

# TRANSITION PLAN

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

### FOR THE STATE OF INDIANA

The approved transition plan for the State of Indiana can be found here:

<https://www.medicaid.gov/sites/default/files/2023-09/in-transition-plan-hcbs.pdf>

The approved corrective action plan for the State of Indiana can be found here:

<https://www.medicaid.gov/sites/default/files/2023-07/in-appvd-cap.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**

FSSA as the single state Medicaid agency is comprised of five divisions, all of which play a role in the operation, administration, and reimbursement of HCBS. The Division of Family Resources determines Medicaid eligibility. The Office of Medicaid Policy and Planning (OMPP) develops medical policy, ensures proper reimbursement of Medicaid services, and acts as the administrative authority for all HCBS programs. The remaining three divisions, listed below, operate multiple programs including Medicaid HCBS programs. The programs currently under review include 1915(c) HCBS Waivers and 1915(i) State Plan benefits operated by the following divisions within the FSSA:

- Division of Aging (DA)
  - Aged & Disabled (A&D) Waiver – IN.210
  - Traumatic Brain Injury (TBI) Waiver – IN.4197
- Division of Disability and Rehabilitative Services (DDRS)
  - Community Integration and Habilitation (CIH) Waiver – IN.378
  - Family Supports Waiver (FSW) – IN.387
- Division of Mental Health and Addiction (DMHA)
  - Youth Services
    - Child Mental Health Wraparound Services (CMHW) – TN No. 12-013
  - Adult Services
    - Behavioral and Primary Healthcare Coordination (BPHC) – TN No. 13-013
    - Adult Mental Health Habilitation (AMHH) – TN No. 12-003

Settings under DA waivers:

- Adult Family Care (A&D, TBI)
- Adult Day Services (A&D, TBI)
- Assisted Living (A&D, TBI)
- Structured Day Program (TBI)

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	<ul style="list-style-type: none"> <li>• Supported Employment (TBI)</li> </ul> <p>Settings under DDRS waivers:</p> <ul style="list-style-type: none"> <li>• DDRS evaluates all residential and non-residential settings. This includes provider owned or controlled residential settings, day service settings, congregate settings, and any setting where HCBS are delivered.</li> </ul> <p>Settings under the DMHA- youth:</p> <ul style="list-style-type: none"> <li>• The FSSA youth services completed an internal review and analysis of all settings where HCBS services are provided. The CMHW program does not provide residential supports, though services may be provided in the home as well as the community.</li> </ul> <p>Settings under the DMHA-adult:</p> <ul style="list-style-type: none"> <li>• Provider owned, controlled and/or operated (POCO) residential settings: settings in which an individual resides that are specific physical places that are owned, co-owned, and/or operated by a provider of HCBS.</li> <li>• Non-POCO residential settings are owned, controlled, and/or operated by a provider that does not provide HCBS services.</li> <li>• Non-CMHC POCO residential settings: These settings are considered provider owned, controlled and/or operated but not by a DMHA-approved CMHC.</li> <li>• Non-residential settings: Services delivered outside place of residence throughout the community.</li> </ul>
<p><b>Compliant/Non-Compliant</b></p>	<p><u>Division of Mental Health and Addiction-youth, CMHW: [Completed March 31, 2017]:</u></p> <ul style="list-style-type: none"> <li>• Settings found to be fully compliant with HCBS settings criteria: 379             <ul style="list-style-type: none"> <li>○ Settings that could come into compliance with modifications: 0</li> <li>○ Settings found unable to comply with HCBS settings criteria:0</li> <li>○ Settings that require heightened scrutiny: 0</li> </ul> </li> </ul> <p><u>Division of Mental Health and Addiction-adult, BPHC and AMHH: [As of April 26, 2022]:</u></p> <ul style="list-style-type: none"> <li>• Settings found to be fully compliant with HCBS settings criteria:             <ul style="list-style-type: none"> <li>○ POCO Residential Setting: 190</li> <li>○ POCO Non-Residential Setting: 193</li> </ul> </li> <li>• Settings that could come into compliance with modifications:             <ul style="list-style-type: none"> <li>○ POCO Residential Setting: 4</li> <li>○ POCO Non-Residential Setting: 0</li> </ul> </li> <li>• Settings found unable to comply with HCBS settings criteria:             <ul style="list-style-type: none"> <li>○ POCO Residential Setting: 0</li> <li>○ POCO Non-Residential Setting: 0</li> </ul> </li> </ul>

