

TRANSITION PLAN

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

FOR THE STATE OF MISSISSIPPI

The CMS-approved Mississippi transition plan can be found at:

www.medicaid.gov/sites/default/files/2023-09/ms-transition-plan-hcbs.pdf

Mississippi's proposed* Corrective Action Plan (CAP) can be found at:

www.medicaid.gov/sites/default/files/2023-04/ms-prop-cap.pdf

*Mississippi withdrew their CAP request on July 21, 2023. The state does not have an approved CAP.

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>Mississippi's 1915(c) and 1915(i) HCB programs use a person directed, person focused planning process in determining the type and level of supports to incorporate each participant/beneficiary's unique desires and wishes in the HCB services they receive. The goal is to provide supports for persons/beneficiaries to receive services in settings that meet the requirements of the final rule.</p> <p>1915(i) State Plan Services:</p> <ul style="list-style-type: none">• The 1915(i) State Plan provides habilitation services in non-residential settings which must meet the HCB settings and be physically accessible to beneficiaries including:<ul style="list-style-type: none">○ Adult Day Services○ Prevocational Services• The 1915(i) service provided in a residential setting which must meet the requirements of the HCB settings include:<ul style="list-style-type: none">○ Supported Living services• The 1915(i) State Plan provides habilitative services in an integrated work setting which is fully integrated with opportunities for full access to the greater community include:<ul style="list-style-type: none">○ Supported Employment services are not provided in settings that group or cluster individuals. <p>1915(c) Intellectually Disabled/Developmentally Disabled (ID/DD) Waiver:</p> <ul style="list-style-type: none">• ID/DD Waiver services provided in non-residential settings which must meet the requirements of the HCB settings and be physically accessible to persons include:<ul style="list-style-type: none">○ Day Services○ Community Respire○ Prevocational Services

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	<ul style="list-style-type: none"> • ID/DD Waiver services provided in a residential setting which must meet the requirements of the HCB settings include: <ul style="list-style-type: none"> ○ Supervised Living services ○ Shared Supported Living Services <p>1915(c) Elderly and Disabled (E&D) Waiver:</p> <ul style="list-style-type: none"> • Adult Day Care services are provided in a non-residential setting which must meet the requirements of the HCB settings and be physically accessible to persons. • E&D services provided in a setting which is considered a non-HCB setting include: <ul style="list-style-type: none"> ○ Institutional respite services <p>1915(c) Assisted Living (AL) Waiver:</p> <ul style="list-style-type: none"> • AL Waiver services are provided to residents living in a personal care home/assisted living facility and a neurological rehabilitative living center in a residential setting which must meet the requirements of the HCB settings. <p>1915(c) Traumatic Brain Injury/Spinal Cord Injury (TBI/SCI) Waiver:</p> <ul style="list-style-type: none"> • Based upon the State’s assessment of the HCBS settings in the TBI/SCI waiver, the State confirms that services in this waiver are rendered in a HCB setting. Waiver persons reside in private homes which are fully integrated with opportunities for full access to the greater community and meet the requirements of the HCB settings. The TBI/SCI waiver does not provide services to persons in congregate living facilities, institutional settings or on or adjacent to the grounds of institutions. Therefore, no further transition plan is required for this waiver. <p>1915(c) Independent Living (IL) Waiver:</p> <ul style="list-style-type: none"> • Based upon the State's assessment of the HCB settings in the IL waiver, the State confirms that services in this waiver are rendered in a HCB setting. Waiver persons reside in private homes which are fully integrated with opportunities for full access to the greater community and meet the requirements of the HCB settings. The IL waiver does not provide services to persons in congregate living facilities, institutional settings or on or adjacent to the grounds of institutions. Therefore, no further transition plan is required for this waiver.
<p>Compliant/Non-Compliant</p>	<p>E&D Waiver: 143 HCB setting sites validated</p> <ul style="list-style-type: none"> • Settings found to be fully compliant with HCBS settings criteria: 48 • Settings requiring modifications to become fully compliant: 41 • Settings found unable to comply with HCBS settings criteria and require removal from the program and/or relocation of individuals: 54

