an iterative one in which detail regarding additional remediation activities and compliance tools will be shared with the public as the planning process moves forward and new tools are created. The Plan already includes action items that require the State to share assessment and remediation tools with stakeholders as they are developed and requires the State to provide quarterly updates to stakeholders as well as to the Centers for Medicare and Medicaid Services (CMS).

***Comment:***

One commenter stated some of the timelines specified in the Plan are unclear, are contradictory in some places, and leave concern that the State will not come into compliance within the necessary time frame.

***Response:***

The State acknowledges there was a discrepancy in the timelines and has updated the timeline to inform and transition clients to match the timeline for disenrolling non-compliant providers. The State will work with providers determined to be non-compliant to ensure sufficient time is provided to inform and transition waiver participants to new settings. Provider self-assessments will be reviewed on a case by case basis and the State will work with individual providers to come into compliance throughout the remediation process.

***Comment:***

One commenter suggested the State should maximize opportunities for transparency in the transition process and actively seek to engage consumers in the process. The commenter suggested the State accept comments through email, written correspondence, fax, and testimony with the use of public meeting environments. Additionally, the commenter encouraged the State to ensure the workgroup has a balanced representation of consumers, providers, and advocates. The commenter requested the State make the quarterly updates to CMS publicly available throughout the transition process.

**Response:**

The State's process currently allows for public comment to be submitted in writing in a variety of ways. The State's HCBS Transition Planning Website describes that submissions may be submitted online, via standard mail, or fax. The State has accepted email and hand delivered comments as well. The State requires public comment to be submitted through written channels because it allows for a more thorough response to multi-faceted issues and prevents misinterpretation or inaccurate paraphrasing of verbal statements. The Plan already includes action items that require the State to share assessment and remediation tools with stakeholders as they are developed and requires the State to provide quarterly updates to stakeholders as well as to CMS.

**Comment:**

One commenter suggested the State should include more detail concerning a variety of aspects of the Heightened Scrutiny Process. The commenter expressed concern that without a clearly identified Heightened Scrutiny Process the State risks improperly allocating HCBS funding for settings that do not meet the new HCBS requirements.

**Response:**

Prior to disseminating Version 3 of the Plan for public comment, the Plan was updated to include additional detail about the Heightened Scrutiny Process including that all settings presumed to have the qualities of an institution as outlined by the regulation, will be subject to the Heightened Scrutiny Process. The Provider Self-Assessment Tools include questions to identify any sites that may be presumed to have institutional like qualities. Version 3 of the Plan describes that the Heightened Scrutiny submission will be determined by the State and the Transition Plan Workgroup during analysis of assessment results, remediation plan review, and/or the findings rebuttal process. For settings presumed to have institutional qualities, the State will review the information to determine whether the qualities of a home and community based settings outlined in 42 CFR 441.301(c)(4)/ 441.530(a) are met, whether the State can demonstrate that persons receiving services are not isolated from the greater community, and whether there is strong evidence the setting does not meet the criteria for a setting that has the qualities of an institution. The State will submit information for settings presumed to have institutional qualities to the CMS Heightened Scrutiny Process if the State determines, through its assessments, that these settings do have qualities that are HCBS in nature and do not have the qualities of an institution.

**Comment:**

One commenter stated the Plan should be more responsive to the feedback provided by CMS regarding the systemic assessment. The commenter expressed belief that elements from the October 8, 2015 letter to the Department of Health must be more fully developed before a draft is submitted to CMS for approval.

**Response:**

The State believes updates made in Version 3 of the Plan are responsive to feedback provided by CMS. The public will have the ability to comment 30 days before the submission of findings from the systemic assessment. The Plan already includes action items that require the State to share assessment and remediation tools with stakeholders as they are developed and requires the State to provide quarterly updates to stakeholders as well as CMS.

**Comment:**

One commenter suggested the State should ensure notice provisions are followed for all public comment periods. The commenter encouraged the State to release all drafts of assessment and remediation tools in the manner outlined in the State's transition plan in order to solicit meaningful feedback from providers, consumers, their families, and other stakeholders.

**Response:**

Although the State published public notice in Salt Lake Tribune and Deseret News, the State acknowledges it did not send out an announcement via the listserv at the commencement of the public comment period in December 2015. To ensure the public had sufficient opportunity to comment, the State extended the comment period to ensure a full 30-day period was achieved for all stakeholders, including those who were relying on the listserv notification. The State continues to fully comply with the public comment period requirements.

