

Florida's Statewide Transition Plan

Home and Community Based Settings Rule CMS
2249-F and CMS 2296-F



October 2022

Table of Contents

PURPOSE	1
OVERVIEW	1
COMPLIANCE ASSESSMENT	2
1. Overall Programmatic Assessment	2
2. Service Assessment	2
Regulatory Assessment	5
1. HCB Setting Assessments	6
Phase 1 – Preliminary Assessments	7
Phase 2 – On-site Assessments	8
Phase 3 – Virtual Assessments	9
Phase 4 – Validation	9
REMEDIATION	11
PRESUMPTIVELY INSTITUTIONAL SETTINGS AND HEIGHTENED SCRUTINY	12
TRANSITIONING HCBS RECIPIENTS	14
MONITORING FOR CONTINUED COMPLIANCE	14
PLANNED RESIDENTIAL COMMUNITIES	15
COMMUNICATION AND EDUCATION	16
1. Recipient Outreach:	17
2. Provider Outreach:	17
3. Stakeholder Outreach:	17
4. Education and Training	18
PUBLIC NOTICE PROCESS	18
ATTACHMENT 1: IMPLEMENTATION TIMELINE	21
ATTACHMENT 2: FLORIDA SYSTEMIC ASSESSMENT CROSSWALK	25
ATTACHMENT 3: LTC ASSESSMENT TOOL – RESIDENTIAL SETTINGS	86
ATTACHMENT 4: LTC ASSESSMENT TOOL – NON-RESIDENTIAL SETTINGS	108
ATTACHMENT 5: IBUDGET ASSESSMENT TOOL – RESIDENTIAL SETTINGS	122
ATTACHMENT 6: IBUDGET ASSESSMENT TOOL – NON-RESIDENTIAL SETTINGS	136
ATTACHMENT 7: RESIDENTIAL AND NON-RESIDENTIAL REMEDIATION TOOLS	141
ATTACHMENT 8: RESIDENTIAL CHARACTERISTICS AND TRENDS – SELF ASSESSMENT	147
ATTACHMENT 9: NON-RESIDENTIAL CHARACTERISTICS AND TRENDS – SELF ASSESSMENT	149
ATTACHMENT 10: HOME AND COMMUNITY-BASED SETTINGS ASSESSMENT VALIDATION	150
ATTACHMENT 11: PRESUMPTIVELY INSTITUTIONAL SETTINGS	151

PURPOSE

The Centers for Medicare and Medicaid Services (CMS) published rule (CMS 2249-F) in January 2014 requiring all home and community-based services (HCBS) waivers authorized under Section 1915(c) and programs authorized under 1915(i) of the Social Security Act to comply with home and community based (HCB) settings requirements specified in 42 CFR 441.301(c)4. The rule directed all states to evaluate their current HCB settings and develop a transition plan to demonstrate how the State plans to come into compliance with the requirements outlined in the rule. CMS also included in the rule a requirement for a public notice process for states in order to ensure transparency.

The purpose of this statewide transition plan (STP) plan is to ensure individuals receiving home and community-based services in all of Florida's HCB programs are integrated, and have access to supports, in the community including opportunities to seek employment, work in competitive integrated settings, engage in community life, and control personal resources. The transition plan describes how the State will assess, determine compliance, remediate, and monitor the operations of its HCBS waivers and State Plan programs to achieve and maintain compliance with the HCBS settings Rule requirements.

OVERVIEW

The Florida Agency for Health Care Administration (Agency) is responsible for administering Florida's HCB programs. The Agency for Persons with Disabilities (APD) is responsible for certain HCB waiver programs operational and monitoring requirements dependent on the program. Florida's HCB waiver programs are being assessed to ensure individuals receiving Medicaid funded HCB services have full access to a home-like environment and community inclusion to the same degree as individuals not receiving Medicaid funded HCB services. Florida will continually assess its waiver programs to ensure that all HCB settings are in compliance with the HCB settings Rule requirements specified in 42 CFR 441.301(c)4.

Table 1 provides a list of Florida's 1915(c) HCB services waiver programs and the respective operating agencies.

Table 1 - Florida 1915(c) HCBS Waiver Programs

Control Number	Program Name	Operating Agency
FL.0962	Long-term Care Managed Care Waiver	AHCA
FL.40205	Familial Dysautonomia Waiver	AHCA
FL.0867	Developmental Disabilities Individual Budgeting Waiver	APD
FL.40166	Model Waiver	AHCA

COMPLIANCE ASSESSMENT

1. Overall Programmatic Assessment

To assess the level of compliance with the HCB setting Rule requirements, Florida assessed the State's statutory and administrative requirements, managed care contract requirements, waiver and State Plan program monitoring processes, and remediation activities. The assessment was conducted to determine whether HCB settings are either:

- Fully compliant with the HCB settings Rule
- Non-compliant with the HCB settings Rule and will require a plan of remediation
- Presumptively Institutional

Based upon the analysis, the Agency determined the State does not have any significant impediments to Florida's HCB waiver programs coming into compliance with the HCB settings Rule requirements. The State developed a thorough assessment and monitoring process to ensure settings providing HCB services will be in compliance with the federal requirements by March 2023.

2. Service Assessment

The State assessed the services offered under its HCBS waiver programs. This assessment was completed by reviewing the waiver program service requirements and enrolled recipient case files. Many of Florida's HCBS waiver programs administer services in the recipient's home, or in the community at large. The State has determined the recipients in waiver programs listed in Table 2 provide services in the recipient's home and community-based service locations that are accessible to individuals receiving HCBS to the same degree as individuals not receiving HCBS and are therefore compliant with the HCB Settings Rule requirements. Recipients in waiver programs who live in private homes of their own or the home of their family member, are in compliance with the HCBS Final Rule. Per SMD 19-001, individual, privately-owned homes (privately owned or rented home and apartments in which the individual receiving Medicaid-funded HCBS lives independently or with family members, friends or roommates) are presumed to be in compliance with the regulatory criteria of the home and community-based setting.

The State or its designee monitors waiver program operations annually to ensure recipients continue to receive services in compliant settings. Each waiver recipient has a case manager to ensure services are being provided and recipients have access to the community at large.

Table 2 provides the enrollment capacity, number of services, and the settings under which waiver services are provided.

Table 2 - Services and Settings Crosswalk¹

Program Name	Enrollment Capacity	Number of Services	Settings
Familial Dysautonomia Waiver	15	7	Recipient private home or foster family or Community
Model Waiver	20	3	Recipient private home or Community

The Agency has determined services provided under the Long-term Care (LTC) Waiver and the Developmental Disabilities Individual Budgeting (iBudget) Waiver are delivered in settings that will require assessment by the State to determine compliance.

The State developed comprehensive assessment remediation, heightened scrutiny, and monitoring process to ensure impacted setting sites are in compliance with the HCB settings Rule.

Table 3 provides the enrollment capacity, number of services, and the settings under which waiver services are provided.

¹ Florida's authority to continue the State Plan Redirections program (SPA 13-013) ended July 1, 2015.

Table 3 - Services and Settings Crosswalk

Program Name	Enrollment Capacity	Number of Services	Services	Settings
LTC Waiver	98,327 ²	23	<ul style="list-style-type: none"> -Adult Day Health Care -Case Management -Homemaker -Respite -Attendant Care -Intermittent and Skilled Nursing -Medical Equipment and Supplies -Occupational Therapy -Personal Care -Physical Therapy -Respiratory Therapy -Speech Therapy -Transportation -Adult Companion -Assisted Living -Behavior Management -Caregiver Training -Home Accessibility Adaptations -Home Delivered Meals -Medication Administration -Medication Management -Nutritional Assessment and Risk Reduction -Personal Emergency Response System 	<ul style="list-style-type: none"> -Assisted Living Facilities -Adult Family Care Homes -Adult Day Care Centers -Recipient private home -Community
iBudget Waiver	40,742 ²	23	<ul style="list-style-type: none"> -Residential Habilitation -Respite -Support Coordination -Adult Dental Services -Occupational Therapy -Physical Therapy -Respiratory Therapy -Skilled Nursing -Specialized Medical Equipment and Supplies -Specialized Mental Health Counseling -Speech Therapy -Transportation -Behavior Analysis Services -Behavior Assistant Services -Dietitian Services -Environmental Accessibility Adaptations -Life Skills Development -Personal Emergency Response System -Personal Supports -Private Duty Nursing -Residential Nursing -Special Medical Home Care -Supported Living Coaching 	<ul style="list-style-type: none"> -Group homes/Foster care homes³ -Assisted living facilities -Residential habilitation centers⁴ -Adult day training centers -Recipient private home -Community -Planned Residential Communities

² This number represents the unduplicated count for waiver year five in the active waiver.

³ The State's foster care homes are licensed as a specific type of group home.

⁴ The State closed its sole residential habilitation center in October 2018.

Note: The State obtained authority from CMS to close the following HCBS waiver programs effective January 1, 2018:

- Adult with Cystic Fibrosis Waiver
- Project AIDS Care Waiver
- Traumatic Brain and Spinal Cord Injury Waiver

Regulatory Assessment

The State conducted an assessment of Florida’s laws, rules, regulations, standards, and policies to determine whether the State’s requirements are consistent with the HCB Settings Rule. The State selected 17 HCB settings Rule criteria to determine whether the statutes and regulations were in compliance detailed in Attachment 2. Table 4 provides a summary of the criteria and the compliance determination.