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	<p><u>Division of Disability and Rehabilitative Services CIH Waiver &amp; FSW Waiver:</u></p> <ul style="list-style-type: none"> <li>• Settings found to be fully compliant with HCBS settings criteria:             <ul style="list-style-type: none"> <li>○ Provider Owned of Controlled Residential Setting: 5,998</li> <li>○ Non-Residential Setting: 92</li> </ul> </li> <li>• Settings that could come into compliance with modifications:             <ul style="list-style-type: none"> <li>○ Provider Owned of Controlled Residential Setting: 0</li> <li>○ Non-Residential Setting: 200</li> </ul> </li> <li>• Settings found unable to comply with HCBS settings criteria:             <ul style="list-style-type: none"> <li>○ Provider Owned of Controlled Residential Setting: 0</li> <li>○ Non-Residential Setting: 0</li> </ul> </li> <li>• Sites no longer operating:             <ul style="list-style-type: none"> <li>○ Non-residential settings: 19</li> </ul> </li> </ul> <p><u>Division of Aging A&amp;D Waiver and the TBI Waiver:</u></p> <ul style="list-style-type: none"> <li>• Settings found to be fully compliant with HCBS settings criteria:             <ul style="list-style-type: none"> <li>○ No sites were found to be fully compliant.</li> </ul> </li> <li>• Settings that are presumed not to be HCBS:             <ul style="list-style-type: none"> <li>○ 1 ADS site</li> <li>○ 43 AL sites</li> <li>○ 1 Respite site</li> </ul> </li> <li>• Settings that could be fully compliant with the HCBS Rule with modifications:             <ul style="list-style-type: none"> <li>○ 48 ADS sites</li> <li>○ 37 AFC sites</li> <li>○ 56 AL sites</li> <li>○ 58 SFC sites</li> </ul> </li> </ul> <p><b>NOTE:</b> Indiana received approval of its corrective action plan (CAP) on June 27, 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 March 18, 2024, as the completion date for the reassessment of identified sites to ensure that the settings are in full compliance with the final rule. Disenrollment of providers and final relocation of participants to a compliant setting must be completed by June 30, 2024. Final remediation of heightened scrutiny settings is required to be completed by 12 months from the date CMS issues heightened scrutiny findings to the state.</p>
<p><b>Reasons for Non-Compliance</b></p>	<p><u>Division of Aging A&amp;D Waiver and the TBI Waiver:</u></p> <ul style="list-style-type: none"> <li>• Freedom and support to control own schedule and activities</li> <li>• Ability to have visitors of choosing at any time</li> </ul>

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	<ul style="list-style-type: none"> <li>• Optimize individual initiative, autonomy, and independence in making life choices</li> <li>• Units have locking doors</li> <li>• Setting is physically accessible to the individual</li> </ul>
<b>Transition plans</b>	<p>FSSA conducted a systemic assessment of HCBS programs, service definitions, rules and policies addressing all settings including both residential and non-residential. Site specific assessments were conducted via a provider self-survey, desk review of policy and procedure, and site assessments of all provider sites with current waiver participants to validate survey results. The State requires corrective action plans for any settings that demonstrate noncompliant characteristics identified through the site-specific assessments and validation activities. Each setting must come into compliance within a specified time period. The timeline will be dependent upon the modifications required. To support site specific remediation, the State will work with providers on their remediation plans. Should a setting be presumed institutional after the correction period, the State may submit the setting for heightened scrutiny. Once providers are compliant with all applicable requirements in the HCBS Waiver Rule, or those unable to be compliant are unenrolled, the state will continue to engage in ongoing monitoring of the settings.</p>