**Comment:**

One commenter suggested the State should proactively engage HCBS consumers as a part of the assessment process. The commenter stated in order for the State to determine if a setting is compliant, it must create an open dialogue with participants and understand their experience in that setting.

**Response:**

The State agrees it is important to take participant experience into account throughout the HCBS settings transition. Version Three of the Plan includes the development of a Participant Experience Survey to assess individual experience in a Utah HCBS setting as a part of ongoing monitoring activities.

**Comment:**

One commenter stated the Residential Provider Self- Assessment Tool (the Tool) does not ask if individuals regularly access the community or if individuals are able to describe how they access the community. The commenter recognized the Tool asks if individuals are restricted from participating regularly in meaningful non-work activities in integrated community settings, however stated the Tool does not affirmatively ask if individuals are in fact participating in these activities.

**Response:**

The State recognizes the importance of individuals taking part in integrated, community activities, and believes the wording in the Tool provides objective criteria to assess compliance.

**Comment:**

One commenter stated the Tool does not ask if individuals were given opportunities to visit other settings when selecting a setting, and that the Tool does not ask if the individuals work in an integrated setting. The commenter adds the Tool only asks if information about competitive employment is restricted instead of explaining how the setting supports individuals seeking competitive employment.

**Response:**

During person-centered planning processes, individuals are afforded the right to select providers from all enrolled, available providers. Criteria to assess Supported Employment services settings will also be reviewed to verify the setting does not have an isolating factor. The State believes the wording in the Tool provides objective criteria to assess compliance.

**Comment:**

One commenter stated the Tool did not address person-centered planning and whether or not individuals or their chosen representatives have an active role in the development and update of the person-centered plan.

**Response:**

The State places high importance on appropriate completion of the person-centered planning process but it does not believe review of person-centered planning requirements is a required component of the Plan.

**Comment:**

One commenter expressed concern regarding the potentially negative impact the Settings Rule may have on assisted living environments which serve individuals with dementia. The commenter stated some individuals in this setting often leave unintentionally out of confusion, and that if a staff member is required to sit by all the doors to redirect the residents, this will result in an increased cost for an already costly service.

**Response:**

The State intends to work with all waiver providers to remediate areas of potential non-compliance with the HCBS Settings regulation. Should items remain out of compliance, but the individual setting maintains the qualities of a home and community-based setting, the State will work with CMS to have the setting reviewed through the Heightened Scrutiny Process.

**Comment:**

One commenter expressed concern regarding congregate settings under the HCBS Settings Final Rule. The commenter questioned how the term “fully integrated” will be applied to day treatment programs and/or sheltered workshops. The commenter asked if only individuals with disabilities are participating in these settings, if the setting would then fail this requirement. Further, the commenter asked who will be making this determination.

**Response:**

The Department of Justice describes integrated settings as “those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities.” Integrated settings are “located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of an individual’s choosing; afford individuals choice in their daily life activities; and, provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible.” Compliance will be determined on a case by case basis and the State will work with providers to develop remediation plans should they be required.

**Comment:**

One commenter expressed hope that the new regulations include children under the age of 18 as they have not found an appropriate after school program for their child with Autism to participate in enjoyable activities such as sports, swimming, spending time with friends, horses, or other activities with appropriate supports that children without disabilities enjoy. The commenter added that they are glad the new regulations allows for a variety of providers for services and described an experience where a loved one lived in a group home setting and felt the types of activities where limited.

**Response:**

The State appreciates the comment and believes the HCBS Settings rule will have a positive impact on the lives of HCBS participants, regardless of age.

**Comment:**

One commenter indicated question number seven on the Tool should differentiate between the individual's ability to leave a program with his or her ability to leave when safety is a concern.

**Response:**

The State recognizes that due to health and safety concerns some individuals may require an individualized modification that will be reflected in detail in the person-centered planning process. Individualized modifications are addressed in section 441.301(c)(4)(v)441.710(a)-(f) of the Final Rule.

**Comment:**

One commenter suggested question number 14 on the Non-Residential Tool should take into account the impractical aspects of negotiating work hours and pay for individual working at piece rate.

**Response:**

The regulation states individuals must be provided “opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.” The State recognizes that unique circumstances may exist, and will work with providers on an individual basis to achieve compliance with the regulation throughout the transition period.