Table 4 - Brief Home and Community-Based Services Setting Standard Summary

Standards		Compliance Determination
1.	Integration in and supporting full access of the individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS	Compliant
2.	Opportunities to seek employment and work in competitive integrated settings.	Compliant
3.	Opportunities to engage in community life	Compliant
4.	Opportunities to control personal resources	Compliant
5.	The right to select from among various setting options, including non- disability specific settings	Compliant/Silent
6.	The individuals’ personal rights of privacy, dignity and respect and freedom from coercion and restraint	Compliant/Silent
7.	The optimization of autonomy and independence in making life choices, including daily activities, physical environment and with	Compliant
8.	Choice regarding services and supports and who provides them	Compliant
9.	A legally enforceable written agreement between the provider and the consumer that allows the consumer to own, rent or occupy the residence and provides protections that address eviction processes	Compliant/Silent
10.	Privacy in the sleeping or living units that includes the entrance having lockable doors	Compliant
11.	An option for a private unit and a choice of roommates in semi-private units	Compliant/Silent
12.	Freedom to furnish and decorate sleeping or living units	Compliant
13.	Freedom and support to control schedules and activities, including access to food at any time	Compliant/Silent
14.	Access to visitors at any time	Compliant
15.	A physically accessible setting	Compliant
16.	Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution.	Compliant
17.	Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.	Compliant

Many HCBS settings render services to non-Medicaid recipients. Therefore, it is not the intention of the State to change licensure requirements to become compliant with the HCB settings Rule. All settings receiving Florida Medicaid reimbursement for HCBS will be required to adhere to the requirements established in the State's HCB settings Rule, Rule 59G-13.075, Florida Administrative Code (F.A.C.) in order to continue to receive reimbursement for HCBS provided after March 17, 2023. The rule became effective on December 25, 2018. The State's HCBS rule is available at <https://www.flrules.org/gateway/RuleNo.asp?ID=59G-13.075>. The State's HCBS waivers are up to date and compliant with CMS' Final Rule CMS-2296-F. Any deviation from the requirements established in the rule must be justified and documented in recipients' person-centered plan. The State's HCB settings Rule meets all standards in CMS' Final Rule CMS-2296-F by incorporating the CMS final rule by reference. Assessed settings that are determined to be non-compliant with Rule 59G-13.075, F.A.C. must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its delegate. Settings that fail to come in compliance within the timeline outlined in their plan of remediation will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients.

The Agency also amended its Statewide Medicaid Managed Care (SMMC) contract to include compliance language for residential and non-residential settings, and the elements of the HCB Settings Rule that were not already present. The amendment was effective on June 1, 2017.

Residential facilities must have residential agreements that comply with section 429 Florida Statutes (F.S.) Attachment II, Exhibit II- B, Section IX.E.3.a.(11), of the SMMC Contract, specifically requires residential agreements between individuals and facilities. The contract is available on the Agency's Web site at:

http://ahca.myflorida.com/medicaid/statewide_mc/model_health_FY18-23.shtml.

The State continues to update existing provider manuals and sub-regulatory guidance to align with the HCB settings Rule, as necessary. In instances where existing rules and regulations threaten a setting's compliance to CMS' Final Rule CMS-2296-F, the State's HCB settings Rule 59G-13.075, F.A.C. takes precedence.

1. HCB Setting Assessments

The State assessed residential and non-residential settings providing HCB services including assisted living facilities, adult family care homes, group homes/foster care homes, adult day care centers, adult day training settings and planned residential communities.

The State's setting assessment process includes four separate phases: preliminary assessments, on-site assessments, virtual assessments, and the State's validation. The State's assessment plan was developed using the requirements in the HCB settings Rule, information gathered during the preliminary assessment, and feedback from stakeholders received during the 30-day public comment period on the draft STP, and public meetings held around the State.

New compliance assessment tools were developed based on the HCB settings Rule. The State's tools were designed to allow providers and State assessors to review each setting for the standards set forth by CMS. The tools were made available for public comment prior to implementation. Tools are divided into the following sections; each section contains a number of standards settings must meet:

- Residential
 - Section 1: Setting
 - Section 2: Room/Privacy
 - Section 3: Meals
 - Section 4: Activities/Community Integration
 - Section 5: Respect/Rights/Choices
 - Section 6: Other
- Non-Residential
 - Section 1: Community Integration
 - Section 2: Respect/Rights/Choices
 - Section 3: Employment

Please see Attachment 1 for activities and dates associated with the State's assessment activities, and Attachment 3 for the new and revised Residential and Non-Residential HCB settings Characteristics Assessment Tools.

Phase 1 – Preliminary Assessments

The State reviewed monitoring data relevant to the LTC and iBudget Waivers, including the Department of Elder Affairs (DOEA) 2014 HCB characteristics onsite monitoring data for the LTC Waiver, and annual compliance monitoring results from APD and the contracted Quality Improvement Organization for the iBudget Waiver. The State reviewed this information to understand what information had been reviewed in the past by each program as a starting place for HCB Setting Rule compliance. The State developed, conducted training, and distributed new tools to all enrolled LTC and iBudget settings rendering HCBS with instructions to self-assess for HCB settings Rule compliance. Settings who operated multiple HCB sites were required to complete a self-assessment for each setting. The tools were made available electronically and on the State's web sites.

All settings were directed to maintain hard copies of their self-assessments for the State or its designee, for review. Settings that self-identified as presumptively institutional were able to submit the results of setting assessments to the State electronically. Settings' self-assessment results were made available to APD and the State's Managed Care Plans (Plans) to review the compliance status of HCB settings within their networks with CMS' HCB settings Rule. Settings who self-identified areas of non-compliance while conducting setting assessments were asked to begin remediation efforts prior to the implementation of Phase 2.

The preliminary assessments allowed the State to field test its tools while gathering information on setting compliance with CMS' HCB settings Rule. The State's analysis showed the majority of HCB settings either already met the HCB settings Rule requirements or would be able to achieve

full compliance by implementing programmatic changes.

The State conducted on-site assessments during the second phase of its assessment process.

Phase 2 – On-site Assessments

The State had a solid foundation on which to build its assessment process. All LTC Waiver residential and non-residential settings are credentialed and re-credentialed by Plans as part of contractual mandates. The State delegated the assessing of each HCB setting in the state enrolled as an LTC Waiver provider, including settings that participated in the State's Phase 1 – Preliminary Assessment process, to the Plans. Plans underwent rigorous training on the tools and the correct usage of them to the goal of assessing HCB settings for compliance with the HCB Settings Rule. Similarly, all iBudget Waiver residential and non-residential settings are credentialed and re-credentialed by APD. As such, the State delegated the assessing of these settings, including settings that participated in the State's Phase 1- Preliminary Assessment process, to APD. The State's designees conducted on-site assessments for 100% of HCB settings enrolled in the LTC and iBudget waiver programs. These two waiver programs serve the majority of Florida's HCB population.

The State also assessed its sole residential habilitation center using its assessment tools. This setting has since been closed and recipients relocated due to non-compliance with the HCB settings Rules and several other State regulations. The State's foster care homes are licensed as a type of group home under the State's licensure regulations, and as such were assessed with the State's licensed group homes.

The State identified all HCB settings contracted with the Plans through the State's Provider Network (PNV) files, which the Plans are required to submit weekly to the State's enrollment broker vendor. For those HCB settings that were contracted with only one managed care plan, the individual setting was assigned to their contracted Plan for assessment. For those HCB settings that were contracted with multiple Plans, the State randomly assigned settings to one of the contracted Plans, ensuring that the facility would be contacted and assessed only once, while distributing the load and responsibility for the assessments amongst the different plans.

The plan assignments were distributed in early December 2019. Such a process was not necessary for the iBudget Waiver settings as APD completed all assessments.

The State's designees used the tools to conduct on-site assessments of HCB settings to determine their compliance with CMS' HCB settings Rule. At the conclusion of each on-site assessment, the Plans and APD conducted exit interviews with all settings outlining the visit's findings. Based on the assessment, HCB settings were categorized as one of the following:

- Fully compliant with the HCB settings Rule
- Non-compliant with the HCB settings Rule requiring a plan of remediation
- Presumptively Institutional

On March 14, 2020, a policy transmittal was issued to the LTC Plans (PT 2020-14), alerting them that until further notice, the Plans must postpone all HCB setting on-site visits conducted for the

purpose of assessing compliance with CMS' HCB setting Rule requirements in the contract due to the COVID-19 public health emergency. Similar messaging was not necessary for APD and the iBudget Waiver settings as their on-site assessments had been completed prior to March 14, 2020.

Phase 3 – Virtual Assessments

The Phase 2 on-site assessments that began in January 2020 were abruptly suspended in March 2020 due to the COVID-19 public health emergency. The Agency identified a total of 1,149 LTC HCB settings that were required to be compliant with CMS' HCB settings Rule. During Phase 2, Plans successfully completed the assessment of 972 of the 1,149 HCB settings that had been identified. Phase 3 outlines the State's plan to assess the remaining 177 HCB settings not completed during Phase 2.

The Plans resumed HCB setting assessments of settings enrolled as LTC Waiver providers through virtual means in November 2020. Plans and settings were offered the flexibility to determine the most feasible virtual methods that maintained accuracy of results and safety of recipients. Methods could include Zoom, Microsoft Teams, Facetime and other forms of audiovisual technology. All virtual setting assessments were required to be completed by December 31, 2020. APD did not conduct virtual assessments as the assessment of the iBudget Waiver's HCB settings was completed prior to March of 2020.

