



DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

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Maryland Home and Community-Based Services (HCBS) Settings Compliance and Grievance Process

The Centers for Medicare and Medicaid Services (CMS) has directed states to implement the Home and Community-Based Services (HCBS) Settings Rule (i.e., Final Rule) by March 17, 2023. The Maryland Department of Health (MDH) has completed assessments and validations for all residential and non-residential sites providing home and community-based services and supports.

Maryland has been actively engaged with all providers across our eight (8) HCBS Waiver programs to ensure compliance with the Final Rule. Many of the providers have achieved full compliance with the Final Rule, and Maryland continues to assist non-compliant providers with achieving compliance by March 17, 2023. States are required to provide the following information to CMS to document state and provider compliance with the regulatory criteria:

- Description of how the state's oversight systems (licensure and certification standards, provider manuals, person-centered plan monitoring by case managers, etc.) have been modified to embed the regulatory criteria into ongoing operations:
 - The Office of Healthcare Quality (OHCQ) within the MDH is the designated licensing agent for providers. The OHCQ is authorized to issue new licenses, renew expiring licenses for existing licensed providers, and monitor the quality of care for health care facilities and community-based programs. Based on the severity of a finding during quality of care inspections, the OHCQ may require a plan of correction from the provider, issue sanctions, or pursue disciplinary action, including license suspension or revocation. Additional information for the OHCQ can be found [here](#).
 - The MDH, Office of Long Term Services and Supports (OLTSS), has developed a Quality Management Strategy to review continued compliance with the Final Rule on an ongoing basis to allow for the discovery of non-compliance in provider settings, remediation of those identified areas of non-compliance, and the development and implementation of quality improvement initiatives to bring the provider into full compliance with the Final Rule. The State will leverage strategies such as desk audits to review provider records, participant satisfaction surveys, annual customer service questionnaires (CSQ), performance measures associated with the 1915(c) Waiver, reviews of participants' plans of service, on-site or virtual site visits, and reportable events noting alleged or actual adverse incidents that occurred with participants. One hundred percent (100%) of residential and non-residential provider sites will be evaluated every three (3) to five (5) years utilizing the aforementioned strategies.

Maryland has made changes to Code of Maryland Regulations (COMAR) 10.09.36, which describe the requirements for provider participation in the Medicaid program.

All enrolled Medicaid providers of HCBS are obligated to follow the HCB settings requirements set forth under [COMAR 10.09.36](#). These regulations ensure full and ongoing compliance for all applicable providers and help to realize the intent of the transition, which is to ensure that individuals receive Medicaid HCBS in settings that are integrated in, and support full access to, the greater community.

Maryland has updated the residential lease agreements to include all community settings criteria to ensure that the provider is following all aspects of the Final Rule. Additionally a settings checklist has been created for each type of setting so that staff conducting on-site or virtual visits ensure full compliance with all aspects of the Final Rule. Manuals and subsequent guidance shared with case management entities supporting each of Maryland's 1915(c) Waiver, State Plan, or demonstration waiver programs have been revised to include the settings criteria and the person-centered planning process.

Individuals in each 1915(c) Waiver, State Plan, or demonstration waiver program must have a person-centered service plan that is based on the individual's needs and preferences, choice regarding the type and provider of services, and settings. Information regarding the types of services and setting options, including non-disability specific settings and an option for a private unit in a residential setting, must also be documented in the plan. Maryland maintains a comprehensive quality plan for each 1915(c) Waiver to monitor service delivery and ensure continuous compliance with home and community-based (HCB) settings criteria. These plans include performance measures established to evaluate compliance with the various assurances and sub-assurances associated with a 1915(c) Waiver program, including ensuring the quality of person-centered service plans and assuring participants' health and welfare in the community.

Communication among the OLTSS, case managers, and other stakeholders, including the HCBS Waiver Advisory Council, facilitates ongoing discovery, remediation and collaboration. The OLTSS is the lead entity responsible for trending data and developing and implementing system improvements based on data and feedback received. Additionally, the State has established a specific work group, the Transition Advisory Council, which includes stakeholders such as participants, participants' families, or advocates, to receive and share information regarding the requirements of the Final Rule. Lastly, the OLTSS is participating in the State Ombudsman's Program Stakeholder meetings to provide technical assistance and continual education on the criteria a provider must meet to be in compliance with the Final Rule.

