



# **Statewide Transition Plan for Compliance with Home and Community-Based Settings Requirements (Final Rule)**

Updated March 2022

# TABLE OF CONTENTS

<b>Executive Summary</b> .....	3
Introduction.....	3
Maryland’s Home and Community-Based Services.....	5
Assessment of State Regulations.....	7
<b>Section 1: Assessment of Maryland’s HCBS Programs</b> .....	9
Waiver for Children with Autism Spectrum Disorder.....	9
Community Pathways, Community Supports and Family Supports Waivers.....	15
Community Personal Assistance Services and Community First Choice.....	28
Home and Community-Based Options Waiver.....	30
Increased Community Services.....	37
Medical Day Care Services Waiver.....	38
Model Waiver for Medically Fragile Children.....	42
Waiver for Individuals with Brain Injury.....	44
Intensive Behavioral Health Services for Children, Youth and Families.....	48
<b>Section 2: Proposed Remediation Strategies</b> .....	50
<b>Section 3: Public Input and Comment</b> .....	61

## **EXECUTIVE SUMMARY**

Maryland receives funding from the Centers for Medicare and Medicaid Services (CMS) to assist in providing home and community-based services (HCBS) through the Autism, Brain Injury, Community Pathways, Community Supports, Family Supports, Home and Community-Based Options, Model, and Medical Day Services Waivers as well as three (3) State Plan programs and an 1115 demonstration waiver. In 2014, the federal government established new regulations that states must follow related to the settings in which HCBS are delivered. This plan provides information about the new regulations, Maryland's review of its HCBS programs and its plan to implement the new regulations, and input received from various stakeholders (e.g., participants, participants' family members, advocates) about Maryland's plan.

## **INTRODUCTION**

On March 17, 2014, the CMS issued regulations that define the settings in which states can pay for Medicaid HCBS, hereafter referred to as the Final Rule. The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated and that support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals who do not receive HCBS. These changes will maximize the opportunities for participants in HCBS programs to have access to the benefits of community living and to receive services in the most integrated setting.

States must ensure all home and community-based (HCB) settings comply with the new requirements by completing an assessment of existing state regulations, policies, licensing and other provider requirements to ensure settings comply with the HCB settings requirements. States must be in full compliance with the federal requirements by the time frame approved in the Statewide Transition Plan (STP), but no later than March 17, 2023.

Prior to the Final Rule, setting requirements were based on location, geography, or physical characteristics. The requirements are now defined as more process and outcome-oriented, guided by the participants' person-centered service plan, and provide clarity on the settings in which HCBS cannot be provided. These settings include nursing facilities (NF), institutions for mental disease, intermediate care facilities for individuals with intellectual disabilities, and hospitals (ICF/IID).

### Overview of Setting Provision

HCB settings must meet certain criteria. These requirements include:

- The setting is integrated in and supports full access to the greater community;
- The setting is selected by the individual from among setting options;
- The individual's rights to privacy, dignity, respect, and freedom from coercion and restraint are upheld;
- The individual has independence in making life choices; and
- The individual has a choice regarding services and who provides them.

Provider-owned or controlled settings must meet the following additional requirements:

- The individual has a lease or other legally enforceable agreement providing similar protections;
- Individuals must have privacy in their living unit including lockable doors;
- Individuals sharing a living unit must have choice of roommates;
- Individuals must be allowed to furnish or decorate their own sleeping and living areas;
- The individual controls his/her own schedule, including having access to food at any time;
- The individual can have visitors at any time; and
- The setting is physically accessible.

Changes to the residential setting must be supported by a specific assessed need, which is detailed in the participant's person-centered service plan. More specifically, all of the following are required and must be documented:

- Identification of a specific and individualized assessed need;
- The positive interventions and supports used prior to any modification(s) to the person-centered plan;
- Less intrusive methods of meeting the need that have been tried, but did not work;
- A clear description of the condition(s) that is/are directly proportionate to the specific assessed need;
- Review of data to measure the ongoing effectiveness of the modification(s);
- Established time frames for periodic reviews to determine if the modification(s) is/are still necessary or can be terminated;
- Informed consent of the individual; and
- An assurance that interventions and supports will cause no harm to the individual.

#### Heightened Scrutiny Settings

As outlined by the CMS, heightened scrutiny reviews are applicable to residential or non-residential settings presumed to have qualities of an institution, settings located on the grounds of, or immediately adjacent to, a public or private institution that provides inpatient treatment, or settings that have the characteristics of isolating individuals receiving Medicaid HCBS from the broader community.

In accordance with CMS' guidance, the Maryland Department of Health (MDH) requires heightened scrutiny for the following settings:

- Sheltered workshops
- Farmsteads
- Licensed residential sites in close proximity to each other (e.g., two residential sites next to one another or multiple homes on a cul-de-sac)

The MDH identified settings that appear to have institutional qualities or appear to be isolating individuals from the community, but have been determined by the MDH to meet the HCB settings requirements. The MDH's heightened scrutiny reviews consist of:

- A review of person-centered service plans and community setting questionnaires 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 practices;
- A review of policies and other applicable service-related documents;
- A review of the provider’s proposed transition plan, including how each of the above is expected to be impacted as the plan is implemented;
- A determination regarding 1) whether the setting is in fact “presumed to have the qualities of an institution” as defined in the Final Rule, and 2) whether the presumption is overcome based on evidence; and
- A collection of evidence to submit to the CMS to demonstrate compliance.

As part of the STP, Maryland has proposed changes to Code of Maryland Regulations (COMAR) 10.09.36, which describe the requirements for provider participation in the Medicaid program. When promulgated, all enrolled Medicaid providers of HCBS will be obligated to follow the HCB settings requirements set forth under COMAR 10.09.36. These regulations will ensure full and ongoing compliance for all applicable providers and help to realize the intent of the transition, which is to ensure that individuals receive Medicaid HCBS in settings that are integrated in, and support full access to, the greater community.

The STP covers three (3) major areas: assessment, proposed remediation strategies, and public input. It identifies the framework and strategy for achieving and maintaining compliance with the federal requirements for HCB settings in Maryland.

## **MARYLAND’S HOME AND COMMUNITY-BASED SERVICES**

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.

Maryland’s home and community-based 1915(c) Waiver, 1915(i), 1915(k), and 1915(j) State Plan programs, and its 1115 demonstration waiver differ significantly with respect to the populations supported, their size and complexities, and the statutory and regulatory structures undergirding the programs. Each program supports individuals to receive services in the community with the same degree of access as individuals who are not receiving Medicaid HCBS. Each HCBS program includes the following goals:

- Services must optimize individual initiative, autonomy, and independence in making life choices;
- Services must support opportunities for individuals to seek employment and work in competitive integrated settings, engage in community life, and control personal resources; and
- Services must ensure individuals’ rights’ of privacy, dignity, respect, and freedom from coercion and restraint.

Individuals in each 1915(c) Waiver, State Plan, or demonstration waiver program must have a person-centered service plan that is based on the individual’s needs and preferences, choice regarding the type and provider of services, and residential settings. Information regarding the types of services and setting options, including non-disability specific settings and an option for a private unit in a residential setting, must also be documented in the plan. Maryland maintains a comprehensive quality plan for each 1915(c) Waiver to monitor service delivery and ensure continuous compliance with HCB settings criteria. These plans include performance measures established to evaluate compliance with the various assurances and sub-assurances associated with a 1915(c) Waiver program, including ensuring the quality of person-centered service plans and assuring participants’ health and welfare in the community.

The following programs are included in the STP:

Federal Reference	Program	Administering Agency	Number of Participants	Medicaid Providers
MD.0339	Autism Waiver	MSDE	1,266	68
	Community First Choice	OLTSS	9,935	975
MD.0023	Community Pathways Waiver	DDA	15,339	232
	Community Personal Assistance Services	OLTSS	509	975
MD.1506	Community Supports Waiver	OLTSS	1,057	203
MD.1466	Family Supports Waiver	OLTSS	320	58
MD.0265	Home and Community-Based Options Waiver	OLTSS	4,270	1,302
	Increased Community Services	OLTSS	23	840
MD.0645	Medical Day Care Services Waiver	OLTSS	3,650	109
MD.40118	Model Waiver	OLTSS	211	53
MD.40198	Brain Injury Waiver	BHA	110	5
	1915(i) State Plan Home and Community-Based Services (Intensive Behavioral Health Services for Children, Youth, and Families)	OLTSS & BHA	43	16

**Note:** The above are based on data from FY2021.

Maryland’s STP identifies, at a high level, the commitments and requirements that each of the eight (8) HCBS 1915(c) Waivers, three (3) State Plan programs, and the 1115 demonstration waiver will meet. The specific approach and details surrounding each program is reflective of the input and guidance of the particular program’s stakeholders, and the unique structure and organization of the program itself. Similarly, the complexity of each task within the STP varies significantly across programs.

The following section includes summaries of the initial findings for each program based on: an assessment of each program’s provider data and a review of each program’s relevant service definitions, policies and procedures within its waiver application and state regulations. The program summaries and initial findings were used to identify areas of concern, which are reflected in Maryland’s proposed remediation strategies and include quality assurance processes to ensure ongoing

compliance. Maryland is committed to engaging with stakeholders and has sought public input from various sources including participants, participants' family members, and advocates throughout the development of the STP.

*Individuals who are enrolled in and receiving services from one of Maryland's HCBS programs may also be referred to, in this STP, as participants, children, or individuals. Similarly, person-centered service plans may also be referred to, in this STP, as individual plans, plans of care, plans of service (POS), person-centered plans of service, individualized treatment plans and individualized education plans (IEP). Finally, case managers may also be referred to, in this STP, as Supports Planners, Service Coordinators, and Coordinators of Community Services.*

## ASSESSMENT OF STATE REGULATIONS

COMAR	Title	Preliminary Findings	Reference
10.07.14	Assisted Living Programs	Missing criteria dictated by the Final Rule and there are some areas in which the regulations conflict with requirements of the Final Rule	<a href="#">Appendix B</a>
10.09.07	Medical Day Care Services	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#">Appendix C</a>
10.09.61	Medical Day Care Services Waiver	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	
10.09.26	Community Based Services for Developmentally Disabled Individuals Pursuant to a 1915(c) Waiver	Missing criteria dictated by the Final Rule and there are some areas in which the regulations conflict with requirements of the Final Rule	<a href="#">Appendix D</a>
10.09.27	Home Care for Disabled Children Under a Model Waiver	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#">Appendix E</a>

10.09.46	Home and Community-Based Services Waiver for Individuals with Brain Injury	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#"><u>Appendix F</u></a>
10.09.54	Home and Community-Based Options Waiver	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#"><u>Appendix G</u></a>
32.03.01	Senior Citizen Activities Centers Capital Improvement Grants	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#"><u>Appendix G</u></a>
10.09.56	Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#"><u>Appendix H</u></a>
10.09.89	1915(i) Intensive Behavioral Health Services for Children, Youth, and Families	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#"><u>Appendix I</u></a>
10.12.04	Day Care for the Elderly and Adults with a Medical Disability	Missing criteria dictated by the Final Rule, but there are no areas in which the regulations conflict with the Final Rule	<a href="#"><u>Appendix J</u></a>
10.22.01 -10.22.12 and 10.22.14 -10.22.20	Developmental Disabilities – Various Titles	Missing criteria dictated by the Final Rule and there are some areas in which the regulations conflict with requirements of the Final Rule	<a href="#"><u>Appendix K</u></a>



## SECTION 1: ASSESSMENT OF MARYLAND'S HCBS PROGRAMS

### WAIVER FOR CHILDREN WITH AUTISM SPECTRUM DISORDER

#### BACKGROUND

The Autism Waiver is a collaborative effort between the MSDE (Operating State Agency) and the MDH (State Medicaid Agency), 24 local school systems, and private sector partners within Maryland with a goal to enable children with Autism Spectrum Disorder (ASD) to remain in their homes and communities. Through the waiver, Maryland children and their families receive services such as respite, therapeutic integration, and intensive individual support services provided by highly qualified professionals and trained direct care workers. The MDH provides a registry as part of an ongoing effort to address federal requirements for “state wideness” in the management and provision of the Autism Waiver and its services. Children are invited to apply for the Autism Waiver from the registry in chronological order according to the date the child was placed on the registry. Applicants are considered for the Autism Waiver by the local school systems in accordance with the waiver’s medical and technical eligibility requirements. To be eligible for the Autism Waiver, a child must have an ASD diagnosis, be between the ages of one (1) and 21 (as measured by the school year in which he/she turns 21) and meet the level of care required to qualify for services in an ICF/IID. Additionally, children in the Autism Waiver must have an Individualized Education Program (IEP) and must receive at least 15 hours of special education services per week. Financial eligibility for the waiver is determined by the MDH, Eligibility Determination Division (EDD). The local school systems provide service coordination for waiver applicants and participants.

The Autism Waiver offers the following services:

1. Adult life planning (ALP)
2. Environmental accessibility adaptations
3. Family consultation
4. Intensive individual support services (IISS)
5. Respite care
6. Residential habilitation - regular and intensive levels
7. Therapeutic integration services/Intensive therapeutic integration services

The MDH renewed the Autism Waiver for a period of five years on July 1, 2019.