Phase 4 – Validation

The State delegated primary HCB settings compliance for the LTC Waiver providers to the Plans. As such, the LTC HCB settings' self-assessments were validated by the Plans through the credentialing and recredentialing process. Additionally, the Agency utilized the existing licensing process as the Agency's Division of Health Quality Assurance licenses the following providing types: Assisted Living Facilities, Adult Family Care Homes, and Adult Day Care Centers. The Plans submit contracted provider networks with license numbers for provider network verification and the Agency confirms the licenses are still active. The Agency also performed a quality assurance review of a sample of the Plans self-assessment validations, as well as the Plans direct assessments, to ensure the Plans used the tools and assessed and/or validated the HCB Setting settings correctly. Utilizing Raosoft technology to ensure statistical significance, the State determined a sample size based on the total number of all HCB settings in the state enrolled as an LTC Waiver setting, as verified by the State's Bureau of Plan Management Operations. The State's validation served as an audit of Plans' assessment of HCB settings to ensure that assessment tools were used in the manner in which the State intended.

The validation sample was comprised equally of both settings that completed assessments using the Agency's 2016 tool during Phase 1, as well as settings that were assessed by the Plans in Phase 2. Plans were instructed to submit monthly updates of their assessment progress to facilitate the State's validation process. The validation included two methods of review to ensure accuracy of findings. Methods included the following:

- On-Site Visits: The State selected at random a group of settings representative of 10% of

the total sample. On-site documents reviewed included policies and procedures, ombudsman posters, lease agreements, plans of care, and HCBS assessment tools. In addition to document reviews, the on-site visits consisted of provider administrator interviews, inspections of the physical attributes of the setting, and a complete setting walk-through.

- Staff review: The State's Clinical Compliance Monitoring Unit, who have extensive clinical expertise and who monitor HCB services and settings on an on-going basis, reviewed the remainder of the assessments in the sample via desk reviews to ensure the accuracy of the Plans' assessments.

If a Plan was determined to be using the tools incorrectly, the State would provide technical assistance and training on the assessment tools. If the setting was determined to be using the tools incorrectly, the Plan would provide technical assistance and training on the assessment tools. If the Plans have concerns about settings and notify the State of those concerns, the State will provide technical assistance to the Plan and to the setting. The Plans are required to then reassess the setting correctly and submit the new assessment to the State for review as part of the remediation process. The State conducts on-going monitoring through quarterly reviews of Plan enrollee case files, as well as Plan credentialing and re-credentialing processes using the assessment tools, active license queries, and STP postings.

APD validated 100% of the iBudget Waiver's HCB settings to ensure the accuracy of its on-site assessments. Attachment 10 provides data relevant to the State's assessment, validation, and remediation processes.

COMMUNITY INTEGRATION

The State ensures that the settings are not being isolated from the community and encourage not only community involvement but the surrounding areas. Waiver recipients have designated case managers or waiver support coordinators to review all services that are requested and approved according to their specific waiver process. For waiver recipients living in their own homes or homes of their family members, case managers and waiver support coordinators review and assist waiver recipients with receiving services in the community and support community integration especially when encouraging and recording person-centered goals on the waiver recipient's care plan. The State has reviewed settings to ensure they are supporting the goals of community integration for their population. This setting validation is being done by monitoring transportation logs, community calendars maintained by the group homes, Adult Day Training, Adult Day Care and the Assisted Living Facilities. State staff reviews documentation to ensure waiver recipients have access to newspapers, radio, computers, TV and/or the internet as well as transportation to go shopping, visit restaurants, go to community centers, houses of worship and other local areas of interest. The State also interviewed residents and participants of the aforementioned programs regarding the community activities they are active in.

REMEDIATION

Settings determined to have gaps in compliance with the HCB settings Rule during on-site or virtual assessments are required to develop a remediation plan based on the deficiencies identified. The State developed a comprehensive remediation strategy designed to optimize cooperation and consultation between the State or its designee and HCB settings, while minimizing any potentially negative impact on recipients who receive services in HCB settings. The remediation strategy allows ample time for settings to remediate deficiencies to comply with the HCB settings Rule. Remediation plans are highly individualized, outlining the steps and timeframes towards settings achieving compliance.

The State or its designee will review the settings' remediation plans through desk reviews using notes from on-site assessment for reference. This review determines whether the settings' remediation plans adequately remediate deficiencies found during the on-site assessment. The State or its designee must approve setting remediation plans prior to implementation and monitor the implementation until completed. See Attachment 7 for the Residential and Non-Residential Remediation Plan tools.

For settings that do not comply with the HCB settings Rule and require modifications, the State or its designee initiates the following remediation steps:

- The State or its designee sends written findings and a compliance determination to the provider based on the assessment within seven (7) business days of the initial assessment. These activities occurred between November 2019 and December 2020.
- The setting must respond with a remediation plan to the State or its designee using the provided remediation plan template within ten (10) days of receipt of the State's designee compliance findings, and to seek technical assistance if necessary. These activities occurred between November 2019 and December 2021.
- The State or its designee approves the setting remediation plan and monitors its implementation progress. Remediation plans may be modified with State or its designee approval throughout the implementation process. The due date for these activities was December 31, 2021. iBudget Waiver settings have 90 days to remediate deficiencies. This can be extended in extenuating circumstance with APD approval.
- Settings requiring extended periods to complete the remediation plan, must submit monthly status updates.
- The State or its designee reassesses the setting at the end of the implementation period identified in the remediation plan to ensure compliance by December 2021.

The suitable course of action for provider sites that remain non-compliant is determined on a case-by-case basis. Options include:

- Continuing to collaborate with the setting to remediate outstanding issues until December 31, 2021.
- The State or its designee sends a final compliance order detailing how and when it expects

the provider to come into compliance immediately following the implementation period agreed upon in the remediation plan.

- Terminating the setting from the HCB waiver program by September 2022 and transitioning recipients to compliant settings by March 2023.

There are more than 280 adult day training (ADT) facilities enrolled as Medicaid waiver service settings throughout the state. Adult day training is a bundled day habilitation service that encompasses several services including skill development, therapies, behavioral supports, transportation, community integration, and on-the-job training. The State's ADTs are partially compliant with CMS' HCB settings Rule as recipients' rights are protected and autonomy maintained, however, settings lack the comprehensive processes to provide access to competitive integrated employment and tend to operate as a referral source to community entities like Vocational Rehabilitation (VR) instead. To remediate this issue the State has worked closely with VR to develop policies and processes to communicate the outcome of the VR references. Though there is an overlap in iBudget and VR clients, VR is not a Medicaid waiver-funded service. VR is offered and funded through the Florida Department of Education. These policies and procedures support the individual with other waiver services that ensure employment preparation and community integration. To remediate this issue, the State proposes a tiered standard approach to day training and habilitation services.

Other ADT remediation strategies include the un-bundling of the prevocational services, and the day habilitation services to make two distinct services. The newly developed prevocational service will include time limits, and a focus on community integrated employment. A waiver amendment to effectuate these changes was submitted to CMS on July 1, 2022, and CMS approved the waiver amendment on September 8, 2022.

PRESUMPTIVELY INSTITUTIONAL SETTINGS AND HEIGHTENED SCRUTINY

For settings that were determined to be presumptively institutional, the State implemented a case-by-case intensified review process to determine whether the setting:

- Is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.
- Is in a building on the grounds of, or immediately adjacent to, a public institution.
- Has the effect of isolating individuals receiving Medicaid HCB services from the broader community of individuals not receiving Medicaid HCB services.

Settings that were preliminarily identified as potentially meeting the presumptive institutional criteria received written findings and a copy of the assessor's completed report. The State or its designee visited presumptively institutional settings in-person or virtually to gather additional information to determine whether the setting was in compliance with the HCB settings Final Rule.

Settings submitted additional evidence and documentation to the State or its designee

demonstrating the setting did not meet the presumptive institutional criteria, or that despite the setting having qualities of an institution, the individuals receiving HCB services are integrated into the greater community in accordance CMS’ HCB settings Rule. See Attachment 11 for a preliminary list of settings the State has determined may meet one, or more, of the presumptively institutional criteria specified by CMS.

Table 5 reflects the findings for the two presumptively institutional settings identified:

Table 5 - Presumptively Institutional Settings Findings⁵

Criteria	Number of Settings
A: The setting is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.	2
B: The setting is in a building on the grounds of, or immediately adjacent to, a public institution.	0
C: The setting has the effect of isolating individuals receiving Medicaid HCBS from the broader community.	0

The State updated and publicly noticed the STP and notify impacted recipients or their legal representatives when the list of presumptively institutional settings is updated.

The State or its designee assessed any additional documentation, conduct additional assessments as necessary, and solicited public input from settings, recipients, advocacy groups, and other stakeholders to determine if settings do in fact meet the presumptively institutional criteria. The State reviewed the evidentiary packets submitted by the settings and consulted with the CMS guidance on what constitutes a presumptively institutional setting. All the additional documentation was reviewed, including photographs, maps of the surrounding community, training logs for setting staff, daily schedules, and policies and procedures. The State determined through its intensified review that despite the setting having the qualities of an institution, the individuals receiving HCB services are integrated into the greater community in accordance with the HCB settings Rule and the State submitted this evidence to CMS to conduct its heightened scrutiny process.

