

TRANSITION PLAN

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

FOR THE STATE OF MARYLAND

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

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

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

<https://www.medicaid.gov/sites/default/files/2023-07/md-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	
	<p>As the single state Medicaid agency, the MDH, is responsible for all 1915(c), 1915(i), 1915(k), 1915(j), and 1115 demonstration programs. The Office of Long Term Services and Supports (OLTSS) within Maryland Medicaid has administrative authority over all 1915(c), 1915(k) and 1915(j) HCBS programs and for some programs, is also responsible for daily operations. Other offices with Maryland Medicaid have administrative authority over the 1915(i) and 1115 demonstration programs. The Developmental Disabilities Administration (DDA) within MDH operates the Community Pathways, Community Supports, and Family Supports Waivers while the Behavioral Health Administration (BHA) within the MDH and the Maryland State Department of Education (MSDE) operate the Brain Injury Waiver and Autism Waiver respectively.</p> <p>Maryland State Department of Education (MSDE) Waiver:</p> <ul style="list-style-type: none">• Autism Waiver<ul style="list-style-type: none">○ 1,266 participants, 68 providers <p>OLTSS Waivers:</p> <ul style="list-style-type: none">• Home and Community Based Options Waiver<ul style="list-style-type: none">○ 4,270 participants, 1,302 providers• Medical Day Care Services Waiver<ul style="list-style-type: none">○ 3,650 participants, 109 providers• Model Waiver<ul style="list-style-type: none">○ 211 participants, 53 providers <p>DDA Waivers:</p> <ul style="list-style-type: none">• Community Pathways Waiver<ul style="list-style-type: none">○ 15,339 participants, 232 providers• Community Supports Waiver<ul style="list-style-type: none">○ 1,057 participants, 203 providers• Family Supports Waiver<ul style="list-style-type: none">○ 320 participants, 58 providers

MARYLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

	<p>BHA Waivers:</p> <ul style="list-style-type: none"> • Brain Injury Waiver <ul style="list-style-type: none"> ○ 110 participants, 5 providers <p>State Plan programs and 1115 demonstration waiver:</p> <ul style="list-style-type: none"> • Community First Choice <ul style="list-style-type: none"> ○ 9,935 participants, 975 providers • Increased Community Services <ul style="list-style-type: none"> ○ 23 participants, 840 providers • 1915(i) State Plan Home and Community-Based Services (Intensive Behavioral Health Services for Children, Youth, and Families) <ul style="list-style-type: none"> ○ 43 participants, 16 providers <p>*Data above from FY2021.</p>
<p>Compliant/Non-Compliant</p>	<p>Note: The data below was collected from the 2016 provider self-assessment surveys and site visits completed by December 2017.</p> <p>Autism Waiver:</p> <ul style="list-style-type: none"> • Total residential providers: 9 • Total residential sites: 22 • Total compliant residential sites: 3 • Total non-compliant residential sites: 19 • Total heightened scrutiny: 0 <p>Therapeutic Integration under Autism Waiver:</p> <ul style="list-style-type: none"> • Total non-residential (TI) providers: 26 • Total non-residential (TI) sites: 26 • Total non-residential (TI) compliant sites: 26 • Total non-residential (TI) non-compliant sites: 0 • Total heightened scrutiny: 0 <p>Community Pathways, Community Supports and Family Supports Waivers:</p> <ul style="list-style-type: none"> • Total residential providers: 169 • Total residential sites: 2,616 • Total compliant residential sites: 2,616 • Total non-compliant residential sites: 0 • Total heightened scrutiny: 0 • Total non-residential providers: 105 • Total non-residential sites: 213 • Total non-residential compliant sites: 213 • Total non-residential non-compliant sites: 0 • Total heightened scrutiny: 0

MARYLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

Community Personal Assistance Services and Community First Choice:

- Total assisted living facilities: 547
- Total compliant sites: 294
- Total non-compliant sites: 253
- Total heightened scrutiny: 1

Medical Day Care Services Waiver:

- Senior Center Plus:
 - Total sites: 5
 - Total compliant sites: 3
 - Total non-compliant sites: 2
 - Total heightened scrutiny: 0
- Medical Day Care:
 - Total medical day care sites: 112
 - Total compliant sites: 100
 - Total non-compliant sites: 12
 - Total heightened scrutiny: 1

Waiver for Individuals with Brain Injury:

- Total Non-Residential Providers: 8
- Total Non-Residential Sites: 8
- Total Compliant Non-Residential Sites: 8
- Total Non-Compliant Non-Residential Sites: 0
- Total Heightened Scrutiny: 0
- Total Residential Providers: 2
- Total Residential Sites: 13
- Total Compliant Residential Sites: 0
- Total Non-Compliant Residential Sites: 13
- Total Heightened Scrutiny: 0

NOTE: Maryland received approval of its corrective action plan (CAP) on June 29, 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. Under the CAP, notices of non-compliance were set to be sent out on October 1, 2023 with a 90-day time period suspending waiver participant admissions to their settings. All non-compliant settings must come into compliance by December 31, 2023, or they will be terminated from the program once all Medicaid waiver participants are relocated. Relocation of waiver participants must be completed by April 30, 2024. Remediation and review of all heightened scrutiny settings may begin the day CMS issues its findings to the state and must be completed 3 months from that date. Final compliance statewide

MARYLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

	must be completed by whichever is later: April 30, 2024, or 3 months from the date CMS issues its heightened scrutiny findings to the state.
Reasons for Non-Compliance	The document does not provide specific reasons for non-compliance, but does mention that areas were identified for further review, including settings that may be institutional in nature, isolating to participants, and those with lower affirmative response rates based on survey data.
Transition plans	<p>A comprehensive assessment of the extent to which Maryland’s standards, rules, regulations and other requirements comply or do not comply was conducted by waiver type. Provider self-assessment surveys were sent to providers, participants in settings, their representatives, and case managers.</p> <p>The State requires corrective action plans for any settings that demonstrate noncompliant characteristics identified through the site-specific assessments and validation activities. The MDH sought input from the Transition Advisory Teams on a standardized provider Corrective Action Plan (CAP) template and development of a reconsideration request process. Provider self-assessments and on-site visits were used to help identify sites for a heightened scrutiny review. The MDH identified sites that appear to have institutional qualities or appear to be isolating individuals from the community. The State will continuously work with all sites meeting the criteria for heightened scrutiny to submit evidence to demonstrate how the providers are in compliance with the Final Rule. After sites have been identified for heightened scrutiny and evidence has been received from the provider, the State will complete an evidentiary packet for each identified site. Should sites be deemed non-compliant, participants will be transitioned to compliant provider sites. s. Once an individual and/or representative receives a transition notice, a plan of service will be revised by the case management agency, as part of the person-centered planning process, involving the individual’s chosen community of support. The transition process will ensure that the individual, their family, and appropriate individuals chosen through the person-centered planning process, are given proper information, the opportunity to make an informed decision, and the support to make an informed choice of an alternate HCB site. 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.*

MARYLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

<p>% Presumed Institutional (No. of Residents Affected)</p>	<ul style="list-style-type: none"> As of December 1, 2022, 446 individuals may be impacted and need to transition to new settings.
<p>Type of Setting/Residents</p>	
<p>Reason for Presumption</p>	
<p>Heightened Scrutiny Process</p>	<p>The State has identified sites that are presumed to have qualities meeting the heightened scrutiny criteria. These are sites for which the State must submit information for the heightened scrutiny review to CMS if it determines, through its assessments, these settings have qualities that are institutional in nature and isolate individuals from the broader community. Provider self-assessments and on-site visits were used to help identify sites for a heightened scrutiny review. The MDH identified sites that appear to have institutional qualities or appear to be isolating individuals from the community. The MDH’s heightened scrutiny review included, but was not limited to:</p> <ul style="list-style-type: none"> A review of person-centered service plan and CSQ for individuals receiving services in the setting; Interviews with participants receiving services in the setting; A review of data pertaining to services utilized by participants receiving services in the specified setting; An on-site visit and assessment of the physical location and the settings’ practices; A review of policies and other applicable service-related documents; and A review of the provider’s proposed transition plan, including how the setting will implement the remediation or corrective action plan. <p>The State will continuously work with all sites meeting the criteria for heightened scrutiny to submit evidence to demonstrate how the providers are in compliance with the Final Rule. After sites have been identified for heightened scrutiny and evidence has been received from the provider, the State will complete an evidentiary packet for each identified site.</p>

NON-COMPLIANCE COMMUNICATION

<p>% Cannot/Will Not Comply (No. of Residents Affected)</p>	<p>Not yet available. CAP timeframe for notices of non-compliance is a 90-day period beginning October 1, 2023. Providers that submit documentation to indicate their compliance with the final rule within the 90-day period may have the suspension lifted. The notice will provide that failure to come into compliance by December 31, 2023, will result in a termination from the program once all Medicaid waiver participants are relocated to compliant settings.</p>
--	---

MARYLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

Type of Setting/Residents	N/A
Reason for Determination	N/A
Communication Strategy	Timelines have been established delineating how and when participants and their case managers will receive notification from the MDH regarding the need to select and transition to a new site. The State will begin notifying individuals receiving Medicaid funded services residing in non-compliant HCBS provider sites of the need to transition to a compliant HCB setting in December 2022.
Assistance to Residents?	In addition to notifying individuals of the need to transition, the State will provide appropriate notice to case management entities and providers. Once an individual and/or representative receives a transition notice, a plan of service will be revised by the case management agency, as part of the person-centered planning process, involving the individual’s chosen community of support. The transition process will ensure that the individual, their family, and appropriate individuals chosen through the person-centered planning process, are given proper information, the opportunity to make an informed decision, and the support to make an informed choice of an alternate HCB site. The individual will be able to choose a site that aligns with the Final Rule requirements.

ONGOING MONITORING

Monitoring Procedures	Maryland’s ongoing monitoring process to ensure continued Final Rule compliance of its HCB settings will include data collection strategies used across various entities in the Waiver system including contact with participants, providers, case management entities, and other stakeholders. This data will be used to monitor the quality of services and supports provided to Waiver participants as well as compliance with the Final Rule. The State will ensure that ongoing monitoring occurs for all residential and non-residential sites for compliance with the settings criteria. The Community Supports Questionnaire applies to both residential and nonresidential settings. It is reviewed by program staff as an assessment and/or validation strategy to determine if the site follows the Final Rule. 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 and remain in compliance thereafter. The State will ensure ongoing compliance by using a coordinated approach that includes entities that provide case management, care coordination, and supports planning. Additionally, MDH and the operating state agencies will assist in gathering compliance information that will be reviewed and may result in virtual visits, phone interviews, desk reviews, and on-site compliance reviews in response to any complaints or concerns. The State will assess and validate one hundred percent of HCB provider sites every three (3) to five (5) years via a variation of CSQs reviews, desk audits, and virtual or on-site visits.
------------------------------	--

MARYLAND TRANSITION PLAN FOR COMPLYING WITH THE CMS HOME- AND COMMUNITY-BASED SERVICES MEDICAID RULE (continued)

Quality Assurance Measures	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 Maryland's January 1 submission here .
-----------------------------------	---