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	<ul style="list-style-type: none">• Settings found to be presumptively institutional in nature but for which the state will, subject to public comment, submit evidence for the application of heightened scrutiny: 0 <p>AL Waiver: 42 HCB setting sites validated</p> <ul style="list-style-type: none">• Settings found to be fully compliant with HCBS settings criteria: 36• Settings requiring modifications to become fully compliant: 5• Settings found unable to comply with HCBS settings criteria and require removal from the program and/or relocation of individuals: 1• Settings found to be presumptively institutional in nature but for which the state will, subject to public comment, submit evidence for the application of heightened scrutiny: 0 <p>IDD Waiver/ 1915(i) settings: 264 settings (83 Day Settings providing Day Services Adult, Prevocational Services and/or Community Respite; and 181 Residential Settings providing Supervised Living, Shared Supported Living and/or Supported Living)</p> <ul style="list-style-type: none">• Settings found to be fully compliant with HCBS settings criteria: 2<ul style="list-style-type: none">○ Day Settings: 0○ Residential Settings: 2• Settings requiring modifications to become fully compliant: 217<ul style="list-style-type: none">○ Day Settings: 76○ Residential Settings: 141• Settings found unable to comply with HCBS settings criteria and require removal from the program and/or relocation of individuals: 0• Settings found to be presumptively institutional in nature but for which the state will, subject to public comment, submit evidence for the application of heightened scrutiny: 45<ul style="list-style-type: none">○ Day Settings: 7○ Residential Settings: 38 <p>IDD Day Program Settings Assessment by service: 83 settings</p> <ul style="list-style-type: none">• HCBS Services: Day Services Adult (DSA), Prevocational (PV), Community Respite (CR). All settings are certified for both ID/DD Waiver and IDD Community Support Program (1915i).• DSA, PV: 39 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 36○ Settings requiring heightened scrutiny: 3• DSA: 5 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 4
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	<ul style="list-style-type: none">○ Settings requiring heightened scrutiny: 1● PV: 10 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 8○ Settings requiring heightened scrutiny: 2● DSA, PV, CR: 27 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 26○ Settings requiring heightened scrutiny: 1● DSA, CR: 2 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 2○ Settings requiring heightened scrutiny: 0 <p>IDD Residential Settings Assessment by service: 181 settings</p> <ul style="list-style-type: none">● HCBS Services: Supervised Living (SVL), Shared Supported Living (SSPL), Supported Living (SPL) (owned/operated by provider) provided by ID/DD Waiver. Supported Living (SPL) is the only residential service offered through IDD Community Support Program (1915i). All Supported Living providers with agency owned or controlled settings are certified to provide for both ID/DD Waiver and IDD Community Support Program.● SVL: 160 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 128○ Settings requiring heightened scrutiny: 32● SSPL: 14 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 11○ Settings requiring heightened scrutiny: 3● SPL: 3 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 2○ Settings requiring modifications to become fully compliant: 0○ Settings requiring heightened scrutiny: 1● SSPL, SPL: 3 settings initially assessed<ul style="list-style-type: none">○ Settings found to be fully compliant: 0○ Settings requiring modifications to become fully compliant: 1
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	<ul style="list-style-type: none"> ○ Settings requiring heightened scrutiny: 2 ● SVL, SSPL: 1 setting initially assessed <ul style="list-style-type: none"> ○ Settings found to be fully compliant: 0 ○ Settings requiring modifications to become fully compliant: 1 ○ Settings requiring heightened scrutiny: 0 <p>IDD Community Support Program (1915i) Residential Settings Assessment: 6 settings</p> <ul style="list-style-type: none"> ● Includes combination of settings that provide only Supported Living and those which have both Supported Living and Shared Supported Living under ID/DD Waiver. IDD Community Support Program does not provide Shared Supported. ● SPL: 6 settings initially assessed <ul style="list-style-type: none"> ○ Settings found to be fully compliant: 2 ○ Settings requiring modifications to become fully compliant: 1 ○ Settings requiring heightened scrutiny: 3
<p>Reasons for Non-Compliance</p>	<p>Specific reasons for non-compliance were not detailed.</p>
<p>Transition plans</p>	<p>The Division of Medicaid (DOM) has completed the assessment of its state standards, rules, regulations, and other requirements to determine its current level of compliance with the federal HCB settings final rule. During this assessment, DOM identified gaps between the State Plan, Administrative Code and the Department of Mental Health’s (DMH) al Standards and federal HCB settings regulations. Provider self-assessments were completed and returned to the Division of Medicaid and DMH by the April 15, 2015, via Survey Monkey and hard copy. The provider self-assessments helped providers and the Division of Medicaid and DMH determine the extent providers currently met the final rule, will be able to meet the final rule with modifications, or cannot meet the final rule. 100% of settings received an onsite validation visit. The validation process included an on-site validation visit of each provider’s setting(s) and a “per setting” random sample of participant/beneficiary surveys. The outcome of the validation reviews determined what, if any, remediation strategies were needed to bring each provider into compliance.</p> <p>Providers were notified of their assigned category based on the completion of the validation review process by DOM and by DMH. Upon review of the settings assessments, DMH determined a path to compliance utilizing training webinars and/or one-on-one technical assistance for providers; person-centered training for all HCBS staff/providers and development of person-centered plans; assuring ongoing monitoring by DMH Certification and Programmatic staff and Support Coordinators/Targeted Case Managers; and education with people receiving HCBS. Non-compliant providers were required to submit a Plan of Compliance (POC) detailing changes in HCB settings validated as non-compliant and the timelines the provider would be</p>