**Comment:**

One commenter stated question number 16 on the Non-Residential Tool indicates that we ensure that a client has an understanding. The commenter added that verbalization does not always indicate understanding of a rule or request.

**Response:**

The State agrees with the comment and has modified the question accordingly.

**Comment:**

One commenter stated question number 20 on the Non-Residential Tool needs to define "restrict access" to outside settings. The commenter added they do not restrict access, but they do not facilitate these opportunities. The commenter stated the way the question is written, it appears that if outside opportunities are not promoted, they are automatically denied access.

**Response:**

The regulation states individuals must be provided “opportunity to engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.” The State will work with individual providers to determine compliance throughout the transition process.

**Comment:**

One commenter stated question numbers 24 and 25 in the Non-Residential Tool should reflect the behavioral needs of clients that require interventions.

**Response:**

The person-centered support plan addresses behavioral needs that require interventions for an individual. The HCBS settings rule assures that individual supports and plans to address any behavioral need are applied on an individual basis and not to all individuals in the setting.

**Comment:**

One commenter suggested question number 31 in the Non-Residential Tool should consider the exception of access to staff only areas or offices.

**Response:**

For non-residential settings, individuals receiving Medicaid HCBS services must have the same degree of access as individuals not receiving Medicaid HCBS. The State will work with individual providers to determine compliance throughout the transition process.

**Comment:**

One commenter stated Section 441.710(a)(vi)(B)(1) requiring lockable doors is unclear, costly, and unnecessary to ensure the privacy and dignity of residents.

**Response:**

The intent of the Final Rule is to “provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities.” The placement of locking doors and the types of locks will be specific to the setting. Any agreed upon restriction would need to be documented during the person-centered planning process on an individualized basis and may include the type of mechanism used, staff/family members who may be provided access and health and safety considerations leading to the decision.

**Comment:**

One commenter stated the section concerning choice of roommates is vague and creates a catch-22 for assisted living facility owners. The commenter recognized the value of choice of roommate policies but stated that the policy assisted living facilities are being asked to implement is a disaster waiting to happen as the regulation is unclear when referring to individuals in shared units having a choice of roommates “in that setting.” The commenter expressed concern that individuals who know they have the right to choose their roommate may decide that every potential roommate is inadequate.

**Response:**

The State understands the concern voiced and will work with providers to develop strategies that can both meet the HCBS Settings regulations and be reasonably managed by HCBS providers.

**Comment:**

One commenter stated the section requiring individual control of schedules and activities, including the participant’s access to food at any time, is untenable and unreasonable. The commenter stated they are required by the Department of Health to offer food at certain times with varying requirements, including proper food temperature, nutrition, and aesthetics.

**Response:**

The intent of the Final Rule is to “provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities.” Individual control of schedules and activities is an integral component of community living. The HCBS Settings Rule may require that modifications be made to current state laws and licensing requirements. The State is performing a review of State laws/regulations at this time. Depending on the setting and the health and safety needs of the individuals residing in the setting, preparation of meals may vary. The State will work with individual providers to determine compliance throughout the transition process.

**Comment:**

One commenter stated the section concerning visitation hours misunderstands the purpose of assisted living. The commenter expressed the feeling that the regulations assumes assisted living in Utah is nothing more than an apartment complex or rental home, but in Utah assisted living is an interesting and dynamic hybrid of apartment living and healthcare.

**Response:**

The State understands the comment and recognizes compliance with aspects of the HCBS Settings Rule will be a paradigm shift for many providers and there are legitimate requirements to protect the health, safety, dignity and privacy of all individuals who may reside in a congregate setting. The intent of the Final Rules is to “provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities.” Depending on the nature of the setting and the assessed needs of the waiver participants served that are discovered during person-centered planning, any restrictions to access visitors would be applied on an individual basis and not to all individuals in the setting. The State will work with individual providers to determine compliance throughout the transition process.

**Comment:**

One commenter expressed concern regarding the number of memory care residents to be cared for under this program, and added that while Section 441.710(a)(vi)(F) does allow for individualized modifications in certain circumstances, their reading of the regulations seems to require that each memory care resident elope once before we change a person-centered service plan. The commenter described that the process for changing a service plan is arduous and difficult and may make it difficult for providers to operate efficiently.