## **ASSESSMENT OF SERVICE DELIVERY SYSTEM SETTINGS**

From July through October 2014, the OLTSS (which was previously referred to as the Office of Health Services) and the MSDE completed a review of provider data, provider self-assessments, the 1915(c) Autism Waiver application, and applicable state regulations, the results of which are described further below.

The OLTSS and the MSDE have developed a Quality Management Strategy to review operations on an on-going basis to allow discovery of issues, remediation of those issues, and the development and implementation of quality improvement initiatives to prevent repeat operational problems. Regular reporting and communication among the OLTSS, the MSDE, providers, and other stakeholders, including the Waiver Advisory Council, facilitates ongoing discovery and remediation. The OLTSS is the lead entity responsible for trending data and developing and implementing system improvements based on those data. In response to the discovery of significant problem areas, the OLTSS and the MSDE may establish a specific task group or groups, which may include stakeholders such as participants, participants' families, or advocates.

The OLTSS and the MSDE monitor providers and service delivery through a variety of activities, including reviews of provider records, participant satisfaction surveys, performance measures associated with the 1915(c) Waiver, reviews of participants' plans of service, and reportable events noting alleged or actual adverse incidents that occurred with participants. These efforts will continue throughout the transition process and will be updated to include the new federal requirements for HCB settings and strategies for achieving compliance as recommended by stakeholders. The Office of Health Care Quality (OHCQ) and the DDA within the MDH license residential providers for the Autism Waiver. The MSDE reviews participants' treatment plans annually to ensure the providers' ongoing compliance with licensing requirements. Parents of waiver participants and where possible, the participants themselves, meet face-to-face with their service coordinators annually. The service coordinator also engages with the participant and his/her family monthly in order to monitor service delivery, including progress on goals, determine whether services are being delivered as per the plan, and assess the participant's health status, continued eligibility, and the occurrence of any adverse incidents. As part of the MDH's transition process for HCB settings, these reviews by the service coordinators have been expanded to include assessing the new setting standards associated with the Final Rule.

In accordance with the MDH's Reportable Events Policy, all entities associated with the waiver are required to report alleged or actual adverse incidents that occurred with participants. All reportable events are analyzed by the MDH and MSDE to identify trends related to areas in need of improvement. Any person who believes that a waiver participant has experienced abuse, neglect, or exploitation is required to immediately report the alleged abuse, neglect, or exploitation to law enforcement and Adult or Child Protective Services as appropriate. The event report must be submitted within one (1) business day of knowledge or discovery to the MDH and the MSDE.

## **INITIAL ASSESSMENT STRATEGIES AND FINDINGS**

### Provider Data

As of November 2014, eight (8) Autism Waiver services were provided by 58 community-based providers to children enrolled in the Autism Waiver. The MDH's determination regarding all service types and their degree of compliance with the Final Rule is described further in the *Preliminary Findings on Service Delivery*

section below, but in short, the MDH determined that there were two (2) service types that needed to be more closely monitored to ascertain compliance with the Final Rule: intensive residential habilitation, intensive therapeutic integration, and therapeutic integration services.

Based on data from FY2016, there were five (5) providers of intensive residential habilitation and 36 participants receiving the service and 23 providers of therapeutic integration services or intensive therapeutic integration services and 476 participants receiving the service.

Reference: [Appendix 1](#)

### Self-Assessment Surveys for Residential Services

From July through October of 2014, the MDH worked with The Hilltop Institute, a non-partisan health research organization with an expertise in Medicaid, to develop and deliver preliminary self-assessment surveys to participants and their representatives, providers, and case managers. The MDH used this strategy as an initial analysis across three (3) waiver populations: the Autism Waiver, Community Pathways Waiver, and the Home and Community-Based Options Waiver (HCBOW). To support participation in the survey, participant identifying information was not collected. These surveys did not suggest that any specific program, provider, or location was non-compliant solely by classification, but rather that compliance would be determined through further analysis that might include additional self-assessments by providers and participants, on-site reviews, stakeholder input, and further analysis of programmatic data. Below is a brief summary of the analysis of the three (3) types of self-assessments, which is inclusive of all three (3) waivers and not specific to Autism Waiver providers and participants. The Hilltop Institute completed a full analysis and made recommendations to the MDH, which can be found in [Appendix 10](#).

#### Provider Self-Assessment:

- 141 providers completed the survey
- Of these, 65 were assisted living providers and 71 were residential habilitation providers
- Five (5) providers failed to complete the survey
- The survey included several questions about the physical location of their setting, as well as the type of individuals served at the setting

#### Participant Self-Assessment:

- 646 participants completed the survey
- Of these, 71 indicated they lived in an assisted living unit, 186 indicated they lived in a group home/alternative living unit, 205 indicated they lived in neither an assisted living unit or a group home/alternative living unit, six (6) indicated they did not know how the setting should be categorized, and 178 did not answer the question

#### Case Manager Self-Assessment:

- 187 case managers completed the survey

Based on the information gathered from the preliminary surveys, several areas were identified for further review, including those settings that may be institutional in nature, settings that may be isolating to participants (e.g., multiple provider settings close to each other and settings that serve only those with disabilities), and settings with criteria that had lower affirmative response rates based on survey data (e.g., access to food, locking the front door, and leases/residential agreements).

The survey results also indicated that the MDH should further assess an individual's control over his/her personal resources, community access and involvement, an individual's ability to file complaints, and an individual's choice of a private room or roommate.

### Waiver Application and Regulations Assessments

In 2014, the MDH, along with the MSDE, completed a review of state regulations, including the Autism Waiver program regulations (COMAR 10.09.56), provider licensing requirements, waiver applications, and the State Plan to determine the level of compliance with the new federal requirements. In order to crosswalk all the authorities, Maryland utilized the "HCBS Worksheet for Assessing Services and Settings" developed by the Association of University Centers on Disabilities (AUCD), National Association of Councils on Developmental Disabilities (NACDD), and the National Disability Rights Network. This allowed for consistency across programs and authorities.

The preliminary review resulted in the identification of missing criteria dictated by the Final Rule, but no areas of the regulations that conflict with the Final Rule that required remediation. See [Appendix H](#) for specific details.

## **PRELIMINARY FINDINGS ON SERVICE DELIVERY**

Through the process described above, the MDH determined that the following waiver services comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community:

1. ALP
2. Environmental accessibility adaptations
3. Family consultation
4. IISS
5. Therapeutic integration services/Intensive therapeutic integration services

Respite care is defined as offering appropriate care and supervision to protect children's safety in the absence of family members and includes assistance with activities of daily living. Respite care can be provided in a child's place of residence, a community setting, a Youth Camp certified by the MDH, or a site licensed by the DDA to accommodate individuals for respite care. Based on guidance received from the CMS, the MDH believes that because respite services are also allowable in facilities that do not meet the HCB settings criteria this service does not need further review.

Therapeutic integration is available as a structured program of therapeutic activities based on a child's individualized treatment plan and focuses heavily on expressive therapies and therapeutic recreational activities as well as the development of a child's communication and social skills, enhancement of self-esteem, improved peer interaction, and behavior management. Daily sessions are a minimum of 30 minutes and a maximum of four (4) hours and services are provided at a location outside of a child's home. Intensive therapeutic integration services are provided to children whose needs require one-to-one support to allow participation in community settings with their peers. This service is for participants who are unable to participate in a regular therapeutic integration setting and require a staffing ratio of 1-1 or 2-1.

There are no licensed facilities for therapeutic integration or intensive therapeutic integration and these services are provided at a "non-residential setting separate from the home or facility where the participant lives (COMAR 10.09.56.14)." Approved therapeutic integration sites may be found in locations such as churches, schools, or separate recreation centers run specifically by the provider for the purpose of therapeutic integration and participants are integrated with other children without disabilities. As participants in the Autism Waiver are minors, these service sites are essentially after school programs for two (2) to four (4) hours. Furthermore, current program regulations (COMAR 10.09.56.06-1) require that a provider: 1) provide documented evidence of services in the least restrictive environment in the community that is appropriate to a participant's needs; and 2) provide documented evidence of integration of the covered services with other community-based services received by participants.

By contrast, the MDH determined that the following waiver services need further review and remediation to fully comply with the regulatory requirements of the Final Rule. The MDH will work with providers of these services to develop remediation strategies and timelines to implement the changes needed to achieve full compliance.

#### 1. Residential habilitation

Residential habilitation services are community-based residential placements for children who cannot live in their homes because they require highly supervised and supportive environments. Residential habilitation provides a therapeutic living program of treatment, intervention, training, supportive care, and oversight in which services are designed to assist children in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings. These services are offered at a regular or intensive level and reimbursed at one of two rates. The intensive level of services involves awake overnight and one-on-one staffing.

## **ASSESSMENT STRATEGIES AND FINDINGS**

Maryland is committed to coming into full compliance with the Final Rule in advance of the deadline and the following strategies will be utilized to ensure full and ongoing compliance:

- In 2015, the MDH created Transition Advisory Teams, which met regularly until early 2017.
- The MDH reviewed Maryland law and all regulations related to the Autism Waiver program and determined that nothing conflicted with the Final Rule; however, some areas of the Final Rule are not addressed by the regulations.

### Additional Provider Self-Assessment Surveys

Based on the results of the initial self-assessment survey in 2014, the MDH developed and implemented a new self-assessment survey, which they piloted with providers in Fall 2015, and then administered with providers in January 2016. To ensure full response, the MDH suspended non-responsive providers until they completed the self-assessment. The MDH and The Hilltop Institute analyzed the data from the provider survey to determine the degree of compliance with all components of the Final Rule.

### Corrective Action Plans

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. The CAP was prepopulated with concerns for specific sites based on the provider's responses to the survey questions and the MDH's compliance coding schema. Any provider who felt that they misunderstood the survey question(s) or that the MDH misunderstood their response(s) had the opportunity to submit a request for reconsideration. Providers had up to 30 calendar days to submit their CAP to the MDH for review.

### Site Visits

As part of the MDH's revalidation process for all Medicaid providers, the MDH conducts site visits to ensure compliance with the standards of the Affordable Care Act (ACA). In addition to these visits, the MDH conducted an on-site visit to all Autism Waiver providers to validate the results of the provider self-assessment survey and determine compliance with the Final Rule.

In FY2019, the MDH visited 22 residential habilitation providers for the Autism Waiver. These visits were conducted to ensure existing providers' compliance with the Final Rule. Based on the provider's responses to the site visit questions, a transition plan was issued with specific concerns related to non-compliance and information on how to become compliant to the Final Rule. Providers had up to 30 calendar days to submit their transition plan to the MDH for review. Providers of all (22) sites submitted transition plans regarding how they were working toward Final Rule compliance.

# COMMUNITY PATHWAYS, COMMUNITY SUPPORTS AND FAMILY SUPPORTS WAIVERS

## BACKGROUND

The Community Pathways, Community Supports and Family Supports 1915(c) Waivers are operated by the DDA, with oversight by the OLTSS, and provide services and supports to individuals with developmental disabilities, living in the community through licensed provider agencies or self-directed services. Upon submission of Maryland's initial STP in 2017, the DDA only operated one 1915(c) Waiver (Community Pathways), but in 2018, Maryland implemented two (2) additional 1915(c) Waivers, Community Supports and Family Supports, to allow a larger population of individuals with developmental disabilities to access targeted services and supports. The Community Pathways Waiver provides 29 different types of services delivered by licensed service providers and independent providers throughout the state and includes the option of self-direction. Under self-direction, individuals are required to obtain the services of a Support Broker and Fiscal Management Services (FMS) provider, who assists in the planning, budgeting, management, and payment of the individual's services and supports. The Community Supports Waiver provides the same services and supports as the Community Pathways Waiver with the exception of residential services, while the Family Supports Waiver does not provide residential or day program services. To participate in any of the 1915(c) Waivers operated by the DDA, an individual must need the level of care required to qualify for services in an ICF/IID.

The DDA's vision is for individuals to have full lives in the community of their choice where they are included and participate as active citizens. This includes the option to choose a HCB setting that meets the Final Rule. In line with the DDA's vision for inclusive community living, the DDA is committed to enhancing community employment options for individuals with developmental disabilities. Employment First is a concept to facilitate the full inclusion of individuals with the most significant disabilities in the workplace and broader community. Under the Employment First approach, community-based, integrated employment is the first option for employment services for youth and adults with significant disabilities. The guiding principle of Employment First is that all individuals who want to work can work and contribute to their community when given opportunity, training, and supports that build upon their unique talents, skills and abilities. As fully participating members of their community, individuals with developmental disabilities should be afforded the opportunity to earn a living wage and engage in work that makes sense to them. The DDA will support career exploration and planning when assisting individuals in making informed choices with respect to designing their unique pathway to increased independence, integration, inclusion, productivity, and self-determination.

The DDA is also committed to supporting the families of individuals with developmental disabilities. In 2016, Maryland joined the National Community of Practice (CoP) to build its capacity to support families caring for family members with intellectual and developmental disabilities across the lifespan. Using the LifeCourse Framework, Maryland CoP partners are working to create programs, policies, and practices to enhance the lives of Maryland families. The goal of the Maryland CoP is to support families so they can best support, nurture, love and facilitate opportunities for their family members' achievement of self-determination, interdependence, productivity, integration, and inclusion in all facets of community life.

