TRANSITION PLAN

For Complying with the CMS Home- and Community-Based Services Medicaid Rule

FOR THE STATE OF MASSACHUSETTS

The CMS-approved Massachusetts Transition Plan can be found at:
https://www.medicaid.gov/sites/default/files/2023-05/ma-appvd-plan.pdf

The CMS-approved Massachusetts Corrective Action Plan can be found at:
https://www.medicaid.gov/sites/default/files/2023-09/ma-appvd-cap_0.pdf

SITE-SPECIFIC ASSESSMENTS

The Centers for Medicare & Medicaid Services (CMS) required states to conduct validated, site-specific assessments of all provider-owned or controlled settings.

Types of Settings/ Residents and Funding Authorities	The Massachusetts Executive Office of Health and Human Services (EOHHS) provides HCBS through ten 1915(c) waivers.
	• The Department of Developmental Services operates:
	  ○ Intensive Supports Waiver for Adults with ID
	  ○ Community Living Waiver for Adults with ID
	  ○ Children's Autism Spectrum Disorder Waiver
	  ○ Moving Forward Plan (MFP) Residential Supports Waiver
	  ○ Acquired Brain Injury (ABI) Residential Habilitation Waiver
	• The Massachusetts Rehabilitation Commission operates:
	  ○ Moving Forward Plan (MFP) Community Living Waiver
	  ○ Acquired Brain Injury (ABI) Non-Residential Waiver
	  ○ Traumatic Brain Injury Waiver
	• The Executive Office of Elder Affairs operates:
	  • Frail Elder Waiver

Compliant/Non-Compliant	HCBS Final Rule Compliance by Setting, as of February 2022:
	DDS waivers:
	• Setting fully complies:
	  ○ Residential total: 4,055
	    ▪ Private provider owned, operated or leased Group Residencies: 2,299
	    ▪ State operated Group Residences: 247
	    ▪ Placement Service Settings: 1,505
	    ▪ Assisted Living: 4
	    ▪ State Plan Adult Foster Care: 1,805
	  ○ Non-Residential Total: 524
	    ▪ Community Based Day Supports Private Provider 225
	    ▪ Group Supported Employment State Operated Provider: 116

	▪ Employment Supports Private Provider: 178 ▪ Employment Supports State Operated Provider: 5 • Setting meets HCBS, but is subject to Heightened Scrutiny: o Private Provider Owned, Operated, or Leased Group Residences: 25 • Setting does not comply yet; individual site assessment in process: o State Plan Adult Foster Care: 308 MRC Waivers: • Setting fully complies: o Residential total: 51 ▪ Private Provider Owned or Leased: 42 ▪ State Plan Adult Foster Care: 9 o Non-Residential total: 76 ▪ Community-Based Day Services: 17 ▪ Supported Employment: 59 • Setting does not comply yet; individual site assessment in process: o State Plan Adult Foster Care: 3 Frail Elder Waiver: • Setting fully complies: o Residential total: ▪ Congregate Housing Settings: 42 ▪ State Plan Adult Foster Care: 205 o Non-Residential total: ▪ Supportive Day Programs: 24 • Setting does not comply yet; individual site assessment in process: o State Plan Adult Foster Care: 15 **NOTE**: Massachusetts received approval of its corrective action plan (CAP) on August 25, 2023. The CAP provides updated timeframes for completion of site-specific assessments and the heightened scrutiny review process. Therefore, setting classifications in the STP may be out of date. The updated CAP sets November 1, 2023, as the completion date to assess each presumptively institutional setting located at Crystal Springs and New England Village locations. According to the CAP, December 31, 2023, is the completion date to complete public comment as applicable, for presumptively institutional settings. March 1, 2024, is set as the completion date to submit the list of settings identified by settings type and category of institutional presumption to CMS. Final compliance statewide with HCBS settings rule is six months post the date CMS issues heightened scrutiny findings to the state.
Reasons for Non-Compliance	Individuals have limited, if any, opportunities for interaction in and with the broader community and /or the setting is physically located separate and apart from the broader community and does not facilitate individual