Settings that do not submit additional information or are still found to meet the presumptively institutional criteria after submitting additional evidence, will be terminated from the applicable HCBS program and impacted recipients will be transitioned to compliant settings. The State has included a list of presumptively institutional settings identified at that time in Attachment 11 of each version of the STP. The State has requested public comments on STP including the presumptively institutional settings in each posting. The State has posted each version of the STP for public comment on the Agency’s Home and Community-Based Settings Rule webpage.

⁵ The numbers included here represent findings after CMS released additional presumptively institutional HCB Settings guidance in 2017 and 2018. The State or its Designee reviewed the CMS issued guidelines including SMD#19-001 and 010-001 and settings assessment and validations of the 55 APD and LTC settings listed in previous STP submissions. The overwhelming majority of settings previously identified have had the presumptively institutional designation removed as they meet the settings’ requirements. This explains the reduced number of presumptively institutional settings.

If the State or its designee becomes aware of a setting that has the effect of isolating individuals, the State or its designee would repeat the same steps as outlined in this STP. In summary, the State or its designee would contact the setting about the assessment, review the assessment with the setting, and discuss remediation if identified as required. If the setting must perform remediation, the setting must submit the remediation plan to the State or its designee for monitoring. Public comments would be considered when the State has published a revised STP.

TRANSITIONING HCBS RECIPIENTS

In the event remediation proves unsuccessful, or a setting is determined to be institutional, it will be necessary to transition impacted recipients to a setting that meets the requirements of the HCB settings Rule. The State has developed the following protocol for transitioning recipients into compliant settings in a manner that minimizes the impact on the recipient while optimizing their personal choice and care coordination:

- The State or its designee, will send impacted HCBS recipients or their legal representative a written notice explaining the need for transition, including alternate setting options, and outlining helpful resources.
- Waiver support coordinators/case managers will work with impacted recipients, settings, and the recipient's support group to develop an individualized transition plan with the recipient or their representative. There are currently two presumptively institutional settings submitted for heightened scrutiny. As of 8/22/2022, there are a total of 8 waiver recipients receiving services at the two providers: 6 recipients at Miami Springs Assist Living and 2 at Irv Weissman Adult Day Care. Recipients will be monitored by their waiver support coordinators/case managers during and after transition to ensure their satisfaction with their new service setting, and that their setting maintains compliance with the HCB settings Rule and that their services continue to meet waiver standards and requirements.
- Recipients who do not want to change settings and receive services in a compliant HCB setting will be counselled as to the consequences, including but not limited to, identifying non-Medicaid funding to maintain services in the non-compliant setting, or potential disenrollment from the HCB program.

MONITORING FOR CONTINUED COMPLIANCE

The State has developed an annual monitoring program that focuses on recipient feedback, provider monitoring, and overall program and regulatory monitoring. The State will use the new and updated HCB Characteristic Assessment tools that address each aspect of the HCB settings Rule to ensure ongoing compliance. The tools will be reviewed and amended based on lessons learned and monitoring outcomes to ensure their ongoing efficacy, and applicability to the HCB settings Rule.

The State implemented a process to evaluate the recipient's person-centered plan, and to seek feedback from the recipient and the recipient's family or representative. The focus of this annual

review is to ensure the recipient has the continued opportunity to be active in the community, reside in a home-like environment, and make personal choices.

The State leverages its existing monitoring activities by adding a representative sample of residential and non-residential settings that are reviewed by the State agency responsible for the HCB program's monitoring process.

- LTC health plans use the credentialing and recredentialing process, quarterly and annual reviews of the client care plans, and monthly case manager contacts to discuss waiver recipient needs and preferences. The State conducts quarterly case file reviews of LTC client files for contract compliance, which includes HCB settings compliance. The case file sample size is a statistically significant sample from the LTC population. Each health plan gets a proportionate number of files assigned bases on their individual population size. Annually, around 380 case files are reviewed across all LTC plans.
- APD staff conduct monitoring activities for HCB setting compliance on an ongoing basis with all of their providers.

The State has determined the waiver recipients who live in private homes of their own or the home of their family member are in compliance with the HCB setting Final Rule. Per SMD 19-001. Individual, privately-owned homes (privately owned or rented home and apartments in which the individual receiving Medicaid-funded HCBS lives independently or with family member, friends, or roommates) are presumed to be in compliance with the regulatory criteria of the HCB setting Final Rule. Each waiver recipient has a case manager or waiver support coordinator to ensure services are being provided and recipient have access to the community at large.

The State also monitors changes to state laws, rules, regulations, standards, and policy each year. To ensure on-going compliance of the HCB programs with the provisions of the HCB settings Rule, the State has established the following monitoring principles:

- The State assures continued compliance with the HCB settings Rule prior to the submission of any waiver or State Plan amendments and renewals.
- Waiver case managers and support coordinators ensure recipients do not receive services in a setting that does not comply with the HCB settings Rule.
- Medicaid Plans ensure that all HCB service settings in their provider networks operate settings that comply with the HCB settings Rule through monitoring and their credentialing and recredentialing process.
- The State performs on-going monitoring of residential and non-residential settings.
- The State will continue to modify its monitoring activities based on its continuing assessment and public input to ensure full compliance with the HCB settings Rule.

PLANNED RESIDENTIAL COMMUNITIES

Regardless of the size of the setting, all HCBS settings receiving Medicaid reimbursement for residential or non-residential HCBS will be subject to the requirements established in CMS Final

settings Rule. Florida has several multi-family housing communities for individuals with developmental disabilities. In addition to providing affordable, safe housing options for individuals with developmental disabilities, pursuant to Section 419.001, Florida Statutes, these planned residential communities are required to provide housing options to:

- Frail elders,
- Individuals with a physical impairment which substantially limits one or more major life activities,
- Individuals with an intellectual or developmental disability, or
- Non-dangerous individuals with a mental illness.

Not all planned residential communities are HCBS providers. The SMD 19-001 Heightened Scrutiny guidance states: Individual, privately-owned homes (privately-owned or rented homes and apartments in which the individual receiving Medicaid-funded HCBS lives independently or with family members, friends, or roommates) are presumed to be in compliance with regulatory criteria of a home and community-based setting. CMS is clarifying that states are not responsible for confirming this presumption for purposes of ensuring compliance with the regulation.

To ensure planned residential communities that are HCBS providers for individuals with developmental disabilities comply with the CMS Final Settings Rule, APD staff assesses the HCBS residential and/or non-residential settings utilizing the iBudget Assessment and Tool (Attachments 5 and 6) to ensure the setting does not have the effect of isolating residents receiving Medicaid HCBS from the broader community of individuals not receiving HCBS based on any of the following:

- A design or model of service provision interaction that limits the residents from interacting with the broader community;
- The setting restricts residents' choice to receive services or to engage in activities outside of the setting; or
- The setting is physically located separate and apart from the broader community and does not facilitate beneficiary opportunity to access the broader community and participate in community services, consistent with a beneficiary's person-centered service plan.

All deficiencies must be remediated within the timeframes established by the APD notification.

At present, there are six planned residential communities in Florida. Of these, four do not provide HCB services and two provide residential and/or non-residential HCB services. These two providers, Community Haven for Adults & Children with Disabilities, Inc and Loveland Village have been assessed for CMS Final Settings Rule compliance and were determined fully compliant.

Additionally, APD is in the process of implementing a planned residential community assessment tool to ensure settings that are not HCBS providers do not have the effect of isolating residents receiving Medicaid HCBS from the broader community based on these same principles.

COMMUNICATION AND EDUCATION

The State has implemented an outreach strategy for sharing information about the HCB settings

Rule with recipients, settings, interested parties and stakeholders. It is the State's goal to promote transparency regarding implementation actions and procedures by disseminating direct, clear and timely communication of information relating to applicable programs, waiver services and the State's HCB settings Rule implementation activities.

All updates relating to the HCB settings Rule can be found on the State's web site at http://ahca.myflorida.com/Medicaid/hcbs_waivers/index.shtml. The website is a resource open to recipients, providers and other stakeholders and includes general information about the HCB setting Rule, the State's HCB waiver programs, and any updates to the waivers. This web site will be updated when new information becomes available.

The Agency has also established an email inbox and encourages all interested parties to submit their comments regarding its HCB settings transition and waiver or State Plan amendment and waiver renewal activities (FLMedicaidWaivers@ahca.myflorida.com). Comments are logged and taken into consideration when finalizing the implementation processes and prior to submission to CMS.

Additionally, APD has methods of communicating with the recipients, settings and stakeholders they serve and will utilize those processes in conjunction with the State.

1. Recipient Outreach:

The State will employ a direct approach to communicating information with recipients through their support coordinator or case manager accordingly. The State believes this personal approach will help to engage recipients in the implementation process and facilitate a greater understanding of its actions.

2. Provider Outreach:

The primary method of communication to settings is through provider alerts. These alerts are distributed to all waiver and state plan providers and contain relevant information regarding updates to the HCB programs. A phone number and email address are provided in the alerts so that settings may contact the State if they have any questions or concerns.

In addition to receiving provider alerts, Plans that are part of the LTC program receive direct provider communications from the Agency contract manager.

The State developed a webinar training for all residential and non-residential HCB services providers to assist them with completing the self-assessment and to address any concerns or questions they had regarding the HCB Settings Rule implementation. Training sessions have been provided to stakeholders and interested parties upon request.

3. Stakeholder Outreach:

The State prioritizes effective communication to its many stakeholder groups. The primary method of communication is the State's provider alert system in which many stakeholders participate.