The Community Pathways Waiver offers the following services:

1. Assistive technology services
2. Behavioral support services
3. Career exploration
4. Community development services
5. Community living-group home
6. Community living-enhanced supports
7. Day habilitation
8. Employment discovery and customization (*ending June 30, 2022*)
9. Employment services
10. Environmental assessment
11. Environmental modifications
12. Family and peer mentoring supports
13. Family caregiver training and empowerment services
14. Housing support services
15. Individual and family directed goods and services
16. Live-in caregiver supports
17. Medical day care
18. Nursing support services
19. Participant education, training and advocacy Supports
20. Personal supports
21. Respite care services
22. Remote support services
23. Shared living
24. Support broker services
25. Supported employment (*ending June 30, 2022*)
26. Supported living
27. Transition services
28. Transportation
29. Vehicle modifications

The MDH renewed the Community Pathways Waiver for a period of five years on July 1, 2018.

The Community Supports Waiver offers the following services:

1. Assistive technology services



2. Behavioral support services
3. Career exploration
4. Community development services
5. Day habilitation
6. Employment discovery and customization (*ending June 30, 2022*)
7. Employment services
8. Environmental assessment
9. Environmental modifications
10. Family and peer mentoring supports
11. Family caregiver training and empowerment services
12. Housing support services
13. Individual and family directed goods and services
14. Medical day care
15. Nursing support services
16. Participant education, training and advocacy supports
17. Personal supports
18. Respite care services
19. Support broker services
20. Supported employment (*ending June 30, 2022*)
21. Transportation
22. Vehicle modifications

The MDH received approval for the Community Supports Waiver for a period of five years on July 1, 2019.

The Family Supports Waiver offers the following services:

1. Assistive technology services
2. Behavioral support services
3. Environmental assessment
4. Environmental modifications
5. Family and peer mentoring supports
6. Family caregiver training and empowerment services
7. Housing support services
8. Individual and family directed goods and services
9. Nursing support services
10. Participant education, training and advocacy supports
11. Personal support services

12. Respite care services
13. Support broker services
14. Transportation
15. Vehicle modifications

The MDH received approval for the Family Supports Waiver for a period of five years on July 1, 2019.

## **ASSESSMENT OF SERVICE DELIVERY SYSTEM SETTINGS**

From July through October 2014, the OLTSS and the DDA completed a review of Maryland's National Core Indicator (NCI) surveys, licensed providers' data, self-assessment surveys, the DDA Statute, the 1915(c) Community Pathways Waiver application, and applicable state regulations, the results of which are described further below.

The OLTSS and the DDA have developed a Quality Management Strategy to review operations of the three 1915(c) Waivers on an on-going basis to allow discovery of issues, remediation of those issues, and the development and implementation of quality improvement initiatives to prevent repeat operational problems. The OLTSS and the DDA, or their designated agents, monitor providers and service delivery through a variety of activities, including reviews of licensure surveys, person-centered plans, reportable events noting alleged or actual adverse incidents that occurred with participants, NCI surveys, and conducting on-site visits to providers. These efforts will continue throughout the transition process and have been updated to include the new federal requirements for HCB settings and strategies for achieving compliance as recommended by stakeholders.

The Office of Health Care Quality (OHCQ) within the MDH is the designated licensing agent for the DDA providers. The OHCQ is authorized to issue new licenses and renew licenses for existing licensed providers and may conduct inspections as part of its routine surveys or a specific investigation. The OHCQ can cite providers for non-compliance with state regulations, including Title 10, Subtitle 22, which is related to licensure and quality of care standards for the DDA providers. Based on the severity of the finding, the OHCQ may require a plan of corrections from the provider, issue sanctions, or pursue disciplinary action including license suspension or revocation.

The Coordinators of Community Services (CCS), which serve as case managers for the three 1915(c) Waivers operated by the DDA, as well as the DDA regional office staff and the OHCQ review participants' person-centered plans to ensure they comply with programmatic regulations. The CCS also conducts a quarterly face-to-face visit with the participant and his/her family to monitor service delivery including progress on goals, determine whether services are being delivered as per the plan, and assess the participant's health status, continued eligibility, and the occurrence of any adverse incidents

In accordance with the MDH's Policy on Reportable Incidents and Investigations (PORII), all entities associated with the Community Pathways Waiver are required to report alleged or actual adverse incidents that occurred with participants, including unauthorized restraints, in the DDA incident module. All reportable events are analyzed by the MDH to identify trends related to areas in need of improvement. Any person who believes that a waiver participant has experienced abuse, neglect, or exploitation is required to immediately report the alleged abuse, neglect, or exploitation to law enforcement, Adult or Child Protective Services as appropriate, and the applicable DDA regional office. The event report must be submitted within one (1) business day of knowledge or discovery to the DDA.

The DDA also utilizes the NCI surveys to evaluate performance related to core indicators. Core indicators are standardized measures used across states to assess the outcomes of services provided to individuals and families and include key areas such as employment, participants' rights, service planning, community inclusion, participant choice, and participant health and well-being.

## **INITIAL ASSESSMENT STRATEGIES AND FINDINGS**

Below are brief summaries of each activity in which the OLTSS and the DDA engaged as part of the initial assessment of the DDA service delivery system to determine compliance with the Final Rule. The initial assessment was general in nature and did not imply that any specific provider or location was non-compliant solely as a result of classification or service type.

### NCI Surveys

The DDA conducted the NCI Adult Consumer Survey, Family Survey, and Guardian Survey for three (3) years prior to 2017. The NCI Adult Consumer Survey consists of an interview with a sample of individuals who are receiving services from the DDA and gathers data on approximately 60 participant-specific outcomes. Interviewers meet with individuals and ask questions about where they live and work, the kinds of choices they make, the activities in which they participate in their communities, their relationships with friends and family, and their health and well-being. The core indicators which are directly linked to the Final Rule are reflected in [Appendix 14](#).

In some areas, Maryland scored above the national average and in other areas below. Based on the results from the 2013-2014 surveys:

- 74% of respondents from Maryland and 82% across NCI states reported that they decide or have input in choosing their daily schedule
- 85% of respondents from Maryland and 87% across NCI states reported that they choose or have input in choosing how to spend their money
- 82% of respondents from Maryland and 91% across NCI states reported that they decide or have input in choosing how to spend free time
- 75% of respondents from Maryland and 71% across NCI states reported that they went out for entertainment in the past month
- 49% of respondents from Maryland and 48% across NCI states reported that they went out to a religious service or engaged in a spiritual practice in the past month
- 64% of respondents from Maryland and 46% across NCI states reported that they went on vacation in the past year
- 72% of respondents from Maryland and 76% across NCI states reported that they have friends other than family or paid staff
- 26% of respondents from Maryland and 26% across NCI states reported that they want to live somewhere else
- 43% of respondents from Maryland and 34% across NCI states in a day program or who engage in a regular activity reported that they want to go somewhere else or do something else during the day

## Licensed Provider Data

The DDA providers may specialize in providing services to a particular group, such as individuals with a high degree of medical complexity, individuals with behavioral challenges, or individuals who are forensically involved. A DDA provider may also be licensed to provide more than one waiver service. The data below provides an overview of the number of licensed providers, the number of individuals receiving the service, the number of sites per service type, and the number of individuals supported per site as of November 2014. While the DDA providers of services are the same across the three 1915(c) Waivers, because the Community Pathways Waiver was the only waiver operated by the DDA at the time of the initial STP, the data below excludes Community Supports and Family Supports participants. These data were used to target providers and sites for further review.

Personal supports:

- 112 licensed providers

Residential habilitation – Alternative living unit (ALU):

- 118 licensed providers, 1,330 sites

Residential habilitation – Group home (GH):

- 87 licensed providers, 779 sites

Reference: [Appendix 8](#)

Day habilitation:

- 209 sites
- The number of participants per site ranges from one (1) to 537

Supported employment:

- 187 sites
- The number of participants per site ranges from one (1) to 535

Reference: [Appendix 9](#)

Based on these service types, the MDH needed to engage in a further review to assess whether any HCB settings may have institutional qualities or be isolating individuals from the broader community due to the structure of the setting, the proximity of one setting to another, or the provision of services only to individuals with disabilities with no or limited community interactions. In addition, the DDA providers shared concerns regarding community inclusion in rural areas due to inadequate transportation and limited businesses and community resources (e.g., libraries, malls, restaurants), which can hinder opportunities for individuals with developmental disabilities to seek employment and work in competitive and integrated settings, actively engage in community life, and receive services in the community to the same degree as individuals who do not receive HCBS.

### Self-Assessment Surveys for Residential Services

From July through October of 2014, the MDH worked with The Hilltop Institute, a non-partisan health research organization with an expertise in Medicaid, to develop and deliver preliminary self-assessment surveys to participants and their representatives, providers, and case managers. The MDH used this strategy as an initial analysis across three (3) waiver populations: the Autism Waiver, Community Pathways Waiver, and the HCBOW. To support participation in the survey, participant identifying information was not collected. These surveys did not suggest that any specific program, provider, or location was non-compliant solely by classification, but rather that compliance would be determined through further analysis that might include additional self-assessments by providers and participants, on-site reviews, stakeholder input, and further analysis of programmatic data. The Hilltop Institute completed a full analysis and made recommendations to the MDH, which can be found in [Appendix 10](#).

Based on the information gathered from the preliminary surveys, several areas were identified for further review, including those settings that may be institutional in nature, settings that may be isolating to participants (e.g., multiple provider settings close to each other and settings that serve only those with disabilities), and settings with criteria that had lower affirmative response rates based on survey data (e.g., access to food, locking the front door, and leases/residential agreements). Because residential providers have various sites that are established to meet the individual needs of participants, providers shared a concern that the initial self-assessment survey, which was based on a single site or facility, was not an accurate reflection as their answers may vary depending on the site for which they were responding. The survey results also indicated that the MDH should further assess an individual's control over his/her personal resources, community access and involvement, an individual's ability to file complaints, and an individual's choice of a private room or roommate.

### DDA Statute, Waiver Application, and Regulations Assessments

In 2014, the OLTSS and the DDA completed a review of state regulations, including the Community Pathways Waiver program regulations (COMAR 10.09.26), targeted case management (TCM) regulations (COMAR 10.09.48), and general developmental disabilities services regulations (COMAR 10.22) to determine the level of compliance with the new federal requirements. Regulations and statutes pertaining to institutional settings only were not included in the review as they are not considered community settings, thus outside the scope of the Final Rule. In order to crosswalk all the authorities, Maryland utilized the "HCBS Worksheet for Assessing Services and Settings" developed by the AUCD, NACDD, and the National Disability Rights Network. This allowed for consistency across programs and authorities. The DDA also procured consultants to review the Community Pathways Waiver application, including service definitions, performance measures and other quality enhancement strategies, self-direction policies, and TCM. These efforts included various opportunities for stakeholder input, including public listening sessions facilitated by the consultants. Detailed information regarding these efforts can be found [here](#).

The preliminary review resulted in the identification of missing criteria dictated by the Final Rule and areas that conflict with the Final Rule that required remediation. See [Appendix K](#) for specific details.

## PRELIMINARY FINDINGS ON SERVICE DELIVERY

Through the process described above, the MDH determined that the following waiver services comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community. While the service name and description may have changed slightly in 2014, MDH's initial analysis and the salient characteristics of the service remain unchanged. The services below are referred to by their current name and description:

1. Assistive technology services – Technology and equipment to help participants live more independently
2. Behavioral support services – Services that assist individuals who exhibit challenging behaviors in acquiring skills, gaining social acceptance, and becoming full participants in the community. These services are provided in residential habilitation sites, participant's homes, and other non-institutional settings to help increase a participant's independence. While current regulations (COMAR 10.22.10.08 and 10.22.10.09) permit physical restraint and use of mechanical restraints and supports when the individual's behavior presents a danger to self, serious bodily harm to others, or for medical reasons, the regulations also require a formal behavioral plan with informed consent from the individual or his/her guardian, as applicable, to authorize the use of restraints.
3. Employment discovery and customization – Community-based services provided for up to six (6) months that are designed to provide discovery, customization, and training activities to assist an individual in gaining competitive employment at an integrated job site where the individual is receiving comparable wages
4. Environmental modifications – Adaptations to make an individual's environment more accessible
5. Environmental assessment – An assessment for the purpose of adaptations and modifications to an individual's environment to help him/her live more independently
6. Family and peer mentoring supports – Mentoring provided to participants and their family members by individuals with shared experiences
7. Live-in caregiver supports – Funds the additional cost of rent and food that can be reasonably attributed to an unrelated live-in caregiver who is residing in the same household with the individual he/she is supporting
8. Personal supports – Individualized drop-in supports intended to support an individual's independence in his/her own home and community with the goal of increased community integration and/or skill development or retention
9. Respite care services – This service is provided in an individual's home and/or a community setting to provide short-term relief when a regular caregiver is absent or needs a break
10. Support broker services – Assistance to a individual with self-directed services
11. Transition services – Funds intended to cover set-up expenses when an individual is moving from (1) an institutional setting to a group home or private residence in the community, for which the participant or their legal representative will be responsible; or (2) a community residential provider to a private residence in the community, for which the participant or their legal representative will be responsible
12. Transportation – Services designed specifically to improve an individual's ability to independently access community activities in his/her community in response to needs identified through the participant's person-centered plan
13. Vehicle modifications – Modifications to a vehicle to meet an individual's disability-related needs
14. Community development services - Assists an individual with development and maintenance of skills related to community membership through engagement in community-based activities with people without disabilities

Respite care, as defined above, is provided in an individual's home and/or a community setting. Based on guidance received from the CMS, the MDH believes that because respite services are also allowable in facilities that do not meet the HCB settings criteria this service does not need further review.