	opportunity to access the broader community and participate in community services consistent with their person-centered service plan.
Transition plans	The three waiver-operating agencies—DDS, MRC, and EOEA —undertook a review of their regulations, standards, policies, licensing requirements, and other provider requirements to ensure alignment with the new federal requirements, as applicable within each of the waivers for which they are responsible. In addition, each agency conducted site-specific assessments for residential and site-based non-residential services. MassHealth's Community Waiver Unit created and convened the Cross-Agency Workgroup for Development of the Statewide Transition Plan, which included representatives from the waiver-operating agencies and initially from EOHHS. The State provided four 30-day public comment periods at five public forums. Provider self-assessments were conducted, and responses validated through site-visits and certification and licensing reviews. The State will provide ongoing technical assistance and guidance to ensure smooth transition and full compliance with the HCBS Final Rule. Operating agencies will decide which settings will be subject to CMS for a heightened scrutiny review. Should a setting not come into compliance, participants will be relocated to a setting in compliance with the HCBS rule.

SETTINGS PRESUMED INSTITUTIONAL

CMS presumes some settings have qualities that are institutional or isolating in nature. These settings must go through a heightened scrutiny review by CMS.

CMS presumes the following types of settings have institutional or isolating qualities:

- *Category 1: Located in a hospital, nursing facility, or other institutional setting.*
- *Category 2: Located adjacent to a public hospital, nursing facility, or other institutional setting.*
- *Category 3: Have the effect of isolating people from the broader community.*

% Presumed Institutional (No. of Residents Affected)	Two providers, representing 25 settings, were determined to be subject to Heightened Scrutiny. **NOTE**: The state's approved CAP provides updated timeframes for completion of site-specific assessments and the heightened scrutiny review process. Therefore, setting classifications in the STP may be out of date. According to the CAP, December 31, 2023, is the completion date to complete public comment as applicable, for presumptively institutional settings. March 1, 2024, is set as the completion date to submit the list of settings identified by settings type and category of institutional presumption to CMS.
Type of Setting/Residents	25 Private provider owned, operated or leased group residencies under the Intensive Supports waiver.
Reason for Presumption	Individuals have limited, if any, opportunities for interaction in and with the broader community and /or the setting is physically located separate and apart from the broader community and does not facilitate individual opportunity to access the broader community and participate in community services consistent with their person-centered service plan.

Heighted Scrutiny Process	
Heightened Scrutiny Process	1. Receive provider transition plan and work with each provider to determine the responsiveness of its plan to the Community Rule. The state will work with the provider to bring the plan to timely compliance, reviewing outcomes and other factors as appropriate to ensure the provider meets all Community Rule requirements. 2. The state monitors provider progress toward the goals and objectives as identified in each setting's compliance transition plan, identifies issues with provider progress as needed, and works with the provider to improve performance. 3. State reviews waiver participants at each of the settings to determine if the setting complies with the Community Rule. 4. If the state determines a setting cannot demonstrate true, verifiable and on-going compliance with the Community Rule, the setting would not continue to serve waiver participants, and the state would not submit the site to CMS for the heightened scrutiny process. Any participants impacted would be supported through the Participant Relocation process described in Section VIII. If the state determines a setting demonstrates true, verifiable and on-going compliance with the Community Rule, the state prepares documentation and explanatory information for submission. 5. Engage stakeholders in the review of documentation related to Step 4 in a manner that is consistent with protecting member privacy and security. 6. Submit documentation to CMS. 7. Work with CMS to develop/plan for conducting heightened scrutiny for each such provider/setting and carry out the plan with CMS collaboration. 8. Should the provider not come into compliance, the state will discontinue use of the setting and relocate participants to a setting in compliance.

NON-COMPLIANCE COMMUNICATION

States must describe their process for notifying residents when a setting is unwilling or unable to comply with the rule, and supporting residents to select and transition to a new setting.

