

# Appendix 11



STATE OF MARYLAND

## DHMH

Maryland Department of Health and Mental Hygiene

*Lawrence Hogan, Governor – Boyd Rutherford, Lt. Governor – Dennis Schrader, Secretary*

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Date 6/6/16

Dear **Provider**,

In January 2014, the Centers for Medicare and Medicaid Services (CMS) issued a final rule to ensure that Medicaid home and community-based services (HCBS) waiver programs provide full access to the benefits of community living and offer services in the most integrated settings to program participants.

According to the federal community settings rule all facilities must be in 100% compliance with the community settings rule before January 2019. In order to assess compliance, the Department conducted a survey. Thank you for completing the survey.

DHMH has analyzed the survey results and have determined that your responses have indicated some noncompliance with the community settings rule.

### **HCBS Survey**

Below are the survey questions from **XXXXXX** at **XXXXXX** that are of concern and DHMH's clarification:

***Is the site near (i.e., within 1/4 mile of) other private residences or retail businesses? (Industrial parks are not considered retail businesses.)***

Being located far from other residences can indicate that a setting may be isolating. Please clarify your response to this item. 1915c: 441.301(c)(5)(v)

***During a one-month time frame, on average, how frequently do members of the larger community (i.e., individuals who are not family members or friends of participants, or paid employees) visit and/or volunteer at the site?***

Based on your survey response, you have indicated that your setting has the effect of isolating individuals. According to the federal rule all Medicaid HCBS recipients must have access to the broader community. 1915c: 441.301(c)(5)(v)

***Were participants and/or their legal representatives given the option of a unit with a private bedroom? (This would take into account the participant's resources for room and board. "Private bedroom" means that the participant does not have roommates.)***

Based on your survey response, you have indicated that your setting does not provide the option for participants to choose a unit with a private bedroom. According to the federal rule the setting must provide an option for a private unit in a residential setting. 441.301(c)(4)(ii)

***Do entrance doors (i.e., the front door) to the unit(s) lock?***

Based on your survey response, you have indicated that your setting does not have locks on the entrance door to the unit. According to the federal rule units must have entrance doors that are lockable by the individual, with only the appropriate staff having keys to doors. 441.301(c)(4)(vi)(B)(1-3)

***Do participants have keys to their entrance door (i.e., the front door)?***

Based on your survey response, you have indicated that your setting does not provide participants with keys to their entrance door. According to the federal rule units must have entrance doors that are lockable by the individual. 441.301(c)(4)(vi)(B)(1-3)

***Do participants have the freedom to come and go as they wish?***

Based on your survey response, you have indicated that your setting does not allow participants to come and go as they wish. According to the federal rule each participant must have the freedom and support to control their own schedules and activities. 441.301(c)(4)(vi)(c)

***Are participants able to have visitors at any time of the day (i.e., 24 hours a day)?***

Based on your survey response, you have indicated that your setting does not allow participants to have visitors at any time of the day. According to the federal rule individuals are able to have visitors of their choosing at any time. 441.301(c)(4)(vi)(D)

**Correction Action Plan**

As a result of your responses, a corrective action plan (CAP) is required to be completed by your agency, unless a request for reconsideration is made within 10 days. DHMH will only reconsider if you misunderstood the question or we misunderstood your response. In your request for reconsideration, please elaborate and explain the misunderstanding. Please also include any relevant evidence.

The following must be addressed in your CAP (as applicable):

- Each item must be addressed separately.
- Identify how the facility or agency will monitor its corrective action to ensure that the practice is corrected and include the responsible person.
- Identify the date of implementation and the expected date of completion. Full compliance with the HCBS rule is not required until January 2019; however we need to know your plan and timeline for compliance.
- Indicate what has been done to address this matter.
- If you need to make modifications for any individual, please refer to the enclosed document about modifications.
- Identify any data that will be collected to indicate that corrective actions have achieved the desired outcomes.
- Sign and date the CAP.

- Please include staff members assigned for action items. Your CAP is due to the Office of Health Services by **August 5, 2016**.

Please send your request for reconsideration or your CAP to [DMMH.HCBSSetting@Maryland.gov](mailto:DMMH.HCBSSetting@Maryland.gov) or by mail to

**Attn: Community Settings**

**Department of Health and Mental Hygiene**

**201 W. Preston Street, Room 124**

**Baltimore, MD 21201**



STATE OF MARYLAND

**DHMH**

Maryland Department of Health and Mental Hygiene

*Lawrence Hogan, Governor – Boyd Rutherford, Lt. Governor – Dennis Schrader, Secretary*

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Date 12/29/2016

Dear **Provider**,

This letter is a follow-up on the Developmental Disabilities Administration HCBS Non-Residential Provider Self-Assessment survey that you completed for **PROVIDER ORGANIZATION**. As you are aware, in January 2014, the Centers for Medicare and Medicaid Services (CMS) issued a final rule in order to ensure that Medicaid Home and Community-Based Services (HCBS) waiver programs provide participants with full access to the benefits of community living and offer services in an integrated setting to program participants.

According to the Federal Community Settings Rule, all settings must be in 100% compliance with the rule before March 2019. This means that a setting must provide a participant with the opportunity for integration, support, and access to a greater and broader community. This includes, but is not limited to, opportunities to seek employment, engage in community life, independent control of personal resources, and be in the community to the same degree as people who are not receiving HCBS services.

In order to assess compliance with the Community Settings Rule, the Department of Health and Mental Hygiene (DHMH) conducted provider self-assessment surveys. The Hilltop Institute has analyzed the results and has determined that your responses have indicated some noncompliance with the Community Settings Rule. It is our expectation that 100% compliance across all provider sites will take some time. Therefore, we are using the survey results to assess our current state and establish a baseline for our march towards compliance. As a result, we require your full cooperation throughout this process.

Now that the survey is complete, we ask that you develop a transition plan on how your setting(s) will reach full compliance with the requirement of the Community Settings Rule and use the documents in this packet in order to fully and adequately describe your proposed Provider Transition Plan (PTP).

Within this letter you will find the following attachments:

1. A list of the non-residential survey questions
2. The Provider Transition Plan Guidelines,
3. The Provider Transition Plan template,
4. Contact information for the Department,
5. Modifications to Individuals Rights Requirements in Person Centered Plans

Please ensure that you read each document thoroughly, as your full cooperation and compliance is necessary in order to effectively and efficiently review your responses. If you have any questions, please refer to the contact information page of this packet for the email addresses and phone numbers of DHMH staff that can be of assistance to you and your organization.

Your transition plan will also help us to better understand what capacity building and technical assistance would be helpful and what we, as a system, need to do next to reach compliance with the rule. Please submit *electronically* your completed Provider Transition Plan for your agencies Non-Residential

Assessment *within the next 90 calendar days* from the date of this letter to:  
**self.assessments@maryland.gov**

Thank you for your continued cooperation.

Sincerely,

Rebecca Oliver, M.P.A., J.D.  
Health Policy Analyst, Advanced  
Office of Health Services