

CMS feedback regarding steps to final approval (October 2017)

General

1. Please provide the updated site-specific setting assessment and validation results broken out by setting type by levels of compliance.
 - State Response: The updated site-specific setting assessments and validation results, broken out by setting type and levels of compliance, will be added to the plan upon completion. As outlined in the plan, the target date for completing this work statewide, and in both delivery systems, is 1/1/2018.
 - **October 2018 Update: The site-specific setting assessments and validation results, broken out by setting type and levels of compliance, are included in the plan.**

Public Engagement:

2. Ohio's milestones indicate that the state will incorporate the results of the settings assessment and validation process into the STP and release for public comment by 1/31/2018, followed by the submission of the final STP to CMS on 7/31/2018. Please confirm that this timeline is still accurate.
 - State Response: The submission of the final STP to CMS is 7/31/2018.
 - **October 2018 Update: The revised submission date of the final STP to CMS is 11/30/2018.**
3. On page 78, the state indicated it will incorporate additional public outreach information in subsequent submissions of the plan. Please incorporate these additional examples of the state's activities to engage the public on an ongoing basis in the implementation of the federal HCBS settings criteria.
 - State Response: The State will incorporate the examples of activities to engage the public on an ongoing basis in the final submission of the STP to CMS. Recent examples include: Posting the status of milestones on the ODM webpage, announcing opportunities for public comment at established stakeholder meetings, maintaining a dedicated webpage. At the February 2018 meeting of the Ohio Olmstead Task Force, the State will provide an update on the STP and the outcome of the site-specific assessments.
 - **October 2018 Update: The examples of activities to engage the public are included in the plan.**

Site-Specific Assessments

ICF-IID LOC Settings:

4. CMS asked the state to provide the state process for validating site-specific provider assessments. The state noted on page 80 that service and support administrators from county boards will evaluate non-responders to the provider survey through routine quarterly on-site visits. Please provide a timeline for when the routine quarterly on-site

visits will be made and completed for non-responders. Additionally, the state should update the site-specific assessment and validation results within the STP accordingly.

- State Response: As noted on page 80 of the STP, the frequency of on-site reviews is specified in each individual support plan, in accordance with Ohio Administrative Code 5123:2-1-11. There is no timeline specified by the state for when these reviews will be completed. Any concerns noted in residential and non-residential settings during routine monitoring visits are reported to DODD's Office of Provider Standards and Review (OPRS) for follow-up. OPSR may conduct a desk review or on-site review of these settings. See work flow for "state Process 1" (attached). The state will update the site-specific assessment and validation results within the STP.
 - **October 2018: The site-specific assessment and validation results are included in the plan.**
5. For residential settings under the ICF/IID waiver, it appears that on-site visits will be conducted only for settings that may be subjected to heightened scrutiny or do not comply with the federal regulation. Other settings will be monitored for compliance as part of the regular monitoring process. It is unclear if the state is validating the assessment results for 100% of settings during the transition period (pp. 8, 80). Please confirm all settings will be validated. Please resubmit the STP with an updated aggregation of findings once the validation strategies have been completed.
- State Response: Yes, the State is validating assessment results for 100% of settings during the transition period in accordance with the timeframes outlined in the STP. The State will re-submit the STP with an updated aggregation of findings once the validation strategies have been completed.
 - **October 2018 Update: The aggregation of findings is included in the plan.**
6. On page 81, the state responds to CMS' feedback on validating non-residential settings by stating, "DODD suggests that the non-residential provider survey responses are likely unrealistically positive." It is not clear what DODD will use to validate this survey, or if the system redesign for adult day and employment services will require a new method of evaluating setting compliance. However, then the state goes onto describe the use of a settings evaluation tool for non-residential settings that was informed by stakeholder input. Please clarify this in the STP.
- State Response: The settings evaluation tool, developed with stakeholder input, is the tool the State will use to evaluate compliance with non-residential settings. The State will clarify this in the STP.
 - **October 2018 Update: The tool used to complete the on-site evaluations has been reflected in the plan.**

NF-LOC Settings:

7. The state noted on p. 88 that for NF-LOC settings "by October 31, 2018, 100% of providers who required a remediation plan will have completed the necessary

remediation.” However, the end date for remediation noted in Appendix 4 is March 17, 2019 (pp. 147, 150). Please clarify which is the correct date. Recognizing the extension of the transition period to 2022, we note that both of these dates may change.