**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.*

<b>% Presumed Institutional (No. of Residents Affected)</b>	<p>DDRS settings:</p> <ul style="list-style-type: none"> <li>• Estimate of Potential Heightened Scrutiny as of February 2019: 2</li> </ul> <p>DMHA settings:</p> <ul style="list-style-type: none"> <li>• POCO Non-Residential Setting: 8</li> <li>• Note: 7 of these 8 settings are to be referred to CMS for heightened scrutiny</li> </ul>
<b>Type of Setting/Residents</b>	
<b>Reason for Presumption</b>	<p>DMHA settings:</p> <ul style="list-style-type: none"> <li>• 8 POCO non-residential setting presumed institutional due to the settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.</li> </ul> <p>DDRS settings:</p> <ul style="list-style-type: none"> <li>• 2 settings based on being located on the grounds of or adjacent to a public institution.</li> </ul>

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<b>Heightened Scrutiny Process</b>	<p><u>Division of Aging A&amp;D Waiver and the TBI Waiver:</u></p> <p>Providers selected for heightened scrutiny are required to submit evidence of the provider’s compliance with all of the requirements of an HCBS setting. In the case of sites triggering heightened scrutiny based on the first or second prong, heightened scrutiny packets will need to include information supporting the fact that there is a meaningful distinction between the HCBS setting and the institutional based facility, and that the latter is integrated and supports full access of individuals receiving HCBS to the greater community. Additionally, information should establish that the services provided to the individual and the activities that the individual engages in are intertwined with the broader community. In the case of sites triggering heightened scrutiny based on the third prong, there should be information to support that the setting is integrated in the community to the extent that persons without disabilities in the same community would consider it a part of their community and not a setting of only persons with disabilities. Additionally, the information in the packet should support that individuals participate regularly in typical community life activities outside of the setting to the extent they desire and the activities are engaging with the broader community. Once the evidence packet is completed, it will be submitted for review by the OMPP. OMPP makes the final determination of which packets are submitted to CMS for heightened scrutiny.</p> <p><u>Division of Disability and Rehabilitative Services CIH Waiver &amp; FSW Waiver:</u></p> <p>Site assessment tools and a comprehensive review of each setting will be used to determine if a site is presumptively institutional. A summary of findings will be assembled to determine if a setting is a potential candidate for heightened scrutiny and can overcome the assumption based on information review. DDRS will make the final determination that a setting can overcome the presumption and should be a candidate for heightened scrutiny. Once a setting is determined to be a candidate for heightened scrutiny, notification will be sent to the provider and residents of the setting in a letter outlining the determination and how DDRS made the determination as well as the next steps of the process. Providers selected for heightened scrutiny are required to submit evidence of the provider’s compliance with all of the requirements of an HCBS setting. In the case of sites triggering heightened scrutiny based on the first or second prong, heightened scrutiny packets will need to include information supporting the fact that there is a meaningful distinction between the HCBS setting and the institutional based facility, and that the latter is integrated and supports full access of individuals receiving HCBS to the greater community. Additionally, information should establish that the services provided to the individual and the activities that the individual engages in are intertwined with the broader community. In the case of sites triggering heightened scrutiny based on the third prong, there should be information to support that the setting is integrated in the community to the extent that persons without disabilities in the same community would consider it a part of their community and not a setting of only persons with disabilities. Additionally, the information in the packet should support that individuals participate regularly in typical community life activities outside of the setting to the extent they desire and</p>
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the activities are engaging with the broader community. Prior to submission to OMPP for review, DDRS will notify the provider identified and individuals and families impacted. DDRS will summarize the information into an evidence packet. Once the packet is completed, it will be submitted to the OMPP for review. Based on the division's evidence and recommendation and the outcome of public comment, OMPP will make the final determination of which packets are submitted to CMS for heightened scrutiny.