In addition to two (2) new 1915(c) Waivers, the DDA implemented new services in the Community Pathways Waiver since the initial STP: career exploration, employment services, family caregiver training and empowerment services, housing support services, individual and family directed goods and services, nursing support services, participant education, training and advocacy supports, remote support services, and supported employment. The MDH determined these new services to be compliant with the Final Rule given the nature of the service and its delivery in a home or community-based setting.

By contrast, the MDH determined that the following waiver services need further review and remediation to fully comply with the regulatory requirements of the Final Rule. The MDH will work with providers of these services to develop remediation strategies and timelines to implement the changes needed to achieve full compliance.

#### 1. Community living (group home and enhanced supports) and supported living

Services are provided in a residential setting and assist individuals with activities of daily living, instrumental activities of daily living, and learning the skills necessary to be as independent as possible with their own care and community living. The applicable DDA regional office must grant an exception for any individual living in a home with greater than four (4) individuals. In reviewing these exceptions requests, the DDA considers the following: 1) the wishes of the individuals living in or proposing to live in the home, 2) the interests of the individuals living in or proposing to live in the home, and 3) the health and well-being of individuals living in or proposing to live in the home.

Based on the MDH's review of provider data noted above, there were several residential sites with more than three (3) individuals, which will require further review to ensure compliance with the Final Rule. In addition, some residential providers have farmstead or disability-specific characteristics or have co-located sites, which will also require further review. The MDH also noted that residential providers used a variety of leases or residency agreements, which required further review to determine if the leases and residency agreements in use were indeed legally enforceable. In line with this concern, stakeholders suggested the adoption of a standardized lease or agreement.

#### 2. Day habilitation

These facility-based services are designed to provide vocational assessment and training, as well as training related to social and behavioral skills. More specifically, these services are intended to increase an individual's independence and assist the individual with developing and maintaining motor, communication, and personal care skills that are specific to his/her habilitation goals and will lead to opportunities for integrated employment.

Based on the MDH's review of provider data noted above, a few providers had transitioned their historic programs to focus on community-based activities and individualized integrated employment for the individuals they support. As such, the DDA will work with these agencies to obtain strategies, as well as understand the challenges and opportunities associated with the transition that can be shared with other providers to assist with achieving compliance with the Final Rule.

### 3. Medical day care

Medical day care consists of a program of medically supervised, health-related services provided in an ambulatory setting to medically disabled adults who need health maintenance and restorative services to support their continued living in the community. Medical day care providers are licensed by the OHCQ and monitored by the OLTSS as part of the Medical Day Care Services Waiver. As such, these services were reviewed for compliance with the Final Rule under the Medical Day Care Services Waiver.

### 4. Shared living

Shared living consists of an arrangement in which an individual, couple, or family in the community share(s) his/her/their home with a participant. The individual, couple, or family support(s) the participant in the same manner as he/she/they would a family member, including engaging in all aspects of community life. No more than three (3) participants requiring support may reside in an individual's, couple's, or family's home at one time. This service was included in the service types requiring further review to ensure compliance with the Final Rule as it is residential in nature.

### 5. Supported employment

These community-based services assist individuals with finding and maintaining employment or establishing their own business and include skills training, job development, and ongoing job coaching. Maryland is a member of the State Employment Leadership Network (SELN), which includes developmental disability agencies that provide guidance on communities of practice and policies around employment. This effort includes the collection and use of data to guide daily systems management. Maryland collects employment outcomes data, including setting type which consists of integrated jobs (e.g., individual competitive job, individual contracted job, group integrated job, self-employment), facility-based employment, or community-based non-work.

The data system is administered by the Institute of Community Inclusion (ICI) at the University of Massachusetts. Since 2013, these data are collected twice a year, in May and October, and cover a two-week period. Each provider is required to report each individual being supported in Day Habilitation, Employment Discovery and Customization, Supported Employment, and Community Development Services. The DDA have used the data to shape policy, build provider capacity, and create the infrastructure for training and additional provider support. The below outcomes data on setting types is from October 2016:

Employment Setting Types

	Individual Competitive Employment	Individual Contracted Work	Self-Employment	Group Integrated Job	Facility-Based Job
Number of Individuals	2,361	431	54	1,116	2,448



### Non-Work Setting Types

	Community-Based Non-Work	Facility-Based Non-Work
Number of Individuals	4,995	6,406

Supported employment was included in the service types requiring further review as providers of facility-based jobs and facility-based non-work activities will need further review.

## **ASSESSMENT STRATEGIES AND FINDINGS**

Maryland is committed to coming into full compliance with the Final Rule in advance of the deadline and the following strategies will be utilized to ensure full and ongoing compliance:

### Transition Advisory Teams

The MDH established a DDA-specific Transition Advisory Team to provide information and guidance related to the STP due to the unique needs of individuals with developmental disabilities and the DDA provider network. The group included program participants, participants' family members, advocates, and representatives from various stakeholder organizations such as People on the Go (self-advocacy organization), the Maryland Developmental Disabilities Council, the Maryland Center for Developmental Disabilities, the DDA Quality Advisory Council, Disability Rights Maryland (formerly the Maryland Disability Law Center), The Arc of Maryland, the Coordination of Community Services Coalition, and the Maryland Association of Community Services (MACS) (provider association).

### Tiered Standards

The DDA established a separate stakeholder group to assist with the development of tiered standards with the goal of developing best practices and innovative service delivery models. The group included four (4) subgroups related to Employment and Day Services, Residential Services, Training, and Finance. Once finalized, the standards were incorporated into the Community Pathways Waiver through an amendment. The requirements for HCB settings detailed in the Final Rule were incorporated into the development of tiered standards and the DDA will work with its providers to achieve and maintain full compliance.

### Additional Provider Self-Assessment Surveys

In partnership with the DDA Transition Advisory Team and with assistance from The Hilltop Institute, the MDH developed new provider-specific (i.e., Residential and Non-Residential) comprehensive self-assessment surveys tailored for the DDA service delivery system to provide additional data related to compliance with the Final Rule. As noted in The Hilltop Institute's analysis of the initial survey results, there were several limitations to the initial self-assessment surveys as they did not account for different waiver populations or service delivery systems. Prior to the implementation of the new provider self-assessment surveys, the MDH

piloted the surveys with a group of residential and non-residential provider volunteers to test the survey questions and results. The surveys were then revised based on recommendations from the DDA Transition Advisory Team and disseminated to the applicable provider groups.

### *Non-Residential Provider Self-Assessments*

The MDH emailed the DDA non-residential providers in April of 2016 to notify them of the need to complete the forthcoming provider self-assessment, provided the assessment instrument to preview, and shared information regarding webinars intended to assist them in completing the self-assessment. The MDH also sent providers a follow up, personalized email in advance of the webinars, which were held at the end of April 2016. During the webinars, the MDH instructed the providers to complete a self-assessment by mid-May 2016 for each service they provided and inclusive of each site they operated. While the MDH gave providers a May deadline, the survey remained open until July 2016.

One hundred seventeen (117) providers completed self-assessments, resulting in 377 completed assessments. Day habilitation providers accounted for 48 percent of the completed assessments. The Hilltop Institute released a report in September 2016 titled “HCBS Final Rule: DDA Non-Residential Provider Self-Assessment Summary.”

### *Residential Provider Self-Assessments*

The MDH emailed the DDA residential providers in June of 2016 to notify them of the need to complete the forthcoming provider self-assessment, provided the assessment instrument to preview, and shared information regarding webinars intended to assist them in completing the self-assessments. The MDH also sent providers a follow up, personalized email in advance of the webinars, which were held mid-June 2016. During the webinars, the MDH instructed providers with 40 or fewer sites to complete assessments for all of their sites by the end of July 2016 and providers with more than 40 sites were instructed to complete assessments for all of their sites by the end of August 2016. While the MDH gave providers the requisite deadlines, the survey remained open until November 2016.

One hundred thirty-four (134) providers completed self-assessments, resulting in 1,964 completed assessments. The maximum number of assessments completed by a provider was 75, while the minimum was one (1). The average number of assessments completed by a provider was 15. ALU providers accounted for 64 percent of the completed assessments. The Hilltop Institute released a report in November 2016 titled “HCBS Final Rule: DDA Residential Provider Self-Assessment Summary.”

### *Validation of Provider Self-Assessments*

The DDA requested that The Hilltop Institute explore multiple strategies to validate the results of the provider self-assessment surveys, including geomapping, Community Settings Questionnaires (CSQ), citation tags from the OHCQ, and employment data. When multiple validation strategies existed for a single question, the most appropriate one was chosen based on the data. In order to determine provider compliance, the MDH linked specific requirements of the Final Rule to particular questions in line with the compliance coding schema. Based on the coding schema, provider non-compliance on any one (1) indicator for a specific requirement was deemed non-compliance with the regulation. Additionally, the MDH designated key questions within the self-assessments as “red flag” questions.

### *Provider Transition Plans*

The MDH sought input from the DDA Transition Advisory Team on a standardized Provider Transition Plan template, guidance regarding completion of the transition plan, and development of a reconsideration request process. The Provider Transition Plan was prepopulated with concerns for specific sites based on the provider's responses to the survey questions and the MDH's compliance coding scheme. Any provider who felt that they misunderstood the question(s) or that the MDH misunderstood their response(s) had the opportunity to submit a request for reconsideration. Providers had up to 90 calendar days to submit their Provider Transition Plan to the MDH for review.

### Site Visits

As part of the MDH's revalidation process for all Medicaid providers, the MDH conducts site visits to ensure compliance with the standards of the ACA. During the site visit, the surveyor takes photos of the facility to document whether it is open and operational and scans for accessibility and settings criteria such as multiple sites in one location, farmsteads, and other potential isolating characteristics. The surveyor also notes any observed unsafe conditions and/or inappropriately locked (or unlocked) spaces. The surveyors then share this information with specific MDH programs for further assessment.

Based on the MDH's analyses, which includes the provider self-assessment surveys in 2016, the MDH identified specific sites that needed further review, including additional site-specific assessments and on-site visits. The DDA subsequently coordinated and completed site visits for 100 percent of non-residential providers between July and December of 2017.

### Participant Assessments

As part of the plan to achieve compliance with the Final Rule, the DDA began using the CSQ approved by the CMS in conjunction with the 1915(k) State Plan program, Community First Choice (CFC), for all waiver participants. The initial effort to collect data through the CSQ was completed in 2017; since then, the CSQ is administered by the CCS at least annually or with any change in service settings. Data from the CSQ was compared to the participant self-assessment surveys and the provider self-assessment surveys administered in 2014 and 2016 respectively to validate the results of those surveys.

# COMMUNITY PERSONAL ASSISTANCE SERVICES AND COMMUNITY FIRST CHOICE

## BACKGROUND

The MDH operated the Medical Assistance Personal Care (MAPC) program, which provided personal assistance services to older adults and individuals with physical disabilities, through the State Plan until 2013. In 2014, MAPC transitioned to the Community Personal Assistance Services (CPAS) program, which remained part of the State Plan under the 1915(j) authority. Individuals of any age are eligible to participate in the CPAS program, but they must meet the required level of care and qualify for Medicaid in the community.

The MDH also implemented the CFC program in 2014 as part of the State Plan under the 1915(k) authority. Individuals of any age are eligible to participate in the CFC program, but they must meet an institutional level of care and qualify for Medicaid in the community.

The CPAS program offers the following services:

1. Personal assistance services
2. Case management (referred to as supports planning)
3. Nurse monitoring

The CFC program offers the following services:

1. Personal assistance services
2. Case management (referred to as supports planning)
3. Nurse monitoring
4. Personal emergency response systems
5. Assistive technology
6. Environmental assessments
7. Environmental adaptations
8. Consumer training
9. Transition services
10. Home-delivered meals

## **PRELIMINARY FINDINGS ON SERVICE DELIVERY**

The MDH determined that all services and supports provided through the CPAS and CFC programs comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community. Additionally, the programs were in compliance with the Final Rule since their implementation in 2014 and compliance has been assessed continuously since that time through the administration of the CSQ, at least annually, with each participant.

# HOME AND COMMUNITY-BASED OPTIONS WAIVER

## BACKGROUND

The HCBOW is operated by the OLTSS and provides services and supports to older adults and individuals with physical disabilities, which allows them to reside in their homes and communities as an alternative to an institutional setting. Participants must be at least 18 years of age and meet the level of care required to qualify for NF services.

The HCBOW offers the following services:

1. Assisted living
2. Behavior consultation
3. Case management
4. Family training
5. Dietician and nutritionist services
6. Medical day care
7. Senior Center Plus
8. Respite care

The MDH is currently renewing the HCBOW for a period of five years.