% Cannot/Will Not Comply (No. of Residents Affected)	Massachusetts did not identify any waiver participants receiving services in non-compliant settings.
Type of Setting/Residents	N/A
Reason for Determination	N/A
Communication Strategy	N/A
Assistance to Residents?	The waiver operating agencies rely on case managers to assist participants to identify suitable residential service settings. All notices regarding service changes or disenrollment from the waiver follow the timelines and requirements outlined in the waiver applications. All adverse actions,

	including reductions in services or disenrollment from the waiver include appeal rights, as outlined in the applicable waiver application. Whenever an action is taken that adversely affects a waiver participant post-enrollment (e.g., services are denied, reduced or terminated), the participant is notified in writing by letter of the action on a timely basis in advance of the effective date of the action. The notice includes information about how the participant may appeal the action and provides, as appropriate, for the continuation of services while the participant's appeal is under consideration.

ONGOING MONITORING

States must describe their planned process for ensuring ongoing compliance with the rule.

Monitoring Procedures	Monitoring procedures to ensure ongoing compliance will include methods and measures listed in the Quality Assurance Measures section below. Specific information can be found in Massachusetts' January 1 submission .
Quality Assurance Measures	DDS quality management system (QMIS) components related to the HCBS rule: • DDS revised the licensure and certification tool to clarify expectations and even more closely and strongly align the tool with the critical elements of the Community Rule in terms of both residential and non-residential settings. • DDS Area Office staff conduct bi-monthly visits to all homes providing 24-hour support, and quarterly visits to homes providing less than 24-hour support. • DDS Service Coordinators Supervisor tool is utilized to measure the quality, content and oversight of the person-centered service planning process and its implementation. • DDS has a web-based incident reporting and management system that requires providers to report a specifically defined set of incidents within 24 hours. The provider must report specific details regarding the incident as well as what actions they took to protect the health and safety of the individual and what long-range actions they may take. • Each location where individuals live or work (including CBDS) has a Human Rights officer and providers have a Human Rights Coordinator. On all levels of a provider's service system, individuals are supported to understand their rights, know who they can turn to if they have a complaint, and to speak up on their own behalf. • Providers intending to serve individuals in 24-hour residential supports, site-based respite, or site-based day supports must have any proposed sites reviewed for their feasibility to provide the necessary physical site requirements for the individuals proposed to be served. • The Statewide Quality Council reviews and analyses data to make recommendations for statewide and local service improvement targets, and monitors progress toward achieving targets.

	• Participate in the National Core indicators survey. MRC operated waivers quality management components: • MRC Monitoring Tool used to measure the quality, content and oversight of the person-centered service planning process and its implementation. • MRC staff conduct monthly site visits for all residential providers in connection with routine, in-person case management meetings with participants. • Annual credentialing visits conducted by MRC agency staff both initial qualification of providers and continued qualification for these services. • MRC uses access to a web-based incident reporting and management system requiring providers to report specific details regarding the incident as well as what actions they took to protect the health and safety of the individual and what additional long-range actions they may take. • Providers intending to serve individuals in 24-hour residential supports, site-based respite, or site-based day supports must have any proposed sites reviewed for their feasibility to provide the necessary physical site requirements for the individuals proposed to be served. Frail Elder Waiver quality improvement components: • On-site visits every three years. • Each Aging Service Access Point (ASAP) must submit annual an attestation of compliance with program guidelines and waiver requirements to maintain continued designation as an appropriate contractor. • ASPs proactively manage the performance of providers in accordance with the Provider Network Quality Assurance Manual, including monitoring and enforcing standards. • Case managers document their review of waiver participant service plans in the data management system, and an annual report is produced out of that system for use in quality performance reporting. Adult Foster Care Settings: • MassHealth has issued two Provider Bulletins to AFC providers detailing the Community Rule requirements. To ensure compliance with the Community Rule, AFC providers will identify members who are HCBS Waiver participants living in the home of an unrelated AFC caregiver. For each AFC member who is a HCBS Waiver participant residing in the home of an unrelated caregiver, the AFC provider will work with the AFC caregiver and AFC member to complete an attestation in the form and format required by MassHealth to confirm compliance with the Community Rule. Attestations are a combination of provider self-assessment and participant experience assessment in one document; the provider and participant both have the

	opportunity to confirm a setting's compliance with all community rule criteria.