### Division of Mental Health and Addiction-youth, CMHW:

An initial site visit will be conducted to validate the setting is in compliance, or who will, if there is a reasonable indication of need, complete the Site Assessment Tool. The completed assessment tool will be submitted to the DMHA for review. DMHA will review the completed Site Assessment Tool, and if indicated, a follow-up site visit will be conducted by a representative of DMHA and DCS who will together determine if the site is presumed institutional. If the setting is determined to be presumed institutional, the entity will be notified by DMHA. The entity will notify DMHA whether it will pursue the heightened scrutiny process or opt out of providing HCBS services. A packet with evidence must be submitted if the entity pursues that heightened scrutiny process. DMHA and DCS will review the response submitted by the entity and determine if the site can overcome the presumption. If the plan is approved, a heightened scrutiny packet will be compiled by DMHA and submitted to Office of Medicaid Policy and Planning (OMPP) for review. If there is a need to review, a meeting will be scheduled between OMPP and DMHA-Y. Once approved by OMPP, the packet would be submitted for the public comment period. Any comments during the public comment period will be taken into consideration and revisions will be applied, if applicable. DMHA is responsible for making the final determination to send a setting's heightened scrutiny packet to CMS for Heightened Scrutiny review. If it is determined that the setting is compliant, DMHA will continue monitoring to ensure ongoing compliance. If DMHA determines the setting cannot or will not come into compliance, the relocation process will commence.

### Division of Mental Health and Addiction-adult, BPHC and AMHH:

When a setting is designated as Potential Presumed Institutional, an additional onsite visit is conducted with the provider. During the second onsite visit, DMHA tours the setting and conducts staff and resident interviews to determine the setting's level of integration into the community. DMHA developed an additional assessment that further evaluates the presence of the characteristics of each prong to clarify if institutional qualities are present. If the setting is institutional, DMHA designates the setting as Presumed Institutional. At that time, DMHA determines if the setting could overcome the presumption of institutional by reviewing the institutional qualities that make up each prong. When DMHA designates the setting as Presumed Institutional, the provider receives notification from DMHA of the new designation. Once DMHA notifies the provider, the provider notifies DMHA their decision whether to pursue the heightened scrutiny process or opt out of providing HCBS services. Using CMS guidance, DMHA provides guidelines on what information the provider can submit in their heightened

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	<p>scrutiny packets to support the setting is home and community-based. These guidelines are also the factors that DMHA uses to assess if the setting can overcome the presumption of institutional and therefore, be submitted to CMS. The HSEP includes information from the provider (as detailed below) as well as a final report which includes a compilation of onsite staff and member interviews and provider and resident survey results. Once the heightened scrutiny packets are compiled, they are submitted to OMPP for review. If DMHA has concerns with feedback/revisions, a meeting will be scheduled with OMPP to address the concerns and come to a consensus ensuring the intent of the HCBS final rule is upheld. Once approved by OMPP, the packets will be submitted for the public comment period. Any comments during the public comment period will be addressed and revisions will be applied, if applicable. OMPP is responsible for making the final determination to send a setting's HSEP to CMS for final review.</p>
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**NON-COMPLIANCE COMMUNICATION**

<p><b>% Cannot/Will Not Comply (No. of Residents Affected)</b></p>	<p>N/A</p>
<p><b>Type of Setting/Residents</b></p>	<p>N/A</p>
<p><b>Reason for Determination</b></p>	<p>N/A</p>
<p><b>Communication Strategy</b></p>	<p><u>Division of Aging A&amp;D Waiver and the TBI Waiver:</u>  The site transition plan shall include a list of participants requiring transition, a plan for communicating with these individuals and their person-centered support circle throughout the transition period, a timeline for decertification of the provider, and regular progress reports to be submitted to DA. Currently, available appeal and administrative review processes will be provided to participants impacted, as well as to the providers that must be decertified. The participant specific transition plan will be developed and monitored by the waiver care manager. It will provide appropriate notice to the individual and their person-centered support circle regarding the site's noncompliance, the action steps that will occur, and procedural safeguards available to them. The care manager will work with the participant and their representatives to examine all available options. Timelines will be established to support transitioning individuals to a complaint setting no later than March 2021, provided they wish to remain in the waiver program.</p> <p><u>Division of Disability and Rehabilitative Services CIH Waiver &amp; FSW Waiver:</u>  Notification of non-compliance will be sent to Provider and the Individual Support Team (IST) outlining findings and cause. The provider has 15 days to request Administrative Review, preserving the right to appeal.</p> <p><u>Division of Mental Health and Addiction-youth, CMHW:</u></p>