## ASSESSMENT OF SERVICE DELIVERY SYSTEM SETTINGS

The OLTSS has developed a Quality Management Strategy to review operations of the HCBOW on an on-going basis to allow discovery of issues, remediation of those issues, and the development and implementation of quality improvement initiatives to prevent repeat operational problems. The OLTSS, or their designated agents, monitor providers and service delivery through a variety of activities, including reviews of provider data, plans of service, reportable events noting alleged or actual adverse incidents that occurred with participants, and conducting on-site visits to providers. These efforts will continue throughout the transition process and have been updated to include the new federal requirements for HCB settings and strategies for achieving compliance as recommended by stakeholders. More specifically, the OLTSS is engaged in the following activities to monitor providers and service delivery:

- The OLTSS engages a variety of stakeholders, including participants, participants' families, advocates, and providers through the Community Options Advisory Council, which meets every other month to provide a participatory venue for sharing program updates and eliciting feedback.
- The CSQ, which was implemented with the CFC program and has been compliant with the Final Rule from its inception in January 2014, is completed with all waiver participants. The CSQ was approved by the CMS for use as a participant survey.
- The case managers (hereafter referred to as supports planners) for HCBOW participants review plans of service at least quarterly to monitor service delivery, including progress on goals, determine whether services are being delivered as per the plan, and assess the participant's health status, continued eligibility, and the occurrence of any adverse incidents. A supports planner must submit the CSQ prior to submitting a participant's plan of service to the OLTSS for review.
- The OLTSS provides orientation for Medicaid provider applicants seeking to provide assisted living services under the HCBOW. All assisted living facilities (ALF) must attend an orientation session prior to being enrolled as an Medicaid provider. This process is in addition to the 80-hour course that ALF managers must take before the facility will be considered for licensure. ALF providers receive information about the Final Rule and the CSQ during orientation.

In accordance with the MDH's Reportable Events Policy, all entities associated with the waiver are required to report alleged or actual adverse incidents that occurred with participants. All reportable events are analyzed by the OLTSS to identify trends related to areas in need of improvement. Any person who believes that a waiver participant has experienced abuse, neglect, or exploitation is required to immediately report the alleged abuse, neglect, or exploitation to law enforcement and Adult or Child Protective Services as appropriate. The event report must be submitted within one (1) business day of knowledge or discovery to the OLTSS.

## **INITIAL ASSESSMENT STRATEGIES AND FINDINGS**

### Provider Data

The MDH's determination regarding all service types and their degree of compliance with the Final Rule is described further in the *Preliminary Findings on Service Delivery* section below, but in short, the MDH determined that there were three (3) service types that needed to be more closely monitored to ascertain compliance with the Final Rule: medical day care, Senior Center Plus, and assisted living.

Based on claims data from FY2014, there were 117 medical day care providers and 4,781 HCBOW participants receiving this service under the HCBOW, seven (7) Senior Center Plus providers and 30 HCBOW participants receiving this service, and 452 ALF providers and 1,509 HCBOW participants receiving this service.

### Self-Assessment Surveys for Residential Services

From July through October of 2014, the MDH worked with The Hilltop Institute, a non-partisan health research organization with an expertise in Medicaid, to develop and deliver preliminary self-assessment surveys to participants and their representatives, providers, and case managers. The MDH used this strategy as an initial analysis across three (3) waiver populations: the Autism Waiver, Community Pathways Waiver, and the HCBOW. To support participation in the survey, participant identifying information was not collected. These surveys did not suggest that any specific program, provider, or location was non-compliant solely by

classification, but rather that compliance would be determined through further analysis that might include additional self-assessments by providers and participants, on-site reviews, stakeholder input, and further analysis of programmatic data. Below is a brief summary of the analysis of the three (3) types of self-assessments, which is inclusive of all three (3) waivers and not specific to HCBOW providers and participants. The Hilltop Institute completed a full analysis and made recommendations to the MDH, which can be found in [Appendix 10](#).

Provider Self-Assessment:

- 141 providers completed the survey
- Of these, 65 were assisted living providers and 71 were residential habilitation providers
- Five (5) providers failed to complete the survey
- The survey included several questions about the physical location of their setting, as well as the type of individuals served at the setting

Participant Self-Assessment:

- 646 participants completed the survey
- Of these, 71 indicated they lived in an assisted living unit, 186 indicated they lived in a group home/alternative living unit, 205 indicated they lived in neither an assisted living unit or a group home/alternative living unit, six (6) indicated they did not know how the setting should be categorized, and 178 did not answer the question

Case Manager Self-Assessment:

- 187 case managers completed the survey

Based on the information gathered from the preliminary surveys, several areas were identified for further review, including those settings that may be institutional in nature, settings that may be isolating to participants (e.g., multiple provider settings close to each other and settings that serve only those with disabilities), and settings with criteria that had lower affirmative response rates based on survey data (e.g., access to food, locking the front door, and leases/residential agreements). The survey results also indicated that the MDH should further assess an individual's control over his/her personal resources, community access and involvement, an individual's ability to file complaints, and an individual's choice of a private room or roommate.

Waiver Application and Regulations Assessments

In 2014, the MDH completed a review of state regulations, including the HCBOW program regulations (COMAR 10.09.54) and ALF regulations (COMAR 10.07.14), and the HCBOW application to determine the level of compliance with the new federal requirements. In order to crosswalk all the authorities, Maryland utilized the "HCBS Worksheet for Assessing Services and Settings" developed by the AUCD, NACDD, and the National Disability Rights Network. This allowed for consistency across programs and authorities.

The preliminary review resulted in the identification of missing criteria dictated by the Final Rule and, specific to COMAR 10.07.14, areas that were in conflict with the Final Rule that required remediation. See [Appendix B](#) and [Appendix G](#) for specific details.



## PRELIMINARY FINDINGS ON SERVICE DELIVERY

Through the process described above, the MDH determined that the following waiver services comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community:

1. Behavior consultation
2. Case management
3. Family training
4. Dietician and nutritionist services

Additionally, respite care under the HCBOW may be provided in an individual's home and/or a community setting, as well as in an ALF or NF. Based on guidance received from the CMS, the MDH believes that because respite services are also allowable in facilities that do not meet the HCB settings criteria this service does not need further review.

By contrast, the MDH determined that the following waiver services need further review and remediation to fully comply with the regulatory requirements of the Final Rule. The MDH will work with providers of these services to develop remediation strategies and timelines to implement the changes needed to achieve full compliance.

1. Medical day care

Medical day care consists of a program of medically supervised, health-related services provided in an ambulatory setting to medically disabled adults who need health maintenance and restorative services to support their continued living in the community. Medical day care providers are licensed by the OHCQ and monitored by the OLTSS as part of the Medical Day Care Services Waiver. As such, these services were reviewed for compliance with the Final Rule under the Medical Day Care Services Waiver.

2. Senior Center Plus

Senior Center Plus is a program of structured group activities and enhanced socialization provided for four (4) or more hours a day, which is designed to facilitate an individual's optimal functioning, orientation, and cognitive ability. Senior Center Plus is provided in an outpatient setting, most often within a senior center, and as the program does not include health-related services it is considered an intermediate option between senior centers and medical day care. The specific services available in a Senior Center Plus program include social and recreational activities designed for older adults and individuals with disabilities, assistance with activities of daily living and instrumental activities of daily living, and one (1) meal.

3. Assisted living

A licensed facility that provides housing and supportive services for individuals who need assistance in performing activities of daily living and instrumental activities of daily living. The MDH noted that ALF providers used a variety of leases or residency agreements, which required further review to determine if the leases and residency agreements in use were indeed legally enforceable.

## **ASSESSMENT STRATEGIES AND FINDINGS**

Maryland is committed to coming into full compliance with the Final Rule in advance of the deadline and the following strategies will be utilized to ensure full and ongoing compliance:

- In 2015, the MDH created Transition Advisory Teams, which met regularly through early 2017.
- The MDH reviewed Maryland law and all regulations related to the HCBOW and determined that with reference to COMAR 10.07.14, there were areas that conflicted with the Final Rule that required remediation.
- Through the person-centered planning process, the OLTSS ensures that participants are provided the opportunity to make an informed choice regarding their residence and are supported in relocating if desired or necessary. HCBOW participants are required to sign a Freedom of Choice (FOC) form prior to enrollment attesting to the choice of residence in the community (as opposed to an institution setting) and choice of providers from those who are available.

### Additional Provider Self-Assessment Surveys

Based on the results of the initial self-assessment survey in 2014, the MDH developed and implemented a new self-assessment survey, which they piloted with providers in Fall 2015, and then administered with providers in January 2016. To ensure full response, the MDH suspended non-responsive providers until they completed the self-assessment. The MDH and The Hilltop Institute analyzed the data from the provider survey to determine the degree of compliance with all components of the Final Rule. The following data are specific to ALF providers in the HCBOW:

- Twenty-nine (29) providers identified themselves as being located in a NF, institution for mental diseases (IMD), ICF/IID, or hospital. As such, these providers were likely subject to the MDH's heightened scrutiny review as part of the site visits discussed below unless the OLTSS determined the self-report was inaccurate.
- Thirty-nine (39) providers identified themselves as being located on the grounds of, or adjacent to, a facility that provides inpatient institutional treatment. The OLTSS posited that many of those 39 providers were duplicative of the aforementioned 29 providers who indicated they were located in a NF, IMD, ICF/IID, or hospital as the survey questions were similar.
- Twenty-one (21) providers reported complete compliance with all requirements of the Final Rule, meaning none of the content covered by the 75 questions on the survey were of concern.

The questions on the survey most frequently responding in a negative response were:

Survey Questions	Total Number of Negative Responses
Do participants have keys to their entrance door (i.e., the front door)?	381
Do participants control their own funds (i.e., participants have their own checking or savings account that they manage)?	368
Do participants have keys to their bedroom doors?	350

Corrective Action Plans

The MDH sought input from the Transition Advisory Teams on a standardized provider CAP template and development of a reconsideration request process. The CAP was prepopulated with concerns for specific sites based on the provider’s responses to the survey questions and the MDH’s compliance coding schema. Any provider who felt that they misunderstood the survey question(s) or that the MDH misunderstood their response(s) had the opportunity to submit a request for reconsideration. Providers had up to 30 calendar days to submit their CAP to the MDH for review.

Site Visits

As of April 2016, there were 668 ALF providing services to HCBOW participants. Beginning in May 2016, as part of the revalidation process for all Medicaid providers, the MDH began conducting site visits to all ALF providers to ensure compliance with standards of the ACA. During the site visits, the surveyors review information required under the ACA, including the three (3) questions below, which pertain to community settings:

- Is the site located in, adjacent to, or on the grounds of a NF, IMD, ICF/IID, or hospital?
- Is the site near other private residences or retail businesses and not physically isolated from the greater community (i.e., not a gated setting, secured community, farm community, or campus setting)?
- Is all personal information about participants kept in a secure and private location (e.g., in a locked file cabinet)?

The surveyors also note any observed unsafe conditions and/or inappropriately locked (or unlocked) spaces. The surveyors then share this information with specific MDH programs for further assessment.

In July 2017, the OLTSS began conducting additional site visits with residential service providers, which for the HCBOW consists solely of ALF, including those providers that had been determined to meet the criteria for heightened scrutiny. In FY2020, the first and second round of visits were successfully completed. Forty-five percent (45%) of active assisted living facilities were determined to be 100 percent compliant as of October 2, 2020. During FY2021, the OLTSS implemented virtual site visits for new and existing assisted living providers. In the spring of FY2021, the OLTSS began conducting a third round of site visits (virtual) for the 55 percent of providers that had not been determined to be compliant as a result of the first and second round of visits.

## Participant Assessments

As part of the plan to achieve compliance with the Final Rule, the OLTSS implemented the CSQ approved by the CMS in conjunction with the CFC program for the HCBOW and collected CSQ data for all participants by mid-May 2016. The CSQ is administered by the Supports Planner at least annually or with any change in service settings and all CSQ data for HCBOW participants is stored in the OLTSS' data management system. Data from the CSQ was compared to the participant self-assessment surveys and the provider self-assessment surveys administered in 2014 and 2016 respectively to validate the results of those surveys.

## INCREASED COMMUNITY SERVICES

### BACKGROUND

Maryland's Increased Community Services (ICS) program allows individuals who are overscale for income for the HCBOW to receive the services and supports offered through the HCBOW and contribute a monthly assessment fee towards the costs of services. The ICS program is supported by an 1115 demonstration waiver, administered directly by Maryland Medicaid.

The ICS program offers the following services, which align with those offered through the HCBOW:

1. Assisted living
2. Behavior consultation
3. Case management
4. Family training
5. Dietician and nutritionist services
6. Medical day care
7. Senior Center Plus
8. Respite care

As the ICS program offers the same services as the HCBOW, the MDH's determination can be found under *Preliminary Findings on Service Delivery* in the HCBOW analysis.

# MEDICAL DAY CARE SERVICES WAIVER

## BACKGROUND

The Medical Day Care Services Waiver is operated by the OLTSS and offers services to qualified participants in a community-based day care facility. Medical day care centers operate five (5) to seven (7) days a week and must provide a minimum of four (4) hours of services per day to participants. Participants must be at least 16 years of age and meet the level of care required to qualify for NF services.

Medical day care includes the following services:

1. Prevention, diagnosis, treatment, rehabilitation and continuity of care assessments
2. Skilled nursing and nursing assessments, including medication monitoring
3. Physical therapy
4. Occupational therapy
5. Personal care (i.e., assistance with activities of daily living and instrumental activities of daily living)
6. Nutrition services, including meals
7. Social work services, including daily living skills training and enhancement
8. Activity programs
9. Transportation (to and from the medical day care center)

The MDH is currently renewing the Medical Day Care Services Waiver for a period of five years.