- Description of how the state assesses providers for initial compliance and conducts ongoing monitoring for continued compliance:
 - Initial Compliance:
 - Maryland assessed provider sites through a variety of methods during the initial compliance review process. The methods used include one or more of the following assessment and validation strategies: provider surveys, participant satisfaction surveys, customer service questionnaires (CSQ), performance measures associated with the 1915(c) Waiver, reviews of participants' plans of service, reportable events noting alleged or actual

adverse incidents that occurred with participants, on-site or virtual visits, desk audits to review provider records, licensure surveys, and NCI surveys. Many of the providers were determined to be in compliance with all aspects of the Final Rule. Maryland will continue to provide technical assistance to those provider sites that have not yet come into compliance with all aspects of the Final Rule. Those provider sites that are not in full compliance of the Final Rule by January 1, 2023 will be suspended and staff within the OLTSS will notify the individual, individual's representative, and case management agency of the provider's suspended status. This notification process allows time before the provider is disenrolled from the Medicaid program if there are still remediation actions the provider can take to come into full compliance. The OLTSS and the individual's case management agency will provide proper support to assist the individual in relocating to a compliant setting and ensure that the individual's rights are safeguarded. By March 1, 2023, all participants in non-compliant sites have been prepared and given assistance to move to another setting that fully complies with the Final Rule.

- Ongoing monitoring for compliance:
 - Maryland will utilize a variety of strategies to assess ongoing provider compliance with all aspects of the Final Rule for existing Medicaid providers. The State monitors provider sites and service delivery through a variety of activities including desk audits to review provider records, participant satisfaction surveys, annual customer service questionnaires (CSQ), performance measures associated with the 1915(c) Waiver, reviews of participants' plans of service, on-site or virtual site visits, and reportable events noting alleged or actual adverse incidents that occurred with participants. One hundred percent (100%) of residential and non-residential provider sites will be evaluated every three (3) to five (5) years utilizing the aforementioned strategies.

Additionally, Supports Planning Agencies (SPA), Coordinators of Community Services (CCS), and Service Coordination, which serve as case managers for the 1915(c) Waiver, State Plan, or demonstration waiver programs, review person-centered plans to ensure they comply with programmatic regulations. These case management entities also conduct face-to-face visits with the participant and his/her family to monitor service delivery, including progress on goals, determine whether services are being delivered as per the plan, and assess the participant's health status, continued eligibility, and the occurrence of any adverse incidents.

Beginning in November 2018, Providers applying for Medicaid enrollment were required to be in compliance with the Final Rule requirements before the State would process the provider's enrollment. As such, the State confirmed compliance upon initial enrollment and will continue to monitor compliance utilizing the ongoing monitoring strategy as noted above.

- Description of a beneficiary’s recourse to notify the state of provider non-compliance (grievance process, notification of case manager, etc.) and how the state will address beneficiary feedback.
 - In accordance with the MDH’s Reportable Events Policy, all beneficiaries and entities associated with the waiver are required to report alleged or actual adverse incidents that occurred with participants. MDH educates case management entities on the Reportable Events Policy at least quarterly. As MDH’s agents, the case management entities educate participants on the Reportable Events Policy, and provide their participants with instructions should participants wish to file a reportable event on their own behalf. Additionally, MDH has a dedicated [webpage](#) that provides stakeholders with additional information on the reportable events policy and process. The Developmental Disabilities Administration (DDA) has its own dedicated [webpage](#) related to reportable events.

All reportable events are analyzed by the MDH and operating State agencies, where applicable, to identify trends related to areas needing improvement. Any person who believes that a waiver participant has experienced abuse, neglect, or exploitation must immediately report the alleged abuse, neglect, or exploitation to law enforcement and Adult or Child Protective Services as appropriate. Additionally, in accordance with the DDA’s Reportable Incidents and Investigations (PORII), all entities associated with the three (3) 1915(c) Waiver programs operated by the DDA are required to report alleged or actual adverse incidents that occurred with participants, including unauthorized restraints, in the DDA incident module.

- Maryland has created a dedicated email to address questions or comments regarding a setting. Beneficiaries or stakeholders may send an email to dhmf.hcbssetting@maryland.gov to ask a question or provide feedback. This email box is regularly monitored and questions or concerns are routed to the appropriate individual for a response. All case management entities are informed of the dedicated email address and share this information with their clients. Additionally, this dedicated email address is communicated during stakeholder meetings, is noted on the State’s settings [webpage](#), and is listed on all public notices related to settings compliance.

Maryland will continue to engage stakeholders with respect to the proposed remediation strategies and provide additional training and technical assistance to providers to ensure all providers have the tools and support necessary to achieve full compliance by March 17, 2023, and remain in compliance thereafter.

Thank you in advance for your consideration. If you have any questions, please contact Lisa Toland, Chief, Division of Provider Enrollment, Claims, and Compliance, at (410) 767-5792 or Lisa.Toland@maryland.gov. Questions or concerns may also be directed to dhmf.hcbssetting@maryland.gov.