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	<p>Communication strategy was not specified in the document.</p> <p><u>Division of Mental Health and Addiction-adult, BPHC and AMHH:</u>          If a provider agency elects not to complete remediation at a setting, the agency must notify in writing both DMHA and affected members at the setting within seven calendar days of the decision. Upon receipt of notification by the provider agency that remediation will not be undertaken, DMHA will designate the setting “Unable to Fully Comply.” If a provider agency does not complete remediation by the end of the designated timeframe (including any granted extensions), the HCBS Setting Action Plan will end and DMHA will designate the setting “Unable to Fully Comply.” DMHA will notify the provider agency of the designation within seven calendar days of the expiration of the HCBS Setting Action Plan. The provider agency, together with the member and their family/guardian/caretaker, must complete and submit to DMHA a Member Transition Plan for each affected member at the setting within 30 calendar days of the date the provider agency notified DMHA of their intention not to pursue remediation.</p>
<p><b>Assistance to Residents?</b></p>	<p><u>Division of Aging A&amp;D Waiver and the TBI Waiver:</u>          Beneficiaries will be provided with options counseling on all setting options available to them. Beneficiaries will also be notified of potential sources of advocacy (including Indiana Disability Rights, ombudsman, the Arc, other advocacy organizations) along with their right to appeal. The transition plan developed by the care manager will be completed as part of the person-centered planning process involving the individual’s circle of support. The transition plan document will be an addendum to the person-centered service plan. Transition plans will be reviewed by DA as part of service plan review. The care manager will be able to document and track milestones in the care management system. The system will allow DA staff to monitor beneficiaries still in non-compliant settings as we approach March of 2022. DA staff will provide technical support and assistance to care managers as they aid the beneficiary in the transition process.</p> <p><u>Division of Disability and Rehabilitative Services CIH Waiver &amp; FSW Waiver:</u>          Individuals will be informed in writing of the agency’s decision outlining the procedure established for transitioning to an approved HCBS setting. This will ensure reasonable notice and procedural safeguards are provided to anyone needing to transition. A transition plan will be developed to allow for sufficient time to safely transition individuals to compliant settings of their choice. BDDS or its contracted entity will ensure individuals are informed of the opportunity to select settings and roommates of their choice and will facilitate all transitions. Both the existing provider and the newly selected provider will participate in the transition activities. The change in the individual's residence may not take place until written approval is received from the individual's service coordinator. The participant and the IST will actively participate in the transition process.</p> <p><u>Division of Mental Health and Addiction-youth, CMHW:</u></p>



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	<p>If it is determined that a participant in a foster care setting lives in a non-compliant setting DMHA will work with DCS to remediate the setting. If remediation is unsuccessful, DMHA would require the participant to move to a compliant setting within 90 days of receipt of notification of non-compliance or be transitioned from the program to other services. If it is found that a participant living with family members who do not reside in typical community neighborhoods, but have relocated to an institution or institution-like setting will be considered as not fully complying with federal and state requirements. DMHA would require the participant and family to move to a compliant setting, but rather than the 90-day timeframe required of foster families found to be out of compliance, would work with the family on a month-by-month basis with demonstrated progress (such as the exploration of alternate residences) as is reasonable to accommodate any lease or other legal obligations, not to exceed one year from the date of formal notice. Progress toward this transition would be monitored no less often than monthly as part of the required monthly Child and Family Team meetings, and would include assistance from the local System of Care and DMHA where appropriate.</p> <p><u>Division of Mental Health and Addiction-adult, BPHC and AMHH:</u></p> <p>The provider agency, together with the member and their family/guardian/caretaker, must complete and submit to DMHA a Member Transition Plan for each affected member at the setting within 30 calendar days of the date the provider agency notified DMHA of their intention not to pursue remediation.</p>
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**ONGOING MONITORING**