**Response:**

The State understands the comment and the concerns presented. The State will work with providers on a case by case basis to achieve compliance in all sections of the Final Rule. Any restrictions will need to be applied on an individual basis and not to all individuals in the setting. The State will work with individual providers to determine compliance throughout the transition process. Should items remain out of compliance, but the individual setting maintain the qualities of a home and community-based setting, the State will work with CMS to have the setting reviewed through the Heightened Scrutiny Process.

**Comment:**

One commenter requested that the State put an end-date for the comment period on the website.

**Response:**

The State appreciates this feedback and will make this change to the website in future comment periods.

**Comment:**

One commenter expressed excitement and concern regarding the HCBS Settings Final Rule. The commenter stated integration as a choice is a great thing, but should not be forced. The commenter added choice should remain the driving focus and that when integration is the choice, it should be funded appropriately with clear objectives and systems in place to deliver that choice in a successful way.

**Response:**

The State understands this comment and agrees that choice must be assured for all HCBS participants and that choice is an important component of the HCBS Settings Rules. The State will work with providers to assure that choice remains a focal point for all HCBS participants.

**Comment:**

One commenter expressed belief that the State must recognize and preserve the unique and positive relationship between assisted living homes, low-income residents, and the State that has been created by the cooperative nature of

the New Choices Waiver program. The commenter states that individuals participating in assisted living environments range in abilities from nearly independent to substantially dependent in some areas of their daily living.

**Response:**

The State understands this comment and will work with providers throughout the transition process to help them come into compliance with the HCBS Settings Rules.

**Comment:**

One commenter stated that the costs and challenges to owners and operators of assisted living facilities should be examined as the effect of these regulations diminishes access to needed services for many lower-income elderly in Utah.

**Response:**

The State will continue to evaluate the impact of implementing the requirements of the settings rule and the appropriateness of the existing reimbursement structure.

**Comment:**

Some commenters stated the Settings rule will cause HCBS participants to move from assisted living settings into more restrictive and costly nursing facilities. The commenters suggested provision in the Rule overly restrict the participant's freedom of choice regarding the residential settings in which they utilize their Medicaid funds.

**Response:**

The State understands the comment and agrees with the goal of providing services in the most appropriate and least restrictive setting. The State further recognizes compliance with aspects of the HCBS Settings Rule will be a paradigm shift for many providers and that there are legitimate requirements to protect the health, safety, dignity and privacy of all individuals who may reside in a congregate setting. The intent of the Final Rule is to "provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities." Depending on the nature of the setting and the assessed needs of the waiver participants served that are discovered during person-centered planning, any restrictions will need to be applied on an individual basis and not to all individuals in the setting. The State will work with individual providers to determine compliance throughout the transition process.



# The Home and Community Based Settings Final Rule

Utah's Transition Plan for a Path to Compliance

# The Final Rule

Published in the Federal Register on January 16, 2014

- To ensure that individuals receiving long-term services and supports through home and community based service (HCBS) programs under the 1915(c), 1915(i) and 1915(k) Medicaid authorities have full access to benefits of community living and the opportunity to receive services in the most integrated setting appropriate
- To enhance the quality of HCBS and provide protections to participants

# HCBS Setting Requirements

- The home and community-based setting requirements establish an outcome oriented definition that focuses on the nature and quality of individuals' experiences
- The requirements maximize opportunities for individuals to have access to the benefits of community living and the opportunity to receive services in the most integrated setting

# HCBS Setting Requirements

- The final rule defines, describes, and aligns setting requirements for home and community-based services provided under three Medicaid authorities
  - 1915(c)-HCBS Waivers
  - 1915(i)- State Plan HCBS
  - 1915(k)-Community First Choice

# HCBS Setting Requirements

The final rule establishes:

- Mandatory requirements for the qualities of home and community-based settings including discretion for the Secretary to determine other appropriate qualities
- Settings that are not home and community-based
- Settings presumed not to be home and community-based
- State compliance and transition requirements

# HCBS Setting Requirements



The Home and Community-Based setting:

- Is integrated in and supports access to the greater community
- Provides opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources
- Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid home and community-based services

# HCBS Setting Requirements

- 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
  - Person-centered service plans document the options based on the individual's needs, preferences; and for residential settings, the individual's resources

# HCBS Setting Requirements

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimizes individual initiative, autonomy, and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

## Additional requirements:

- Specific unit/dwelling is owned, rented, or occupied under legally enforceable agreement
- Same responsibilities/protections from eviction as all tenants under landlord tenant law of state, county, city or other designated entity
- If tenant laws do not apply, state ensures lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law