Additionally, the State publicly notices its public comment periods and public meetings in the Florida Administrative Register.

To ensure proper and collaborative implementation of the HCB settings Rule, the State has established an interagency workgroup that consists of staff members from each of its impacted sister agencies. These meetings occur monthly and have attendants from the State and APD. The workgroup includes subject matter experts and other stakeholders.

4. Education and Training

The State strives to ensure that all of its stakeholders are well informed about the HCB settings Rule and its implementation activities. The State developed a comprehensive, progressive, training and education program and hosted a number of virtual trainings to introduce and reinforce the HCB settings Rule and its requirements. These trainings were held during the summer of 2014 and consisted of a webinar presentation and a Q&A session. Additional trainings for the Plans were held the summer of 2019, which also consisted of a webinar presentation and a Q&A session. The State will provide more training opportunities throughout the HCB settings Rule implementation period relative to remediation and heightened scrutiny.

PUBLIC NOTICE PROCESS

The State was required to have a 30-day public notice and comment period which was held on August 26, 2016 and ended on September 25, 2016 to allow for meaningful public comment prior to submission of this transition plan. The State provided two statements of public notice on the transition plan. The State summarized all comments received during that public comment period and described how the issues raised were addressed in the transition plan prior to submission to CMS.

Summary of Public Comments

The following summarizes the public comments received during the 30-day comment period that began on August 26, 2016, and ended on September 25, 2016.

- The State received comments of concern about the language relative to services in the rule.
- The State received comments about the use of service referral forms.
- The State received comments encouraging clarification of the HCBS rule be disseminated to sister agencies.

The State thoroughly reviewed and considered all comments and feedback received when developing the STP.

The State was required to have an additional 30-day public notice and comment period, which was held February 15, 2021, through March 16, 2021 to allow for meaningful public comment prior to resubmission of this transition plan. The State has summarized all comments received during the public comment period.

Summary of Public Comments

The following summarizes the public comments received during the 30-day comment period that began on February 15, 2021, and ended on March 16, 2021.

- The State received comments recommending that the State transition nursing facility residents to assisted living facilities to maximize cost effectiveness.

Based on feedback from CMS, the State is required to have an additional 30-day public notice and comment period, which was held June 23, 2021, through July 22, 2021 to allow for meaningful public comment prior to resubmission of this transition plan. The State has summarized all comments received during the public comment period and described how the issues raised were addressed in the transition plan prior to submission to CMS.

Summary of Public Comments

The following summarizes the public comments received during the 30-day comment period that began on June 23, 2021 and ended on July 22, 2021.

- The State did not receive any comments or recommendations in response to this public comment period.

Based on feedback from CMS, the State is required to have an additional 30-day public notice and comment period, which was held March 25, 2022, through April 24, 2022 to allow for meaningful public comment prior to resubmission of this transition plan. The State has summarized all comments received during the public comment period and described how the issues raised were addressed in the transition plan prior to submission to CMS.

Summary of Public Comments

The following summarizes the public comments received during the 30-day comment period that began on March 25, 2022, and ending April 24, 2022.

- The State received comments about 42 CFR 441.530(a)(1)(vi)(A) and asserted Florida is not compliant with rule requirements. The commenter claims there is a gap between protections afforded tenants under Chapter 83, Florida Statutes and HCBS beneficiaries and provided suggestions on remedying the gap.

The State reviewed and considered the comments received. Florida has implemented the HCB settings Final Rule and developed the Statewide Transition Plan in accordance with CFR 441.530(a)(1)(vi)(A), including the promulgation of Rule 59G-13.075, Home and Community Based Services Settings, effective 12/25/18, that incorporates the federal HCB settings language by reference, and is applicable to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs

Statements of Public Notice

The State will publish a minimum of two statements of public notice for public input processes with a link to the transition plan on Florida's Administrative Register and the Agency website. The

statements of public notice will provide information on the public comment period for the statewide transition plan, a link to the plan, and the locations and addresses where public comments may be submitted.

- A link to the public notice and information on the public comment period on the Florida's Administrative Register can be found at https://www.flrules.org/gateway/View_Notice.asp?id=24673713
- An electronic copy of the Florida Statewide Transition can be found on the Agency website at https://ahca.myflorida.com/medicaid/hcbs_waivers/docs/transition/Statewide_Transition_Plan_October_2022_Final.pdf
- Individuals can access a non-electronic hard copy of the statewide transition plan at their local area office. To obtain a list of the area offices, individuals may contact a Medicaid representative at 877-254-1055 or Telecommunications device for the deaf (TDD) at 866-466-4970. Information for local area offices can also be found on the Agency website at https://ahca.myflorida.com/MCHQ/Field_Ops/Field_Office_Info.shtml. In addition, the State will send notice to the LTC Plans and waiver support coordinators who will distribute the public notice to share the information with their members.
- The State will consider and modify the transition plan, as deemed appropriate, to account for public comments.

Written comments and suggestions may be mailed to:

Agency for Health Care Administration
Attention: HCBS Waivers
2727 Mahan Drive, MS #20
Tallahassee, Florida 32308

Electronic comments may be emailed to:
FLMedicaidWaivers@ahca.myflorida.com

ATTACHMENT 1: IMPLEMENTATION TIMELINE

Subject	Description	Start	End	Resource	Status
HCB settings Rule Assessment	Determine elements of HCB settings Rule and categorize	3/5/14	3/5/14	AHCA Policy	Completed
Preliminary Operational Assessment	Determine affected waivers, review impacted service descriptions, applicable settings and regulations	3/5/14	5/30/14	AHCA Policy, APD, DOH, DJJ	Completed
Stakeholder Training – HCB settings Rule	Develop initial stakeholder training re. new HCB settings Rule requirements	5/15/14	6/30/14	AHCA Policy, APD, DOH, DJJ, DOEA, Stakeholders	Completed
Programmatic Preliminary Assessment	Overall preliminary assessment from operating/programmatic agencies	6/18/14	8/25/14	AHCA Policy, APD, DOH, DJJ, DOEA	Completed
Stakeholder Training – New HCB settings Rule	Conduct webinar series for interested stakeholders re. HCB settings Rule requirements and initial State Transition Plans	7/1/14	9/30/14	AHCA Policy	Completed
Stakeholder Training – HCB settings Rule Implementation	Develop ongoing, progressive, training re. State implementation activities	2/1/15	3/17/19	AHCA Policy, APD, DOH, DOEA, Stakeholders	Completed
Regulatory and Policy Assessment	Assess impacted state rules and policy documents; recommend amendments as necessary	9/1/15	1/15/16	AHCA Policy, APD, DOH, DOEA	Completed
Systems Assessment	Determine and develop any required changes to State IT system requirements	6/1/16	7/31/17	AHCA Policy, APD, DOH, DOEA,	Completed
Regulation and Policy Updates	Promulgate recommended changes affected state rules, amend policy documents	1/12/16	12/18	AHCA Policy, APD, DOH, DOEA, Stakeholders	Completed
Site Assessment Tool Development	Design a tool that clearly outlines CMS' expectations for HCBS settings and assessing their compliance.	4/19	9/19	AHCA	Completed

Subject	Description	Start	End	Resource	Status
Plan Training Development	Design a tool that clearly outlines the roles and responsibilities of plan reps in the assessment process.	4/19	9/19	AHCA	Completed
Plan Training	Instruct plans on how to correctly use assessment tools	10/19	10/19	AHCA/Managed Care Plans	Completed
Site Assessments	The State's SMMC LTC Plans and APD will use compliance assessment tools to review each setting for the standards set forth by CMS. The State's SMMC LTC Plans will conduct assessments of their providers and APD will conduct on-site validation assessments and review 100% of settings.	11/19	12/20	Managed Care Plans/APD	Completed
Validation	The State is required to assess the effectiveness of the ongoing site assessments. These validations are to be conducted on a geographically stratified sample of settings	11/19	1/21	AHCA (Quality)/APD	Completed
Co-Located Submission Public Comment Period	CMS requires states to submit a list of settings that are non-compliant with the HCBS Settings rule based on criteria A & B. This public comment period is to solicit input from the community on the list	2/21	3/21	AHCA	Completed
Co-Located Submission	CMS requires states to submit a list of settings that are non-compliant with the HCB settings Rule based on criteria A & B by 3/31/2021	3/21	3/21	AHCA	Completed
Expedited Remediation	Per CMS, states may now give a presumptively institutional setting until July 1, 2021 to implement remediation and demonstration compliance to avoid heightened scrutiny review	11/19	6/21	Settings/Managed Care Plans/APD	Completed
Heightened Scrutiny Submission Public Comment Period	The State will post the STP, including provider categorizations, for public comment.	8/21	9/21	AHCA	Completed