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	<p>in full compliance with the final rule. Technical assistance was provided to aid a setting to come into compliance.</p> <p>For settings determined to be institutional, the state will transition participants to a compliant setting. The state will continue to engage in ongoing monitoring and quality assurance activities to ensure the continuous compliance of all settings.</p>
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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)	IDD Residential settings: 2 settings were submitted to CMS.
Type of Setting/Residents	2 Supervised Living Residential Settings
Reason for Presumption	IDD Residential settings: Settings were submitted to CMS for review due to their location, one being adjacent to ICF and one to a nursing facility.
Heightened Scrutiny Process	DMH and an Independent Contractor developed a plan to resume assessment and validation of POC of HCBS settings in Heightened Scrutiny. DMH and the Independent Contractor completed a desk audit of strategies outlined in each setting's approved POC. The types of evidence reviewed included revised policies and procedures, training records of staff and participants, photos of changes to physical settings such as door locks and secured areas, invoices or work orders, etc. DMH Independent Contractor conducted virtual validation visits to include a virtual tour of the setting and interview with staff per setting. Although personal experience could not be validated fully due to decreased community activities surrounding COVID, the provider had submitted evidence of understanding of HCBS requirements, had policies and procedures in place to comply with the Final Rule, and had trained staff and people receiving services concerning Final Rule requirements.