# HCBS Requirements for Provider-Owned or Controlled Residential Settings



- Each individual has privacy in their sleeping or living unit
- Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed
- Individuals sharing units have a choice of roommates
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement
- Individuals have freedom and support to control their schedules and activities and have access to food any time
- Individuals may have visitors at any time
- Setting is physically accessible to the individual

# HCBS Setting Requirements

Modifications of the additional requirements must be:

- Supported by specific assessed need
- Justified in the person-centered service plan
- Documented in the person-centered service plan

# HCBS Setting Requirements

Documentation in the person-centered service plan of modifications of the additional requirements includes:

- Specific individualized assessed need
- Prior interventions and supports including less intrusive methods
- Description of condition proportionate to assessed need
- Ongoing data measuring effectiveness of modification
- Established time limits for periodic review of modifications
- Individual's informed consent
- Assurance that interventions and supports will not cause harm

# Settings that are NOT HCBS

- Nursing Facilities
- Institution for Mental Diseases (IMD)
- Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)
- Hospital

# Settings Presumed Not to be HCBS

- Settings in a publicly or privately-owned facility providing inpatient treatment
- Settings on grounds of, or adjacent to, a public institution
- Settings with the effect of isolating individuals from the broader community of individuals not receiving Medicaid HCBS

# Heightened Scrutiny

These settings (previous slide) may NOT be included in states' 1915(c), 1915(i) or 1915(k) HCBS programs unless:

- A state submits evidence (including public input) demonstrating that the setting does have the qualities of a home and community-based setting and NOT the qualities of an institution; AND
- The Secretary finds, based on a heightened scrutiny review of the evidence, that the setting meets the requirements for home and community-based settings and does NOT have the qualities of an institution

# Utah's Transition

For ALL existing 1915(c) HCBS waivers and 1915(i) HCBS State Plan benefits in the state, Utah was required to submit a plan within one year of the effective date of the final rule:

- The Plan detailed how the state will comply with the settings requirements in ALL 1915(c) HCBS waivers and 1915(i) HCBS State Plan benefits
- The Plan included elements, timelines, and deliverables as required by the Centers for Medicare and Medicaid Services

# Utah's Transition

- Systemic Assessment
  - Review State standards, regulations, policies, rules, licensing, manuals, and provider contracts
- Site Assessments
  - Review all settings identified as potentially Not Compliant or potentially Not Yet Compliant
- Systemic and Site Remediation

# Site Assessment and Remediation Processes

Action Item	Timeline
Provider completion of Residential or Non-Residential Self-Assessment for each setting	60 days
State returns findings from Self-Assessments to providers	by 2/1/2017
Providers submit remediation plans to the State	30 days
Remediation feedback provided by the State	90 days
Provider rebuttal option	30 days
State rebuttal response	30 days
Final remediation plan required	March, 2018
Heightened scrutiny cases submitted to CMS throughout the assessment process as needed.	
Full compliance required by all HCBS providers	March, 2019
Utah's Comprehensive Transition Plan Timeline	 Utah Transition Timeline

# Self-Assessment Tool

- Self-Assessment Instructions

<http://health.utah.gov/ltc/hcbstransition/>

- Residential or Non-Residential Self-Assessment Tool
- Remediation Plan



Self-Assessment  
Instructions



Non-Residential  
Self-Assessment



Residential  
Self-Assessment



Remediation Plan  
Template

# Utah Settings Transition Resources



- The ListServe allows subscribers to receive updates about the planning process and updates to the plan itself.
- To join the list, send a BLANK (No subject, no message, no signature or footer) email to:  
[join-hcbstransitionplanning@list.utah.gov](mailto:join-hcbstransitionplanning@list.utah.gov)
- If you receive an error, please ensure the email did not contain a subject, message, header/footer or signature.
- After subscribing to this mailing list, a confirmation link will be returned. If you fail to notice this confirmation email, please check your "Spam" or "Junk" folder. You will be removed from this list if the confirmation link is not clicked.
- Please contact [astephens@utah.gov](mailto:astephens@utah.gov) if you have any problems with the Listserv.

# Utah Settings Transition Resources



- HCBS Transition Home Page

<http://health.utah.gov/ltc/hcbstransition/>

## State Medicaid Agency Contacts

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# Questions and Answers



This time has been reserved for questions related to the HCBS Settings Rule and Utah's Transition Plan.

Thank you for your participation in this presentation.