Subject	Description	Start	End	Resource	Status
Heightened Scrutiny Submission	The State will summarize all comments received during the public comment period and describe how the issues raised were addressed in the transition plan prior to submission to CMS.	10/21	10/21	AHCA	Completed
Provider Standard Remediation Packet Submission	Providers may submit additional evidence and documentation to the State demonstrating the setting does not meet the presumptive institutional criteria, or that despite the setting having qualities of an institution, the individuals receiving HCBS are integrated into the greater community in accordance the HCB settings Rule.	11/19	2/22	Settings/Managed Care Plans	Completed
Standard Remediation	From November 2019 to December 2021, , the state will develop and implement a process where settings identified as non-compliant with HCB settings Rule have an opportunity to remediate. The State's SMMC LTC Plans and APD will monitor provider progress	11/19	12/21	Settings/Managed Care Plans/APD	Completed
HCB Setting Termination Identification	The State will determine settings that were unable to come into compliance at the end of the remediation period and will notify them of their termination from the HCBS program and recipients will be notified of their required transition to compliant settings	2/22	4/22	Settings/Managed Care Plans/APD/AHCA	Pending
Heightened Scrutiny Provider Notification	Based on additional evidence and documentation submitted, the State determines that settings previously deemed PI do not have the effect of isolating recipients.	2/22	4/22	Settings/Managed Care Plans/APD/AHCA	Completed
Heightened Scrutiny Public Comment Period	The State will post settings requiring heightened scrutiny for public comment.	5/22	6/22	AHCA	Completed
Heightened Scrutiny CMS Submission	The State will summarize all comments received during that public comment period and describe how the issues raised were addressed in the transition plan prior to submission to CMS.	6/22	6/22	AHCA	Completed

Subject	Description	Start	End	Resource	Status
Recipient Notification Development	The State will draft notification letters to recipients of settings unable to come into compliance.	4/22	9/22	Settings/Managed Care Plans/APD/AHCA	Completed
Recipient Notification Pre-Transition Letter	The State will send impacted HCBS recipients or their legal representative a written notice explaining the need for transition, including alternate provider options, and outlining helpful resources.	8/22	8/22	Settings/Managed Care Plans/APD/AHCA	Pending
Recipient Notification Transition Letter	The State will send impacted HCBS recipients or their legal representative a written notice explaining the need for transition, including alternate provider options, and outlining helpful resources.	9/22	9/22	Settings/Managed Care Plans/APD/AHCA	Pending
Recipient Relocation	Recipients will be monitored during transition and after completing transition to ensure their new service provider maintains compliance with the HCBS Settings Rule and that their services continue to meet waiver standards and requirements.	10/22	3/23	Settings/Managed Care Plans/APD/AHCA	Pending

ATTACHMENT 2: FLORIDA SYSTEMIC ASSESSMENT CROSSWALK

Attachment 2 - Florida Systemic Assessment Crosswalk for HCBS Settings Statewide Transition Plan

Federal Regulation	Compliant, Non-Compliant, Silent, and Partially Compliant	Area(s) of Compliance in State Standards	Area(s) of Non-Compliance in State Standards	Remediation Required	Timeline(s)
<p>1. Setting is integrated in, and supports full access of, individuals receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Compliant Section 393.062, F.S., Rule Divisions 59A and 65G, F.A.C., the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, and the Statewide Medicaid Managed Care (SMMC) contracts require settings to be integrated in, and to support full access of, individuals receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p><u>59G-13.075</u>, F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act. (2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487. (3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential (4) settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530. Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee. (5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB</p>	<p>None</p>	<p>None</p>	<p>N/A</p>

		<p>Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>393.062, F. S. - The greatest priority of existing state programs for the treatment of individuals with developmental disabilities shall be the development and implementation of community-based services that will enable individuals with developmental disabilities to achieve their greatest potential for independent and productive living, enable them to live in their own homes or in residences located in their own communities, and permit them to be diverted or removed from unnecessary institutional placements.</p> <p>59A-36.007(2), F.A.C. - Residents shall be encouraged to participate in social, recreational, educational and other activities within the facility and the community.</p> <p>59A-16.103(3)(l), F.A.C. - Participant care, policies, and procedures shall ensure that, as a minimum, all participants admitted to the Center: Are permitted to participate in social, religious, community, or group activities of their choice while at the Center.</p> <p>65G-4.002(2), F.A.C - Clients of the Agency shall be integrated within local communities to the greatest extent possible. To this end, generic and specialized community services rather than Agency services shall be used whenever this will serve the best interest of the client. For referral purposes, each area office shall have a current descriptive directory of community resources.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations</p>			
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		<p>Handbook, page 2-23.</p> <p>- Adult day training services must be provided in the community integrated settings or designated ADT centers that are compliant with the federal HCBS settings rule in 42 CFR 441.301(c)(4).</p> <p>SMMC Contract, Attachment II, ExhibitII- B, Section VI(E)(5)(b)(1) - The Managed Care Plan shall develop a person-centered plan of care in accordance with Rule 59G-4.192, F.A.C. and 42 CFR 441.301(c)(2), within the timeframes specified within this Exhibit, that is based upon, at minimum, the results of the comprehensive assessment and LTC supplemental assessment of the enrollee and that is specific to the enrollee's needs.</p> <p>SMMC Contract, Attachment II, Exhibit II- B, Section VI(E)(3)(b)(4), pages 46-48. At the initial face-to- face visit, the Managed Care Plan shall: Notify an enrollee residing in an ALF or AFCH or receiving ADHC services of their right to receive waiver services in a residential or non-residential setting and to participate in his or her community, regardless of his or her living arrangement.</p>			
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<p>2. The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS</p>	<p><u>Compliant</u> Sections 393.0661(3)(f)(11), 393.066(3)(l), 393.066(6), and 393.13(2)(b)(4), F.S. the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, and the HCB Settings assessment tools require settings include opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS. However, 59G-13.080(3)(j), F.A.C. excludes day training service programs from providing services directed at teaching specific job skills or meeting employment objectives of non-supported, competitive, paid or unpaid employment in the general work force. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making</p>	<p><u>59G-13.075</u>, F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act. (2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487. (3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530. (4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee. (5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No</p>	<p><u>59G-13.080(3)(j)</u>, F.A.C. – Day Training service programs support the participation of recipients in daily, valued routines of the community, which for adults may include work-like settings but <u>exclude services directed at teaching specific job skills or meeting employment objectives of non-supported, competitive, paid or unpaid employment in the general work force</u>.</p>	<p>None</p>	<p>N/A</p>
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		<p>=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>393.0661(3)(f)(11), F.S. - the intensity and frequency of supported employment services for individuals within stable employment situations who have a documented history of at least 3 years' employment with the same company or in the same industry.</p> <p>393.066(3)(l), F.S. - Requires the Agency for Persons with Disabilities to plan, develop, organize, and implement its programs of services and treatment for persons with developmental disabilities to allow clients to live as independently as possible in their own homes or communities and to achieve productive lives as close to normal as possible, including supported employment.</p> <p>393.066(6), F.S. - Requires the Agency for Persons with Disabilities to promote independence and productivity, by providing supports and services, within available resources, to assist clients enrolled in Medicaid waivers who choose to pursue gainful employment.</p> <p>393.13(2)(b)(4), F.S. - Requires the reduction in use of sheltered workshops and other noncompetitive employment day activities and the promotion of opportunities for those who choose to seek employment.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-22.</p> <p>- At least annually, providers will conduct an orientation informing recipients of supported employment and other competitive employment opportunities in the community.</p> <p>Developed and implemented an HCBS settings evaluation tool utilized to conduct compliance</p>			
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		reviews of HCBS settings to ensure services are provided in settings that comport with the regulation.			
3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS.	<u>Compliant</u> Sections 393.062, 393.063(39), 393.13(2)(b)(2), and 393.13(3)(3), F.S., Rule Division 65G, F.A.C., the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, and the SMMC contracts require settings to include opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation	<u>59G-13.075</u> , F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act. (2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487 . (3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and	None	None	N/A

		<p>https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>393.062</u>, F.S. - Requires that the greatest priority be given to the development and implementation of community-based services that will enable individuals with developmental disabilities to achieve their greatest potential for independent and productive living, enable them to live in their own homes or in residences located in their own communities, and permit them to be diverted or removed from unnecessary institutional placements.</p> <p><u>393.063(38)</u>, F.S. - Defines supported living as a category of individually determined services designed and coordinated assistance to adult clients who require ongoing supports to live as independently as possible in their own community, and to participate in community life to the fullest extent possible.</p>			
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		<p>393.13(2)(b)(2), F.S. - The design and delivery of treatment and services to persons with developmental disabilities should be directed by the principles of self-determination and therefore should continue the development of community-based services that provide reasonable alternatives to institutionalization in settings that are least restrictive to the client and that provide opportunities for inclusion in the community.</p> <p>393.13(3)(e), F.S. - Persons with developmental disabilities shall have a right to social interaction and to participate in community activities.</p> <p>65G-2.013(1)(a), F.A.C. - A residential habilitation center need not be a fully self-contained program unit. Residential habilitation center activities may be coordinated with habilitative educational and recreational activities in which the residents engage outside of the facility.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-40. - Personal supports are designed to encourage community integration. Personal supports in supported living are also designated to teach the recipient about home-related responsibilities.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-59.</p> <p>- The goal of any behavioral residential habilitation service is to prepare recipients for integration into their local community to the greatest extent possible, with desirable improvement with a marked decrease in challenging behaviors such that they have greater community inclusion and integration.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-71.</p> <p>- Supported living coaching encourages</p>			
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		<p>maximum physical integration into the community.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VI(E)(5)(b)(1)</u> - The Managed Care Plan shall develop a person-centered plan of care in accordance with Rule 59G-4.192, F.A.C. and 42 CFR 441.301(c)(2), within the timeframes specified within this Exhibit, that is based upon, at minimum, the results of the comprehensive assessment and LTC supplemental assessment of the enrollee and that is specific to the enrollee's needs.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VI(E)(3)(b)(4)</u>, At the initial face-to-face visit, the Managed Care Plan shall: Notify an enrollee residing in an ALF or AFCH or receiving ADHC services of their right to receive waiver services in a residential or non- residential setting and to participate in his or her community, regardless of his or her living arrangement.</p>			
<p>4. The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Compliant Sections 393.13(4)(a)(3)(b), 393.13(4)(a)(4)(b)(1), 402.17(2), and 409.221(2), F.S., Rule Division 65G, F.A.C., and the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook require settings to include opportunities for individuals to control personal resources, however, 393.13(4)(a)(3)(b), F.S. includes an exception that limits individuals' access to personal resources for the purpose of behavioral training. The State promulgated Rule 59G-</p>	<p><u>59G-13.075</u>, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCBS Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section</p>	None	None	N/A