- State Response: The 10/31/2018 date is correct. This end date is specific to providers categorized as “may meet with modifications” and those who required a remediation plan.
- **October 2018: The State has confirmed settings categorized as “may meet with modifications” have completed the required remediation to demonstrate compliance.**

Ongoing Monitoring

8. The state implies that evaluating compliance with the setting criteria will be incorporated into many of the existing monitoring processes. However, it does not clearly indicate whether all of these activities will continue beyond the compliance deadline of March 2022. Please clarify that compliance with the settings requirements will continue to be monitored beyond the transition period and indicate the frequency with which the monitoring will occur.

- State Response: Residential and non-residential settings serving individuals in both delivery systems will continue to be monitored beyond the transition period through scheduled provider compliance reviews and ongoing reviews completed by service and support administrators and waiver case managers. Event-based reviews will continue to be conducted upon receipt of complaints from individuals/ guardians, community members, or others.
- **October 2018 Update: The State continues to use the established provider oversight functions in each delivery system to monitor compliance with the requirements.**

Communication with Beneficiaries of Options When a Provider Will Not Be Compliant

CMS requests that the state include additional information in the STP about the state’s strategies for ensuring that all individuals are able to receive services in a compliant setting of their choice.

9. Report the estimated number of beneficiaries that may need to be transitioned to a different setting and update the state’s beneficiary relocation plan and timeline accordingly.

- State Response: At this time, no beneficiaries in either delivery system have been identified as requiring relocation to another setting. For the settings presumed to be institutional, the number of individuals being served by the setting will be included in the heightened scrutiny packages submitted to CMS.
- **October 2018 Update: At this time, no beneficiaries in either delivery system have been identified as requiring relocation to another setting. For settings submitted for heightened scrutiny review, the number of individuals served in**

the setting has been included in the evidence package. Site-specific evidence packages are posted on the Ohio Department of Medicaid's webpage: <http://www.medicaid.ohio.gov/INITIATIVES/HCBS-Transition>. Non-electronic copies are available upon request.

10. The STP notes that the state will work with individuals who choose to transition to an approved HCBS setting of their choice. Please clarify that any individual living in a setting that is not compliant must move to a compliant setting if they wish to continue receiving Medicaid HCBS, and that this will be fully explained to affected beneficiaries and their families/caregivers.
 - State Response: In the event a setting is determined not to be compliant and relocation is required, the affected beneficiaries and their families/caregivers will be informed, and assistance will be provided to ensure a smooth transition to a compliant setting. Individuals who choose to reside in a setting that is not compliant will not continue receiving Medicaid HCBS services.
 - **October 2018 Update: No change.**

Heightened Scrutiny

The details around the State's heightened scrutiny process should include:

11. An estimate of each category of settings flagged for heightened scrutiny by each of the three prongs (i.e., settings located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment; settings located in a building on the grounds of, or immediately adjacent to, a public institution; and settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS).
 - State Response: Upon completion of the on-site assessments and validation of provider self-assessments, the number of settings by category will be added to the STP.
 - **October 2018 Update: The estimated number of settings by category are included in the plan. The final number of settings by category are included in the plan.**
12. A description clearly articulating how the final decision will be made as to whether to proceed with moving a setting to CMS for Heightened Scrutiny review by the state. In other words, what is the threshold and determining factors that bring the state to a yes or no for moving the evidence package forward for Heightened Scrutiny review?
 - State Response: Each delivery system has established a State-level review committee to determine if the evidence compiled can demonstrate the setting has overcome the institutional presumption. Acceptable evidence of compliance includes but is not limited to: photographs, summaries of interviews with individuals; summaries of interviews with staff, on-site observations of the setting assisting individuals in selecting and participating in community-based activities, complying with additional conditions requirements, and facilitating

interaction with individuals not receiving HCBS services; testimonials from members of the community, person-centered service plans, staff training curriculum, access to transportation, and a description of the administrative/financial structure of the setting. The threshold is met when the combined elements of the evidence package result in a comprehensive and cohesive description of how each HCBS characteristic is present in the setting.

- **October 2018 Update: The description of the decision-making process is included in the plan.**