NON-COMPLIANCE COMMUNICATION

% Cannot/Will Not Comply (No. of Residents Affected)	<p>E&D Waiver: 54 settings cannot meet the final rule requirements and requires removal from the program and/or relocation of individuals</p> <ul style="list-style-type: none"> • <u>Final Update</u>: DOM inactivated providers of 4 settings, providers of 16 settings voluntarily terminated, and providers of 34 settings have been recommended for termination due to inactivity in the past year. <p>AL Waiver: 1 setting cannot meet the final rule requirements and requires removal from the program and/or relocation of individuals</p>
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	<ul style="list-style-type: none"> There were no Medicaid waiver persons in the AL facility to transfer. The provider voluntarily terminated their MS Medicaid provider number.
Type of Setting/Residents	The type of settings and number of residents were not disclosed.
Reason for Determination	The AL Waiver setting was inside of a nursing home.
Communication Strategy	No later than July 1, 2022, settings which do not meet the HCB settings requirements of the final rule will be notified of failure to meet HCB settings' requirements by the Division of Medicaid and that as of March 1, 2023, they will no longer be an approved Medicaid HCBS provider through the 1915(c) or 1915(i) HCBS programs. Accordingly, the Division of Medicaid will terminate the provider agreement.
Assistance to Residents?	<p>Persons/beneficiaries and/or their legal representatives will be notified by the Division of Medicaid in writing no later than July 1, 2022, if the participant/beneficiary receives HCBS in HCB settings not in compliance with the federal regulations. The participant/beneficiary will be required to choose an alternative HCB setting which meets federal regulations to receive their HCBS before December 1, 2022. This will allow persons/beneficiaries time to make an informed choice of alternate HCB settings and HCBSs which are in compliance with the federal rule.</p> <p>The participant/beneficiary's case manager/Support Coordinator will convene a person-centered planning meeting with the participant/beneficiary and/or their legal representative, including all other individuals as chosen by the participant/beneficiary, to address the following:</p> <ul style="list-style-type: none"> Reason the participant/beneficiary has to relocate from a residential or nonresidential setting and the process Participant/beneficiary's options including choices of an alternate setting that aligns, or will align, with the federal regulation, other providers in compliance of the final rule Critical supports and services necessary/desired for the participant/beneficiary to successfully transition to another HCB setting or provider Individual responsible for ensuring the identified critical supports and services are available in advance and at the time of the transition Timeline for the relocation or change of provider and/or services

ONGOING MONITORING

Monitoring Procedures	Provider compliance monitoring includes annual or every three (3) years certification reviews by the State's licensing and/or certifying agencies for residential and non-residential settings. Monitoring also encompasses On-Site Compliance Reviews (OSCR) as indicated, on-site investigations, waiver participant/beneficiary and/or their legal representative survey results, provider records, participant/beneficiary records, staff licensing requirements and qualifications, and case management/support coordination visit reports.
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DOM will use the following strategies:

- Case managers provide a handout to currently enrolled persons and/or legal representatives that lists the specific requirements of HCB settings including the ways of submitting a complaint about a setting's adherence to the rules.
- E&D case managers are licensed social workers or registered nurses employed by case management agencies and receive training upon hire and annually on the requirements of the HCB settings final rule as well as DOM's Administrative Code Part 208 which outlines the requirements for ADC providers.
- ADC compliance OSCRs are also performed if there are issues brought to the attention of DOM by beneficiaries, families or any other individual of non-compliance.
- For AL facilities case managers are LSWs employed by DOM. They receive training upon hire and annually on the requirements of the HCB settings final rule as well as DOM's Administrative Code Part 208 which outlines the requirements for AL providers.
- DOM staff will provide technical assistance and plan training opportunities based on results of Written Report of Findings, feedback from Case Managers, survey results, and requests from providers and/or stakeholders.

DMH will use the following strategies:

- DMH Certification staff/programmatic staff will also provide ongoing monitoring of compliance with the HCBS Final Rule across all HCBS.
- DMH Certification Team will conduct an on-site inspection of each new setting prior to service provision and with all newly certified agencies providing HCBS (including non-setting-based services) within six (6) months of beginning service provision.
- DMH Certification staff conducts on-site compliance reviews for one half of all current providers and 100% of their settings each year. Certification staff have been trained concerning HCBS Final Rule requirements and will monitor through observation of the physical setting and service provision and record review. On alternating years, the other half of providers are required to complete a self-assessment.
- Support Coordinators/Targeted Case Managers are required to have at least one monthly contact by telephone and one quarterly face-to-face visit with each person on their caseload.
- Support Coordinators/Targeted Case Managers will be trained concerning how to monitor and follow up on issues of noncompliance.
- DMH programmatic staff will provide technical assistance and plan training opportunities based on results of Written Report of Findings,

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	feedback from Support Coordinators/Targeted Case Managers, survey results, and requests from providers and/or stakeholders
Quality Assurance Measures	Quality Assurance monitoring methodologies will incorporate the addition of monitoring performance measures that ensure compliance with HCBS Settings Rule.