## ASSESSMENT OF SERVICE DELIVERY SYSTEM SETTINGS

The OLTSS has developed a Quality Management Strategy to review operations of the Medical Day Care Services Waiver on an on-going basis to allow discovery of issues, remediation of those issues, and the development and implementation of quality improvement initiatives to prevent repeat operational problems. The OLTSS, or their designated agents, monitor providers and service delivery through a variety of activities, including reviews of provider data, care plans, reportable events noting alleged or actual adverse incidents that occurred with participants, and conducting on-site visits to providers. These efforts will continue throughout the transition process and have been updated to include the new federal requirements for HCB settings and strategies for achieving compliance as recommended by stakeholders. More specifically, the OLTSS is engaged in the following activities to monitor providers and service delivery:

- The OLTSS is engaged in frequent communication with the OHCQ, which licenses medical day care centers, including collaborating to remediate issues that are negatively impacting participant health and well-being
- The OLTSS engages medical day care providers through the Advisory Council to share program updates and elicit feedback
- The OLTSS reviews each participant’s care plan at least annually to determine whether services are being delivered as per the care plan and assess the participant’s health status, continued eligibility, and the occurrence of any adverse incidents.

In accordance with the MDH’s Reportable Events Policy, all entities associated with the waiver are required to report alleged or actual adverse incidents that occurred with participants. All reportable events are analyzed by the OLTSS to identify trends related to areas in need of improvement. Any person who believes that a waiver participant has experienced abuse, neglect, or exploitation is required to immediately report the alleged abuse, neglect, or exploitation to law enforcement and Adult or Child Protective Services as appropriate. The event report must be submitted within one (1) business day of knowledge or discovery to the OLTSS.

## **INITIAL ASSESSMENT STRATEGIES AND FINDINGS**

### Provider Data

Based on claims data from FY2016, there were 119 medical day care providers and 5,632 participants receiving the medical day care service, which is inclusive of those receiving the service through all 1915(c) Waivers.

Reference: [Appendix 4](#)

### Waiver Application and Regulations Assessments

In 2014, the MDH completed a review of state regulations, including the Medical Day Care Services Waiver program regulations (COMAR 10.09.61 and 10.09.07), the OHCQ’s regulations for medical day care centers (COMAR 10.12.04), and the Medical Day Care Services Waiver application to determine the level of compliance with the new federal requirements. In order to crosswalk all the authorities, Maryland utilized the “HCBS Worksheet for Assessing Services and Settings” developed by the AUCD, NACDD, and the National Disability Rights Network. This allowed for consistency across programs and authorities.

The preliminary review resulted in the identification of missing criteria dictated by the Final Rule, but no areas that conflict with the Final Rule that required remediation. See [Appendix C](#) and [Appendix J](#) for specific details.

## ASSESSMENT STRATEGIES AND FINDINGS

Maryland is committed to coming into full compliance with the Final Rule in advance of the deadline and the following strategies will be utilized to ensure full and ongoing compliance:

- In 2015, the MDH created Transition Advisory Teams, which met regularly through early 2017.
- The MDH reviewed Maryland law and all regulations related to the Medical Day Care Services Waiver and determined that nothing conflicted with the Final Rule; however, some areas of the Final Rule were not addressed by the regulations.
- Through the person-centered planning process, the OLTSS ensures that participants are provided the opportunity to make an informed choice regarding providers. Medical Day Care Services Waiver participants are required to sign an FOC form prior to enrollment attesting to the choice of residence in the community (as opposed to an institution setting) and choice of providers from those who are available.

### Provider Self-Assessment Surveys

The MDH piloted a self-assessment survey with providers in Fall 2015, and then administered the survey in January 2016. To ensure full response, the MDH suspended non-responsive providers until they completed the self-assessment. The MDH and The Hilltop Institute analyzed the data from the provider survey to determine the degree of compliance with all components of the Final Rule. The following data are specific to medical day care providers:

- Seven (7) providers identified as being located in a NF, IMD, ICF/IID, or hospital. As such, these providers were likely subject to the MDH's heightened scrutiny review as part of the site visits discussed below unless the OLTSS determined the self-report was inaccurate.
- Twelve (12) providers identified themselves as being located on the grounds of, or adjacent to, a facility that provides inpatient institutional treatment. The OLTSS posited that many of those 12 providers were duplicative of the aforementioned seven (7) providers who indicated they were located in a NF, IMD, ICF/IID, or hospital as the survey questions were similar.
- Eleven (11) providers reported complete compliance with all requirements of the Final Rule, meaning none of the content covered by the 75 questions on the survey were of concern.

### Corrective Action Plans

The MDH sought input from the Transition Advisory Teams on a standardized provider CAP template and development of a reconsideration request process. The CAP was prepopulated with concerns for specific sites based on the provider's responses to the survey questions and the MDH's compliance coding schema. Any provider who felt that they misunderstood the survey question(s) or that the MDH misunderstood their response(s) had the opportunity to submit a request for reconsideration. Providers had up to 30 calendar days to submit their CAP to the MDH for review.



### Conflict-Free Case Management

The Medical Day Care Services Waiver does not offer case management by an independent entity. Licensed registered nurses and licensed social workers, employed by medical day care providers, develop and implement participants' care plans, which are reviewed and approved by the OLTSS. These clinicians must comply with Maryland's Nurse and Social Work Practice Acts, which hold them accountable for individual judgments and actions and ensure clinicians act in the best interest of the participant.

### Site Visits

As part of the MDH's revalidation process for all Medicaid providers, the MDH conducts site visits to ensure compliance with the standards of the ACA. In addition to these visits, the OLTSS began conducting on-site visits to medical day care providers in July 2017 to validate the results of the provider self-assessment survey and determine compliance with the Final Rule.

As of September 2020, the MDH had conducted an on-site visit to all medical day care centers that were active at that time (109) to ensure compliance with the Final Rule. Based on the MDH's analyses of those 109 providers, 84 were compliant, 11 were issued a CAP for non-compliance, and 14 were considered a setting requiring a heightened scrutiny review.

# MODEL WAIVER FOR MEDICALLY FRAGILE CHILDREN

## BACKGROUND

The Model Waiver is operated by the OLTSS and provides services to children with complex medical needs to allow them to remain in their homes instead of receiving services in an institutional setting. Participants must be enrolled in the Model Waiver prior to age 22, but may remain in the waiver as long as they meet the eligibility requirements. To be medically eligible for the Model Waiver, a participant must have complex medical needs equivalent to the level of care required to qualify for NF or chronic hospital services and be at risk of long-term hospitalization.

The Model Waiver offers the following services:

1. Case management
2. Medical day care
3. Home health aide assistance
4. Physician participation in the plan of care development
5. Private duty nursing

The MDH renewed the Model Waiver for a period of five years on July 1, 2018.

## INITIAL ASSESSMENT STRATEGIES AND FINDINGS

### Waiver Application and Regulations Assessments

In 2014, the MDH completed a review of state regulations, including the Model Waiver program regulations (COMAR 10.09.27), and the Model Waiver application to determine the level of compliance with the new federal requirements. In order to crosswalk all the authorities, Maryland utilized the “HCBS Worksheet for Assessing Services and Settings” developed by the AUCD, NACDD, and the National Disability Rights Network. This allowed for consistency across programs and authorities.

The preliminary review resulted in the identification of missing criteria dictated by the Final Rule, but no areas that conflict with the Final Rule that required remediation. See [Appendix E](#) for specific details.

## **PRELIMINARY FINDINGS ON SERVICE DELIVERY**

Through the process described above, the MDH determined that the following waiver services comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community:

1. Case management
2. Home health aide assistance
3. Physician participation in the plan of care development
4. Private duty nursing

Although the MDH had determined that the service of medical day care needed further review and remediation to fully comply with the regulatory requirements of the Final Rule, there are no Model Waiver participants currently receiving these services. As such, the MDH determined that all services under the Model Waiver are currently compliant with the Final Rule and will review participant and service delivery data on a consistent basis to ensure continued compliance.

# WAIVER FOR INDIVIDUALS WITH BRAIN INJURY

## BACKGROUND

The Brain Injury Waiver is a collaborative effort between the Behavioral Health Administration (BHA), within the MDH, and the OLTSS and provides community-based services and supports to individuals who are referred from state-owned and operated facilities, including state psychiatric hospitals, and chronic hospitals that are accredited for brain injury rehabilitation. Participants must be between the ages of 22 and 64, be diagnosed with a traumatic brain injury (TBI) which occurred after the age of 17, and need the level of care required to qualify for NF or chronic hospital services.

The Brain Injury Waiver offers the following services:

1. Day habilitation
2. Individual support services
3. Residential habilitation
4. Supported employment
5. Medical day care

The MDH renewed the Brain Injury Waiver for a period of five years on July 1, 2021.

## ASSESSMENT OF SERVICE DELIVERY SYSTEM SETTINGS

The OLTSS and the BHA have developed a Quality Management Strategy to review operations of the Brain Injury Waiver on an on-going basis to allow discovery of issues, remediation of those issues, and the development and implementation of quality improvement initiatives to prevent repeat operational problems. The OLTSS, the BHA, or their designated agents, monitor providers and service delivery through a variety of activities, including reviews of provider data, plans of service, reportable events noting alleged or actual adverse incidents that occurred with participants, and conducting on-site visits to providers. With the exception of case management providers, all Brain Injury Waiver providers are licensed by the OHCQ and are also part of the DDA provider network. These efforts will continue throughout the transition process and have been updated to include the new federal requirements for HCB settings and strategies for achieving compliance as recommended by stakeholders.

In accordance with the MDH's Reportable Events Policy, all entities associated with the waiver are required to report alleged or actual adverse incidents that occurred with participants. All reportable events are analyzed by the OLTSS to identify trends related to areas in need of improvement. Any person who believes

that a waiver participant has experienced abuse, neglect, or exploitation is required to immediately report the alleged abuse, neglect, or exploitation to law enforcement and Adult or Child Protective Services as appropriate. The event report must be submitted within one (1) business day of knowledge or discovery to the MDH.

## **INITIAL ASSESSMENT STRATEGIES AND FINDINGS**

### Provider Data

The MDH's determination regarding all service types and their degree of compliance with the Final Rule is described further in the *Preliminary Findings on Service Delivery* section below, but in short, the MDH determined that there were four (4) service types that needed to be more closely monitored to ascertain compliance with the Final Rule: residential habilitation, day habilitation, supported employment, and medical day care. As of November 2014, 75 participants were receiving residential habilitation (58 - level 2; 17 - level 3), 62 participants were receiving day habilitation (1 - level 1; 55 - level 2; 6 - level 3), six (6) participants were receiving supported employment, and no participants were receiving medical day care services.

### Waiver Application and Regulations Assessments

In 2014, the MDH completed a review of state regulations, including the Brain Injury Waiver program regulations (COMAR 10.09.46), and the Brain Injury Waiver application to determine the level of compliance with the new federal requirements. In order to crosswalk all the authorities, Maryland utilized the "HCBS Worksheet for Assessing Services and Settings" developed by the AUCD, NACDD, and the National Disability Rights Network. This allowed for consistency across programs and authorities.

The preliminary review resulted in the identification of missing criteria dictated by the Final Rule, but no areas that conflict with the Final Rule that required remediation. See [Appendix F](#) for specific details.

## **PRELIMINARY FINDINGS ON SERVICE DELIVERY**

Through the process described above, the MDH determined that the following waiver services comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community:

1. Individual support services

By contrast, the MDH determined that the following waiver services need further review and remediation to fully comply with the regulatory requirements of the Final Rule. The MDH will work with providers of these services to develop remediation strategies and timelines to implement the changes needed to achieve full compliance.

## 2. Day habilitation

This service assists participants with acquisition, retention, or improvement of self-help, socialization, and/or adaptive skills, and takes place in a non-residential, facility-based setting, separate from the participant's residence. These services must be provided a minimum of four (4) hours per day.

## 3. Residential habilitation

This service is provided in a residential setting and assists participants with acquisition, retention, or improvement of skills related to activities of daily living and the social and adaptive skills necessary to enable the participant to live in a non-institutional setting. The MDH must grant an exception for any individual living in a home with greater than four (4) individuals. In reviewing these exceptions requests, the MDH considers the following: 1) the wishes of the individuals living in or proposing to live in the home, 2) the interests of the individuals living in or proposing to live in the home, and 3) the health and well-being of individuals living in or proposing to live in the home.

Based on the MDH's review of provider data noted above, there were several residential sites that will require further review to ensure compliance with the Final Rule. The MDH also noted that residential providers used a variety of leases or residency agreements, which required further review to determine if the leases and residency agreements in use were indeed legally enforceable. In line with this concern, stakeholders suggested the adoption of a standardized lease or agreement.

## 4. Supported employment

These community-based services assist participants with finding and maintaining employment or establishing their own business and include skills training, job development, and ongoing job coaching.

## 5. Medical day care

Medical day care consists of a program of medically supervised, health-related services provided in an ambulatory setting to medically disabled adults who need health maintenance and restorative services to support their continued living in the community. Currently, there are no Brain Injury Waiver participants receiving this service, but the MDH will review participant and service delivery data on a consistent basis to ensure continued compliance.