<p><b>Monitoring Procedures</b></p>	<p><u>Division of Aging A&amp;D Waiver and the TBI Waiver:</u></p> <ul style="list-style-type: none"> <li>• The Person-Centered Monitoring Tool (PCMT), formerly the 90-Day Review tool, is administered by the care manager for every waiver participant, face-to-face, every 90 days. To complete the PCMT, the care manager conducts an interview with the participant as well as anyone else the participant has identified. These reports will be reviewed on a monthly basis and corrective actions required at that time. Any beneficiary response where there is an unresolved discrepancy will be investigated by the Division of Aging on an ongoing basis to ensure compliance with the Settings Rule.</li> <li>• The National Core Indicators survey for the aged and disabled population (NCI- AD) is being utilized. NCI-AD is being administered to a statistically valid sampling of participants in all of the DA’s HCBS programs, Medicaid and non-Medicaid. The NCI-AD focuses on how participants experience the services they receive and how they impact the quality of life they experience. These assessments will continue throughout the transition process and will be updated to include the new standards as the State moves through the transition period.</li> </ul>
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- The PCR is conducted every three years for all waiver providers not licensed by the ISDH. The PCR focuses on the provider's policies and procedures and looks for evidence that those are being followed.

### Division of Disability and Rehabilitative Services CIH Waiver & FSW Waiver:

- A Monitoring Checklist is used as a tool for case managers to ensure supports are provided consistent with established policies and procedures. The Checklist allows for ongoing compliance measurement.
- DDRS made enhancements to the Person-Centered Planning process through the LifeCourse Framework and the development of the new Person-Centered Individualized Support Plan (PC/ISP).
- Revisions to the provider enrollment process and the Compliance Evaluation and Review Tool (CERT) will be made to cover all aspects of the HCBS rule to measure ongoing compliance. Trainings will be scheduled for state staff, members, providers, and case managers on any changes in policies, procedures, and the monitoring process of the HCBS rules.
- A Task Force has also been developed for the assessment of services and supports for People with Intellectual and Other Developmental Disabilities. This Task Force will prepare a comprehensive plan of implementation of community-based services provided to people with intellectual and other developmental disabilities and will be assessing the capacity to meet existing and prospective needs and services. The recommendations will allow DDRS to engage stakeholders, assess current resources, and build capacity through awareness and trainings.

### Division of Mental Health and Addiction-youth, CMHW:

- In order to ensure ongoing compliance and monitoring of settings, DMHA continues to train all providers on the setting requirements; Access personnel will include an assessment of the residential setting as part of the initial application for eligibility process; require an annual confirmation of the compliance of the residential setting (attestation form); require Wraparound Facilitators to assess any changes in the residential setting during the program year, and report the assessment to the State; and the Child and Family Team, guided by the Wraparound Facilitator and other providers, will determine the settings in which services will be delivered as part of plan development, to be reviewed for compliance and appropriateness before approval by the State

### Division of Mental Health and Addiction-adult, BPHC and AMHH:

- Each community mental health center (CMHC), as the exclusive provider of 1915(i) adult services, is required to participate in an on-site review of their AMHH and BPHC programs at least annually or more frequently as determined by the DMHA 1915(i) SET.
- Beginning March 1, 2019, DMHA will begin the on-going monitoring plan for POCO residential and non-residential settings and non-POCO residential settings. Each State Fiscal Year (July 1- June 30), CMHCs

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	<p>will be required to submit any changes to HCBS policies/procedures within 30 business days of DMHA request.</p> <ul style="list-style-type: none"> <li>• The DMHA has updated the Residential Setting Screening Tool (RSST) to include the CMS “Exploratory Questions to Assist States in Assessment of Residential Settings” to ensure ongoing compliance of the HCBS setting requirements. This RSST must be completed by the applicant and the provider prior to submission of every AMHH/BPHC application. The verification of the completed RSST is included in the annual QA/QI process for each provider.</li> <li>• Annual provider trainings will be scheduled to address changes in policies, procedures, and the monitoring process of the HCBS rules.</li> </ul>
<p><b>Quality Assurance Measures</b></p>	<p>Quality Assurance monitoring methodologies will incorporate the addition of monitoring performance measures that ensure compliance with HCBS Settings Rule. Specific quality assurance information can be found in Indiana’s January 1 submission <a href="#">here</a>.</p>