	<p>13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p>441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>393.13(4)(a)(3)(b)</u>, F.S. - Each client has the right to the possession and use of his or her own clothing and personal effects, except in those specific instances where the use of some of these items as reinforcers is essential for training the client as part of an appropriately approved behavioral program. The chief administrator of the facility may take temporary custody of such effects when it is essential to do so for medical or safety reasons.</p> <p>Custody of such personal effects shall be promptly recorded in the client's record, and a receipt for such effects shall be immediately given to the client, if competent, or the client's parent or legal guardian.</p>			
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		<p>393.13(4)(a)(4)(b)(1), F.S. All money belonging to a client held by the agency shall be held in compliance with s. 402.17(2), F.S.</p> <p>402.17(2), F.S. The Department of Children and Families and the Agency for Persons with Disabilities shall act as trustee of clients' money and property entrusted to it in accordance with the usual fiduciary standards applicable generally to trustees, and shall act to protect both the short-term and long-term interests of the clients for whose benefit it is holding such money and property.</p> <p>409.221(2), F. S. The Legislature finds that alternatives to institutional care, such as in-home and community- based care, should be encouraged. The Legislature finds that giving recipients of in-home and community- based services the opportunity to select the services they need and the providers they want, including family and friends, enhances their sense of dignity and autonomy. The Legislature also finds that providing consumers' choice and control, as tested in current research and demonstration projects, has been beneficial and should be developed further and implemented statewide.</p> <p>65G-5.003(2)(i), F.A.C. - The support plans of individuals in supported living are facilitated by the support coordinator and shall address the creation of a financial profile that includes an accountable strategy for assisting the individual in money management, when requested by the individual or the individual's guardian.</p> <p>65G-5.003(3)(i), F.A.C. – Supported living services are authorized and provided in money management and banking areas based on functional assessment of the individual's capacities in the community and the individual's preferences.</p>			
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		<p><u>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook</u>, page 2-2.- Only supported living and residential services providers assist with managing a recipient's personal funds and only under limited situations when the recipient needs assistance with money management and natural supports are not available to assist. In these limited situations, the provider must assist the recipient to maintain a separate checking account or savings account for all personal funds.</p>			
<p>5. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board</p>	<p>Compliant/ Silent SMMC Contract, Attachment II, Exhibit II- B, requires that individuals have the option of a private unit in a residential setting, however is silent on individuals right to select from among setting options including non-disability specific settings and the documentation of those setting options in the person-centered service plan.</p> <p>Additionally, Section 409.221(4)(f), F.S., Rule Division 59A, F.A.C, the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, are silent on the requirements for individuals to select from among setting options including non-disability specific settings and an option for a private unit in a residential setting, and the documentation of those</p>	<p>59G-13.075, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are</p>	None	None	N/A

	<p>setting options in the person-centered service plan. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p>determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>409.221(4)(f), F.S. - Consumers shall be allowed to choose the providers of services, as well as when and how the services are provided. Providers may include a consumer's neighbor, friend, spouse, or relative.</p> <p>59A-36.021(2)(f), F.A.C. - The facility must develop and implement specific written policies and procedures that address a process for mediating conflicts among residents regarding choice of room or apartment and roommate.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-8. - The provider must participate in and support the person-centered planning and implementation for each recipient. The provider will also use the recommendations from the person-centered planning to implement person-centered supports and services (documenting preferences in the iBudget Person-Centered Service Plan with community transportation, documentation of residence approval, team members involved with</p>			
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		<p>decision making, non-disability setting, community inclusion));</p> <p>;</p> <p>(1) support development of informed choices through education, exposure, and experiences in activities of interest to the person served;</p> <p>(2) enhance service delivery in a manner that supports the achievement of individually determined goals; and make improvements in the provider's service delivery system.</p> <p><u>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook</u>, page 2-75. - Waiver support coordinators must use a person-centered approach to identify a recipient's goals and plan and implement supports and services to achieve them (e.g., conversations with the recipient and those who know the recipient best along with information obtained from the QSI and service providers).</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VI(E)(5)(b)(1)</u> - The Managed Care Plan shall develop a person-centered plan of care in accordance with Rule 59G-4.192, F.A.C. and 42 CFR 441.301(c)(2), within the timeframes specified within this Exhibit, that is based upon, at minimum, the results of the comprehensive assessment and LTC supplemental assessment of the enrollee and that is specific to the enrollee's needs.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VI(E)(3)(b)(4)</u>, At the initial face-to-face visit, the Managed Care Plan shall: Notify an enrollee residing in an ALF or AFCH or receiving ADHC services of their right to receive waiver services in a residential or non- residential setting and to participate in his or her community, regardless of his or her living arrangement.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VI(E)(5)(a)(1)</u> – The Managed Care Plan</p>			
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		<p>shall ensure the adherence to the person-centered approach regarding the enrollee assessment and needs, taking into account not only covered services, but also other needed services and community resources, regardless of payor source, as applicable.</p>			
<p>6. An individual's essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected.</p>	<p>Compliant/ Silent Sections 120.542,(1) 393.13(2)(e), 393.13(3)(a), 393.13(3)(g), 393.13(4)(h), 393.13(4)(h)(2),F.S., Rule Divisions 59A and 65G, F.A.C., SMMC Contract, Attachment II, Exhibit II- B, and the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook require an individual's essential personal rights of privacy, dignity, respect, and freedom from restraint are protected.</p> <p>Section 429.41(1)(j), F.S. and regulation 59A-36.007, F.A.C. ensure that the use of restraint is supported by a specific addressed need and agreed upon by the individuals or individuals' legal representation, but do not provide complete instruction consistent with the federal regulation making them partially</p>	<p><u>59G-13.075</u>, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB</p>	<p>None</p>	<p>None</p>	<p>N/A</p>