## **ASSESSMENT STRATEGIES AND FINDINGS**

Maryland is committed to coming into full compliance with the Final Rule in advance of the deadline and the following strategies will be utilized to ensure full and ongoing compliance:

- In 2015, the MDH created Transition Advisory Teams, which met regularly through 2017.
- The MDH reviewed Maryland law and all regulations related to the Brain Injury Waiver and determined that nothing conflicted with the Final Rule; however, some areas of the Final Rule were not addressed by the regulations.

### Provider Self-Assessment Surveys

The MDH utilized the non-residential and residential provider self-assessment surveys administered to the DDA providers for the Brain Injury Waiver providers. The non-residential provider self-assessment was administered in April of 2016 and the residential provider self-assessment was administered in June of that year. The MDH and The Hilltop Institute analyzed the data from the provider survey to determine the degree of compliance with all components of the Final Rule.

### Provider Transition Plans

As previously noted, with the exception of case management providers, all Brain Injury Waiver providers are also part of the DDA provider network. The MDH sought input from the DDA Transition Advisory Team on a standardized Provider Transition Plan template, guidance regarding completion of the transition plan, and development of a reconsideration request process. The Provider Transition Plan was prepopulated with concerns for specific sites based on the provider's responses to the survey questions and the MDH's compliance coding scheme. Any provider who felt that they misunderstood the question(s) or that the MDH misunderstood their response(s) had the opportunity to submit a request for reconsideration. Providers had up to 90 calendar days to submit their Provider Transition Plan to the MDH for review.

### Site Visits

As part of the MDH's revalidation process for all Medicaid providers, the MDH conducts site visits to ensure compliance with the standards of the ACA. During the site visit, the surveyor takes photos of the facility to document whether it is open and operational and scans for accessibility and settings criteria such as multiple sites in one location and other potential isolating characteristics. The surveyor also notes any observed unsafe conditions and/or inappropriately locked (or unlocked) spaces. The surveyors then share this information with specific MDH programs for further assessment.

Based on the MDH's analyses, which includes the provider self-assessment surveys in 2016, the MDH identified specific sites that needed further review, including additional site-specific assessments and on-site visits. The OLTSS will coordinate and conduct site visits to all Brain Injury Waiver providers in 2022.

# INTENSIVE BEHAVIORAL HEALTH SERVICES FOR CHILDREN, YOUTH AND FAMILIES

## BACKGROUND

The 1915(i) State Plan program is administered by the MDH and provides community-based treatment to children and youth with serious emotional disturbance (SED) and their families through a wraparound service delivery model. Each participant's child and family team develops an individualized plan of care, which is implemented in partnership with a Care Coordination Organization (CCO) through the TCM program. Participants must enroll before the age of 18 and may receive services through age 21.

Previously, Maryland operated a special demonstration project known as the Residential Treatment Center (RTC) Waiver. This time-limited demonstration project used a special authority granted by the CMS under Section 1915(c) of the Social Security Act to provide home and community-based services for children and youth with SED and their families. In order to sustain and refine the approach undertaken in the initial demonstration, the MDH created a 1915(i) State Plan Amendment (SPA) to serve a similar, but not identical, population of youth and families.

The State Plan program offers the following services:

1. Customized goods and services
2. Expressive and experiential therapy
3. Family peer support services
4. Mobile crisis response services
5. Intensive in-home services
6. Respite services

## PRELIMINARY FINDINGS ON SERVICE DELIVERY

The MDH determined that the following 1915(i) services comply with the regulatory requirements of the Final Rule because they are individualized services provided in a participant's private home or the community:

1. Customized goods and services - Participant-directed expenditures that support a participant's plan of care, selected in partnership with the CCO
2. Expressive and experiential therapy - Therapeutic modalities that include art, dance, music, equine, horticulture, or drama to accomplish individualized goals as part of the plan of care
3. Family peer support services - Assisting and empowering participants' families with respect to the participants' services



4. Mobile crisis response services - Short-term, individualized services that assist in de-escalating crises and stabilizing participants in their homes and community settings
5. Intensive in-home services - Strength-based interventions that include a series of components with participants and their families

Respite services may be provided in or outside of the participant's home or in another community setting. Based on guidance received from the CMS, the MDH believes that because respite services are also allowable in facilities that do not meet the HCB settings criteria this service does not need further review.

## SECTION 2: PROPOSED REMEDIATION STRATEGIES

As part of achieving compliance with Final Rule, Maryland must develop a plan to remediate, through various means, any areas of non-compliance with respect to HCB setting requirements. As the single state Medicaid agency, the MDH has developed the following remediation strategies, which include a description of the associated action(s), the timeline(s) in which those actions will be completed, the milestone to be achieved in association with those actions, and the group(s) responsible for the implementation and ongoing monitoring of the identified strategies. As noted in the table below, some strategies may require legislative changes, budgetary actions, and/or amendments to the federal authorities underpinning Maryland's Medicaid Waivers and State Plan programs.

The Maryland General Assembly meets annually from January through April and considers any legislative and budgetary actions at that time. Additional information about the Maryland General Assembly can be found [here](#).

### Bills

The State Constitution mandates that legislative bills be limited to one subject clearly described by the title of the bill and drafted in the style and form of the *Annotated Code* ([Const., Art. III, sec. 29](#)). The one-subject limitation and the title requirement are safeguards against fraudulent legislation and allow legislators and constituents to monitor a bill's progress more easily. Ideas for bills (proposed laws) come from many sources: constituents, the Governor, government agencies, legislative committees, study commissions, special interest groups, lobbyists, and professional associations; however, each bill must be sponsored by a legislator. At the request of legislators, bills are drafted to meet constitutional standards by the [Department of Legislative Services](#) until July (the MDH receives drafting requests beginning in mid-April, shortly after the legislative session ends). In the interim between sessions, legislators meet in committees, task forces, and other groups to study and formulate bill proposals.

### Budget Bill

In Maryland, the State Constitution provides for an annual budget bill. Each year, the Governor presents a bill to the General Assembly containing the budget for the state government for the next fiscal year. In Maryland, the fiscal year begins July 1st and ends June 30th. The General Assembly may reduce the Governor's budget proposals, but it may not increase them; however, whether the budget is supplemented or amended, it must be balanced; total estimated revenues must always be equal to or exceed total appropriations ([Const., Art. III, sec. 52 \(5a\)](#)). If the General Assembly has not acted upon the budget bill seven (7) days before the expiration of a regular legislative session, the Governor, by proclamation, may extend the session for action to be taken on the bill. After both houses pass the budget bill, it becomes law without further action ([Const., Art. III, sec. 52](#)). The Governor may not veto the budget bill.

### Maryland's Regulation Process

Maryland has specific requirements for the adoption of regulation, including utilizing an emergency or standard process. The length of time to complete these processes varies depending on the time for development and stakeholder input, submission date, and public comments. At a minimum, the process takes 94 days after initial developments and submission from the state agency. The full text of each proposed regulation must be published in the Maryland Register. The process

includes the following: Attorney General's Review, Administrative, Executive, and Legislative Review (AELR) Committee preliminary review, Maryland Register review and publication, 30-day review and comment period, and regulations promulgation.

Amendments to Federal Authorities and Regulation Changes

Amendments or changes to Medicaid Waivers or State Plan programs require stakeholder input and public notices prior to submission to the CMS. Once submitted, the CMS has up to 90 days to review the request and may request additional information or ask questions, which can affect the timeframe.

Since submission of Maryland’s initial STP, the MDH moved forward with the proposed revisions to COMAR 10.09.36.03-1 to remediate the areas of conflict with and address all required criteria associated with the Final Rule as described earlier in the STP. The revised regulations were promulgated in 2018 and all Medicaid providers of HCBS must achieve and maintain compliance with those regulations.

**MARYLAND’S REMEDIATION STRATEGIES**

Maryland’s intent with respect to the STP and remediation strategies is not to close or terminate providers, but instead to work with participants, providers, and other stakeholders to achieve full compliance with the Final Rule and its intention to ensure individuals receiving HCBS are fully integrated into the community, afforded choice, and that their health and well-being is assured. The table below outlines the strategies that Maryland has developed, as well as those that the MDH has already implemented, to further assess compliance and address non-compliance where present.

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Regulations	Ensure all applicable regulations meet the HCB settings requirements	<ol style="list-style-type: none"> <li>1. Complete crosswalk of program regulations</li> <li>2. Complete legal review of preliminary findings</li> <li>3. Develop revisions to comply and allow for enforcement of the Final Rule</li> <li>4. Engage stakeholders, including seeking public comments</li> <li>5. Promulgate revised regulations</li> </ol>	<ol style="list-style-type: none"> <li>1. 12/2014</li> <li>2. 06/2015</li> <li>3. 12/2016</li> <li>4. 08/2017</li> <li>5. 2018 (10.09.36); TBD (10.07.14); Fall 2022 (10.22); TBD (10.09.26)</li> </ol>	Revised Regulations	OLTSS (formerly OHS) and Transition Advisory Teams

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Transition Advisory Teams	Ensure ongoing stakeholder involvement as it relates to the STP and achieving compliance with the Final Rule	Establish at least two (2) teams - the DDA Transition Advisory Team (to include Community Pathways and Brain Injury Waivers) and the Medicaid Transition Advisory Team (to include HCBOW, Autism, Medical Day Care Services, and the Model Waivers) - which will meet monthly and include participants, their family members, and advocates	04/2015	Established Transition Advisory Teams	OLTSS and Transition Advisory Teams
Maryland's Community Supports Standards	Communicate to all stakeholders Maryland's vision, expectations, and the requirements to comply with the Final Rule	Issue a formal statement regarding Maryland's vision, expectations, and the requirements to comply with the Final Rule	04/2015	MDH Transmittal Group Home Moratorium	MDH and Transition Advisory Teams

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Lease or Other Legally Enforceable Agreement (Assisted Living, Residential Habilitation)	Assess compliance with the Final Rule for a representative sample of leases and residency agreements as service providers use a variety of versions which may not be legally enforceable	<ol style="list-style-type: none"> <li>1. Collect and assess leases and residency agreements to determine if they are legally enforceable and comply with Final Rule</li> <li>2. Explore standardized lease or agreement for specific service delivery systems</li> <li>3. Work with stakeholders, including legal advocates, to explore jurisdictional requirements and propose recommendations to be reviewed by the public and implemented across similar programs</li> <li>4. Revise applicable program regulations</li> <li>5. Communicate standards with participants and providers</li> <li>6. Require providers to be in compliance with lease/residential agreement requirements</li> <li>7. Assess ongoing compliance by reviewing all leases/residential agreements for new providers and providers undergoing revalidation. For providers who are not yet compliant, review a statistically significant sample of existing providers at least annually.</li> </ol>	<ol style="list-style-type: none"> <li>1. 05/2015</li> <li>2. 06/2015</li> <li>3. 06/2016</li> <li>4. Fall 2017</li> <li>5. 12/2017</li> <li>6. 12/2018</li> <li>7. Ongoing</li> </ol>	Use of Compliant Leases/ Residential Agreements	MDH, Transition Advisory Teams, and case management entities
Participant and Provider Self-Assessment Surveys	Collect program-specific data to assess compliance with the Final Rule as a continuation of preliminary work with participants and providers in 2014	Develop and pilot program-specific comprehensive surveys to assess compliance with the Final Rule based on preliminary work with participants and providers in 2014	2014-2015	Survey Report (2014); Subsequent Pilot Surveys	MDH, Quality Councils, and Transition Advisory Teams

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Provider Transition Symposium	Ensure continued engagement with stakeholders by sharing communities of practice and transition strategies from Maryland-based and national service providers	Provide technical assistance to providers related to transitioning the current service delivery system to achieve compliance with the Final Rule	05/2017	<a href="#">Provider Transition Symposium</a>	OLTSS, Transition Advisory Teams, DDA
Waiver Amendments	Ensure 1915(c) Waiver applications are compliant with the Final Rule	Submit waiver amendments to the CMS based on assessments, consultant review, and stakeholder feedback, to ensure compliance with the Final Rule	07/2016 (Community Pathways)  12/2020 (Brain Injury)	Approved Waiver Amendments	MDH and Transition Advisory Teams
Provider Enrollment and Training	Ensure program-specific provider enrollment and revalidation processes are compliant and provide training to new and existing providers to educate them on the HCB settings requirements, the STP, and sanctions associated with non-compliance	<ol style="list-style-type: none"> <li>1. Review and revise, as appropriate, program-specific provider enrollment and revalidation processes</li> <li>2. Provide training to new and existing providers to educate them on the HCB settings requirements, the STP, and sanctions associated with non-compliance</li> </ol>	Ongoing	Provider Enrollment and Training	MDH and Transition Advisory Teams

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Additional Provider Self-Assessment Surveys	Collect program-specific data from providers to assess compliance with the Final Rule based on piloted surveys in 2015	<ol style="list-style-type: none"> <li>1. Conduct program-specific comprehensive surveys with providers to assess compliance with the Final Rule based on validated results of previous surveys in 2015</li> <li>2. Temporarily suspend providers who fail to complete the survey after two (2) requests and inform providers of this strategy in an introduction letter and through subsequent provider transmittals</li> <li>3. The Hilltop Institute will analyze the data and provide a report on the survey results for each program, which will be shared with stakeholders throughout the service delivery system</li> </ol>	2016	<a href="#">Survey Results</a>	MDH and Transition Advisory Teams
Provider Transition Plans  Corrective Action Plans	Ensure providers who have been identified as being non-compliant with the Final Rule are supported through the transition and monitored to ensure implementation	<ol style="list-style-type: none"> <li>1. Provide training to providers on the plan requirements</li> <li>2. Require providers who have been identified as non-compliant with the Final Rule to submit a plan for review</li> <li>3. Review and approve or deny the plan and monitor the provider's implementation of the plan</li> </ol>	<ol style="list-style-type: none"> <li>1. 07/2017</li> <li>2. 12/2017</li> <li>3. 03/2018</li> </ol>	Implementation of Provider Transition/ Corrective Action Plans	MDH

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
DDA Rate Study	As per legislation (Chapter 648 of the Acts of 2014), the DDA will procure a contractor to conduct an independent cost-driven rate setting study, develop a strategy for assessing the needs of individuals receiving services, develop a sound fiscal billing and payment system, and obtain input from stakeholders, including individuals receiving services and providers. The analysis must adhere to all “relevant regulations regarding DDA rates,” comply with the Final Rule, and seek to maximize federal match post implementation.	<p>Conduct rate study of the DDA services and payment system to define the rates and provide a fiscal impact analysis</p> <p><i>Note: During the initial 18-month performance period, the contractor will define the rates and provide a fiscal impact analysis. There are two (2) one-year options if implementation support is required.</i></p>	12/2017	Rate Study Report	DDA
DDA Tiered Standards	Develop new models for services and standards that more fully meet existing HCBS standards and align with Maryland’s vision for HCB settings	<ol style="list-style-type: none"> <li>1. Create a workgroup that includes participants, their family members, providers, and advocates to discuss tiered standards</li> <li>2. Once finalized, incorporate the new standards into the Community Pathways Waiver through an amendment</li> </ol>	12/2016	Approved Waiver Amendment	DDA
Program Policies, Procedures, and Forms	Ensure applicable, policies, procedures, and forms, including the CSQ, comply with the Final Rule	Review and revise, as applicable, policies, procedures, and forms, including the CSQ, to ensure compliance with the Final Rule	01/2017	Updated Policies, Procedures, and Forms	MDH and Transition Advisory Teams



Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
On-Site Specific Assessments	Based on the results of the preliminary settings inventory, program-specific surveys, and stakeholder recommendations, identify specific providers that will need further review and conduct site visits	Conduct on-site visits to validate the results of previously collected data, including providers where there is a discrepancy between data collected on participants' CSQ and provider surveys	On-site visits began in 2016. All relevant sites for the following programs have had at least one (1) visit: Autism, Community Supports, Family Supports, HCBOW, ICS, and Medical Day Care. Site visits for the Brain Injury and Community Pathways Waivers will be completed in 2022.	Site Visits	MDH (BHA, DDA, OLTSS) and MSDE
Heightened Scrutiny	Identify settings that appear to have qualities of an institution, are on the grounds of, or adjacent to, an institution, or appear to be isolating individuals from the community	<ol style="list-style-type: none"> <li>1. Conduct interviews with participants</li> <li>2. Conduct on-site visits to assess the physical location and practices</li> <li>3. Determine whether the setting is compliant regardless of its initial characterization as requiring heightened scrutiny</li> <li>4. Collect evidence to submit to the CMS to demonstrate compliance</li> </ol>	<ol style="list-style-type: none"> <li>1.-3. 8/2017</li> <li>4. 10/2022</li> </ol>	CMS Approval Decision	OLTSS

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Updated Comprehensive Provider Evaluation	Evaluate provider-, site- and program-specific levels of compliance with the Final Rule	Compile data from all on-site visits and/or participants' CSQ to generate a comprehensive list of non-compliant providers and sites, where applicable, to guide possible provider sanctions	06/2022	Updated Comprehensive Evaluation	OLTSS
Provider Correspondence	Engage providers with respect to the MDH's determination of their compliance with the Final Rule, required remediation and timelines, and applicable sanctions for continued non-compliance	<ol style="list-style-type: none"> <li>1. Send a letter to each provider that has been determined to be non-compliant as of July 1, 2022. Detail the specific areas of non-compliance and the source of that determination. Indicate that the issues must be remediated no later than September 30, 2022 or the provider will be suspended</li> <li>2. If the provider remains non-compliant as of October 2022, a second communication will be sent that notes a possible disenrollment date of December 31, 2022 for continued non-compliance</li> </ol>	<ol style="list-style-type: none"> <li>1. 07/2022</li> <li>2. 10/2022</li> </ol>	Communication to Service Delivery System	OLTSS

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Participant Transitions to New Providers	Assist participants in transitioning to a new provider (for non-residential services) and/or relocating to a new residence if the participant's previous provider(s) is/are determined to be non-compliant and therefore suspended	<ol style="list-style-type: none"> <li>1. Leveraging the person-centered planning process, develop a workplan detailing how each program will support its participants in selecting and transitioning to new providers, including how and when participants and their case managers will receive notification from the MDH regarding the need to select and transition to new providers</li> <li>2. Send a letter to each participant and his/her case noting the need to select a new provider, submit a new plans, and if applicable, relocate to a new residence</li> <li>3. Follow up with each participant, his/her representative, if applicable, and case manager via phone</li> <li>4. Approve the new plan and ensure relocation is complete, if applicable</li> </ol>	<ol style="list-style-type: none"> <li>1. 07/2022</li> <li>2. 10/2022</li> <li>3. 11/2022</li> <li>4. 01/2023</li> </ol>	Participant Transitions to New Providers	MDH (BHA, DDA, OLTSS), MSDE, and case management entities

Topic	Description	Remediation Strategies	Timeline for Completion	Milestone	Monitoring
Ongoing Compliance Monitoring	Verification of ongoing provider compliance with the Final Rule	<ol style="list-style-type: none"> <li>1. Review quality indicators and evaluation tools used in each program, with the goal of standardizing performance measures to the degree possible across programs</li> <li>2. Assess providers' ongoing compliance with the Final Rule by 1) reviewing 100% of participant CSQ at least annually and completing an on-site visit for any location indicated as out of compliance based on data collected and 2) complete on-site visits for a statistically significant, random sample of providers within each program at least annually. If providers are determined to be out of compliance, provide technical assistance and take appropriate action to sanction, or if necessary, disenroll.</li> </ol>	<ol style="list-style-type: none"> <li>1. 12/2017-06/2018; Secondary review 2022-2023</li> <li>2. Ongoing</li> </ol>	Annual CSQ Reviews and Site Visits	MDH (BHA, DDA, OLTSS), MSDE

## SECTION 3: Public Input and Comment

Maryland is committed to sharing information and seeking public input into its assessment for compliance with the Final Rule and the development and implementation of the STP. In October 2014, [the OLTSS \(formerly the OHS\)](#) and [the DDA](#) established dedicated pages within the MDH’s website related to the Final Rule. Since much progress has been made since the initially posted content, the OLTSS and the DDA are in the process of reviewing their dedicated sites and updating content to demonstrate the MDH’s progress towards full implementation of the Final Rule.

During October 2014, Maryland conducted regional public information and education meetings and a webinar to share general information about the Final Rule and its assessment strategies. Approximately 400 individuals attended, including program participants, participants’ family members, case managers, service providers, and various advocacy organizations. The presentation was shared at both 3:00 p.m. and 7:00 p.m. to accommodate various schedules. Maryland conducted another set of regional public information meetings and a webinar in January 2015. The purpose of these meetings was to gain input from stakeholders regarding the draft STP and proposed remediation strategies. Approximately 400 individuals attended the second public meeting as well and the presentation times and formats were similar to the October 2014 meetings. The October 2014 and January 2015 presentations, public comments, and responses were posted on the OLTSS page linked above.

Maryland posted a draft of the STP transition plan to the MDH website on December 21, 2014, with a comment period lasting through February 15, 2015. Maryland received approximately 20 sets of comments and questions from stakeholders including participants, their family members, self-advocates, advocacy organizations, legal entities, and provider networks. A summary of all comments, with responses, can be viewed [here](#). The MDH gave careful attention to those comments that pertain specifically to the STP itself. The initial STP was submitted to the CMS in March 2015. In September 2016, Maryland posted the updated STP to the MDH’s website, with a comment period initially lasting through October 2016, but later extended through February 2017. Maryland received approximately 70 sets of comments and questions from stakeholders. A summary of all comments, with responses, can be viewed [here](#). As during the initial public comment period, the MDH gave careful attention to those comments that pertain specifically to the STP.

Maryland will post this updated draft of the STP for a third public comment period in March 2022 and carefully review any comments or questions received to determine whether additional changes should be made to the STP.

In addition to eliciting public feedback on the STP, the MDH conducted various program-specific stakeholder meetings between 2014 and 2017:

Date	Meeting
October 7, 2014	Balancing Incentive Plan/Money Follows the Person (BIP/MFP)
October 20, 2014	Autism Service Coordinators
October 21, 2014	Medical Day Care Waiver Advisory Council Meeting
October 23, 2014	Maryland Medicaid Advisory Committee (MMAC)
October 24, 2014	Local Health Departments Presentation
October 29, 2014	Autism Provider Focus Group

November 5, 2014	People on the Go (self-advocacy group)
November 10, 2014	The ARC of Howard County - People Power
December 6, 2014	People on the Go Statewide Meeting
February 4, 2015	Maryland Works
September 19, 2016	Medicaid HCBS Final Rule Stakeholder Meeting
January 26, 2017	DDA Transition Advisory Team Meeting: STP Public Input and Comment
February 28, 2017	St. Peter's Presentation: Community Settings Rule
April 7, 2017	Medicaid HCBS Final Rule Stakeholder Meeting: STP Public Comment
April 12, 2017	DDA Transition Advisory Team Meeting: Validation Strategies
May 3, 2017	Medicaid HCBS Stakeholder Meeting: Provider Education Manual
June 28, 2017	Medicaid HCBS Stakeholder Meeting: CMS Feedback

Additional outreach from the MDH included:

<b>Date</b>	<b>Meeting</b>
May 27, 2015	Transition Advisory Team Meeting
June 1, 2015	DDA Transition Advisory Team Meeting
June 23, 2015	DDA Transition Advisory Team Meeting
June 24, 2015	Transition Advisory Team Meeting
August 21, 2015	Transition Advisory Team Meeting: The Hilltop Institute
August 25, 2015	HCBS Stakeholder Meeting
September 14, 2015	DDA Transition Advisory Team Meeting
September 25, 2015	Transition Advisory Team Meeting
October 20, 2015	DDA Transition Advisory Team Meeting
December 17, 2015	DDA Transition Advisory Team Meeting
December 18, 2015	Transition Advisory Team Meeting
January 11, 2016	HCBS Transition Advisory Team Meeting
January 25, 2016	DDA Transition Advisory Team Meeting
February 3, 2016	Eastern Shore DDA Public Outreach Meeting
February 16, 2016	Central Region DDA Public Outreach Meeting
February 29, 2016	Western Maryland DDA Public Outreach Meeting

March 2, 2016	Southern Maryland DDA Public Outreach Meeting (Town Hall)
March 3, 2016	DDA Transition Advisory Team Meeting
March 4, 2016	HCBS Stakeholder Meeting
April 8, 2016	DDA Transition Advisory Team Meeting
April 12, 2016	HCBS Stakeholder Meeting
June 2, 2016	DDA Transition Advisory Team Meeting
June 9, 2016	HCBS Stakeholder Meeting
September 12, 2016	Southern Region DDA Public Outreach Meeting
September 12, 2016	DDA Statewide Discussion Session: Self-Direction, State Transition
September 19, 2016	Western Region DDA Public Outreach Meeting
September 19, 2016	DDA Statewide Discussion Session: Self-Direction, State Transition
September 26, 2016	Central Region DDA Public Outreach Meeting
September 26, 2016	DDA Statewide Discussion Session: Self-Direction, State Transition
September 27, 2016	DDA Stakeholder Meeting: HCBS Final Rule
October 3, 2016	Eastern Shore DDA Public Outreach Meeting
October 3, 2016	DDA Statewide Discussion Session: Self-Direction, State Transition
November 16, 2016	DDA Transition Advisory Team Meeting: Provider Transition Plan
February 13, 2017	DDA Transition Advisory Team Meeting
February 28, 2017	DDA Transition Advisory Team Meeting

Provider meetings included:

<b>Date</b>	<b>Meeting</b>
November 6, 2014	Maryland Association of Community Services (MACS) Workgroup
November 12, 2014	MACS Annual Conference Closing Plenary
June 21, 2016	Medical Day Care Provider Meeting
July 1, 2016	Medical Day Care Provider Meeting
August 2, 2016	Residential Habilitation and Therapeutic Integration Providers for Autism Waiver Meeting (Webinar and In-Person)
August 16, 2016	DDA "Tiered Standards" Meeting
September 20, 2016	Medical Day Care Waiver Advisory Council Meeting
December 21, 2016	MACS Presentation: Provider Transition Plan (PTP)

In closing, it is Maryland's intention to assist each participant with understanding the full benefit of the HCB settings requirements and to assist each provider in achieving and maintaining full compliance with 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, as necessary, to ensure all providers have the tools and support necessary to achieve full compliance by March 2023 and remain in compliance thereafter. As outlined in *Section 2: Proposed Remediation Strategies*, Maryland will continuously evaluate provider compliance with the Final Rule by collecting and analyzing CSQ data from participants and conducting on-site assessments for a statistically significant, random sample of providers across each applicable HCBS program.