	<p>compliant. Sections 120.542,(1) 393.13(2)(e), 393.13(3)(a), 393.13(3)(g), 393.13(4)(h), 393.13(4)(h)(2),F.S., 65G, F.A.C., and the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook are silent on individuals' freedom from coercion.</p> <p>The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation</p>	<p>Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>120.542</u>(1), F.S. - Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation. A public employee is not a person subject to regulation under this section for the purpose of petitioning for a variance or waiver to a rule that affects that public employee in his or her capacity as a public employee. Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section. An agency may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant only to the extent necessary for the purpose of the underlying statute to be achieved. This section does not authorize agencies to grant variances or waivers to statutes or to rules required by the Federal Government for the agency's implementation or retention of any federally approved or delegated program, except as allowed by the program or when the variance or waiver is also approved by the appropriate</p>			
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		<p>agency of the Federal Government. This section is supplemental to, and does not abrogate, the variance and waiver provisions in any other statute.</p> <p><u>393.13(2)(e)</u>, F.S. - It is the clear, unequivocal intent of this act to guarantee individual dignity, liberty, pursuit of happiness, and protection of the civil and legal rights of persons with developmental disabilities.</p> <p><u>393.13(3)(a)</u>, F.S. - Persons with developmental disabilities shall have a right to dignity, privacy, and humane care, including the right to be free from abuse, including sexual abuse, neglect, and exploitation.</p> <p><u>393.13(3)(g)</u>, F.S. - Persons with developmental disabilities shall have a right to be free from harm, including unnecessary physical, chemical, or mechanical restraint, isolation, excessive medication, abuse, or neglect.</p> <p><u>393.13(4)(h)</u>, F.S. - Clients shall have the right to be free from the unnecessary use of restraint or seclusion. Restraints shall be employed only in emergencies or to protect the client or others from imminent injury. Restraints may not be employed as punishment, for the convenience of staff, or as a substitute for a support plan. Restraints shall impose the least possible restrictions consistent with their purpose and shall be removed when the emergency ends. Restraints shall not cause physical injury to the client and shall be designed to allow the greatest possible comfort.</p> <p><u>393.13(4)(h)(2)</u>, F.S. - The agency shall adopt by rule standards and procedures relating to the use of restraint and seclusion. Such rules must be consistent with recognized best practices; prohibit inherently dangerous restraint or seclusion procedures; establish limitations on the use and duration of restraint and seclusion; establish measures to ensure the safety of clients</p>			
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		<p>and staff during an incident of restraint or seclusion; establish procedures for staff to follow before, during, and after incidents of restraint or seclusion, including individualized plans for the use of restraints or seclusion in emergency situations; establish professional qualifications of and training for staff who may order or be engaged in the use of restraint or seclusion; establish requirements for facility data collection and reporting relating to the use of restraint and seclusion; and establish procedures relating to the documentation of the use of restraint or seclusion in the client's facility or program record. A copy of the rules adopted under this subparagraph shall be given to the client, parent, guardian or guardian advocate, and all staff members of facilities and programs licensed under this chapter and made a part of all staff preservice and in-service training programs.</p> <p>429.41(1)(j), F.S. The use of physical or chemical restraints. The use of Posey restraints is prohibited. Other physical restraints may be used in accordance with agency rules when ordered by the resident's physician and consented to by the resident or, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact. Such rules must specify requirements for care planning, staff monitoring, and periodic review by a physician. The use of chemical restraints is limited to prescribed dosages of medications authorized by the resident's physician and must be consistent with the resident's diagnosis. Residents who are receiving medications that can serve as chemical restraints must be evaluated by their physician at least annually to assess:</p> <ol style="list-style-type: none"> 1. The continued need for the medication. 2. The level of the medication in the resident's blood. 3. The need for adjustments in the prescription. <p>59A-36.007(6)(g), F.A.C. - In addition to the requirements of s. 429.41(1)(j), F.S., the use of physical restraints by a facility must be</p>			
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		<p>reviewed by the resident's physician annually. Any device, including half-bed rails, which the resident chooses to use and can remove or avoid without assistance, is not considered a physical restraint.</p> <p><u>59A-36.014(3)(d)</u>, F.A.C. - Residents who use portable bedside commodes must be provided with privacy during use.</p> <p><u>59A-36.021(7)</u>, F.A.C. - All services must be provided in the least restrictive environment, and in a manner that respects the resident's independence, privacy, and dignity.</p> <p><u>59A-16.103(3)(g-i)</u>, F.A.C. - Participant care, policies, and procedures shall ensure that, as a minimum, all participants admitted to the adult day care center:</p> <p>(g) Are free from abuse, neglect, and exploitation as defined in Section <u>415.102</u>, F.S., and free from chemical and physical restraints. Drugs and other medications shall not be used for punishment, convenience of Staff, or in quantities that interfere with a Participant's rehabilitation or Activities of Daily Living;</p> <p>(h) Are given privacy in the treatment of their personal and medical records;</p> <p>(i) Are treated with consideration, respect, and full recognition of their dignity, individuality, and right to privacy.</p> <p><u>59A-37.009(1)(a)</u>, F.A.C. - The AFCH shall be located, designed, equipped, and maintained to ensure a home-like environment, and to provide safe care and supervision for all residents. Residents shall be allowed free use of all space within the home except when such use interferes with the safety, privacy, and personal possessions of household members and other residents.</p> <p><u>59A-37.009(3)(b)</u>, F.A.C. - Bedrooms for all residents shall be finished with</p>			
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		<p>walls or partitions which go from floor to ceilings and which have a door which opens directly to a hallway or common area without passage through another bedroom or common bathroom. Bedroom doors shall not have vision panels. Window drapes or shades shall be provided to ensure resident privacy.</p> <p><u>59A-37.009(4)(b-c)</u>, F.A.C. – Bathrooms shall have a finished interior, a mirror, and a door which insures privacy and opens to a hall or common area. Access to a bathroom may not be through another person’s bedroom. Glass shower doors shall be tempered safety glass; shower curtains shall provide privacy.</p> <p><u>59A-37.011(3)(c)(1)</u>, F.A.C. – The provider may not retaliate against any resident by increasing charges; decreasing services, rights or privileges; threatening to increase charges or decrease services, rights or privileges; by taking or threatening to take any action to coerce or compel the resident to leave the home or by harassing, abusing or threatening to harass or abuse a resident in any manner after the resident has filed a complaint with the agency or with the long-term care ombudsman council.</p> <p><u>65G-2.009(6)(a)</u>, F.A.C. - Each facility must provide the level of supervision necessary to ensure that residents are protected from harm and that a safe and healthy living environment is created and maintained. Direct service providers must be given specific information and strategies to provide such an environment for all of residents of the facility. To the maximum extent possible, however, the facility shall respect the rights of residents to privacy and self-determination.</p> <p><u>65G-2.009(7)(c)</u>, F.A.C. - The titles and positions of all persons authorized to access video feeds at off-site locations must be disclosed to the Agency. Such remote access must be accompanied by safeguards, such as firewalls</p>			
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		<p>and other security measures, sufficient to ensure resident privacy.</p> <p><u>65G-2.009</u>(8)(c), F.A.C. – Behavioral interventions and responses to behavioral issues involving residents: Emergency intervention procedures that use restraint or seclusion, or cause physical discomfort require approval from the Local Review Committee prior to implementation. A violation of this paragraph shall constitute a Class II violation.</p> <p><u>65G-8.001</u>(15), F.A.C. - “Reactive strategies” means the procedures or physical crisis management techniques of seclusion or manual, mechanical, or chemical restraint utilized for control of behaviors that create an emergency or crisis situation.</p> <p><u>65G-8.002</u>, F.A.C. - Approved Emergency Procedure Curriculum.</p> <p>(1) All providers and facilities that use reactive strategies must utilize an emergency procedure training curriculum approved by the Agency, and require all staff utilizing reactive strategies to be trained in that curriculum.</p> <p>(2) The training curriculum must meet the following minimum requirements for approval:</p> <p>(a) It has a history of applied use to persons with developmental disabilities;</p> <p>(b) It includes an ongoing training program;</p> <p>(c) It requires certification of the persons administering the curriculum training;</p> <p>(d) It provides for periodic review of both trainer and participant competency; provides for periodic review of both trainer and participant competency;</p> <p>(e) It does not include reactive strategy procedures prohibited by this rule chapter or any other Florida law or rule;</p> <p>(f) It requires at least twelve direct training hours;</p> <p>(g) It includes non-physical crisis intervention techniques;</p> <p>(h) The curriculum incorporates training in the provisions of this rule chapter;</p>			
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		<p>(i) It provides for supervised practice and performance-based competency evaluation, including a written test with a minimum passing achievement score of 80%;</p> <p>(j) It includes training in criteria for use of reactive strategies, and methods for reducing physical interventions;</p> <p>(k) It incorporates quality assurance and safety measures as well as incident data collection and review;</p> <p>(l) It provides participants with a certificate displaying the name of the curriculum, the name of the trainer, the date(s) of training; and the date of certificate expiration;</p> <p>(m) The curriculum includes instruction in reactive strategy precautions and potential hazards; and</p> <p>(n) It includes a “release” criterion (e.g., a stated period of calm behavior) that is of short duration and that is client-driven or initiated.</p> <p>(3) Staff must be certified through an Agency-approved emergency procedure curriculum before being authorized or permitted to administer a reactive strategy technique. Providers and facilities must maintain copies of all staff training certificates and make the certificates available to the Agency upon request.</p> <p>(4) Training certification is valid for one year. Before the certificate expires, staff must undertake a full training curriculum to obtain new certification.</p> <p>(5) In order to obtain Agency approval for a proposed curriculum, the provider must submit a copy of the curriculum materials and an “Emergency Procedure Training Curriculum Application,” APD Form 65G8-001 (August 2008), incorporated herein by reference. A copy of the form may be obtained by writing or calling the Agency for Persons with Disabilities, at 4030 Esplanade Way, Suite 380, Tallahassee, FL 32399-0950; main telephone number (850)488-4527.</p> <p>(6) The Agency’s Senior Behavior Analyst will</p>			
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		<p>refer the proposed curriculum to a multidisciplinary committee or a Peer Review Committee as defined in Rule 65G-4.008, F.A.C., for additional review and comment.</p> <p>(7) The Senior Behavior Analyst's review of a proposed emergency procedure curriculum must include:</p> <p>(a) Verification of the curriculum's compliance with the minimum criteria established in this rule chapter; Direct observation of the reactive strategy techniques incorporated in the curriculum; Verification of the curriculum's compliance with the minimum criteria established in this rule chapter;</p> <p>(b) Direct observation of the reactive strategy techniques incorporated in the curriculum;</p> <p>(c) Review of available data related to implementation of the curriculum; and</p> <p>(d) Committee recommendations to the Senior Behavior Analyst for either accepting or rejecting the proposed curriculum.</p> <p>(8) Following review, the Senior Behavior Analyst will make a final determination to either accept or reject the proposed curriculum and provide notification of the determination in writing, stating the reasons for rejection. If the proposed curriculum is rejected, it may be resubmitted with appropriate modifications to meet minimum requirements provided by this rule chapter.</p> <p>(9) No changes to approved curriculum materials or procedures may be incorporated until the curriculum, along with the proposed changes, is resubmitted to the Agency and approved.</p> <p>(10) The Agency may deny or withdraw approval for any of the following acts or omissions:</p> <p>(a) Obtaining or attempting to obtain course approval through fraud, false statements, deceit, or misrepresentation of material facts, whether those representations or statements are made knowingly or negligently;</p>			
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		<p>(b) Failure to provide complete and accurate information in the initial application for approval or in any notification for a change in information;</p> <p>(c) Failure to notify the Agency within six weeks of a change in the information required for course approval; and</p> <p>(d) Failure to maintain the curriculum format and content as approved by the Agency.</p> <p><u>65G-8.003</u>, F.A.C. - Reactive Strategy Policy and Procedures.</p> <p>(1) All facilities or providers subject to this rule shall develop and implement policies and procedures consistent with the provisions of this rule chapter, including adoption of an approved emergency procedure curriculum, appropriate staff training, record maintenance, reporting and recording the use of any reactive strategy, training in the provisions of this rule chapter, data collection, and maintenance of reactive strategy consent information in client records, and any other requirements established in this rule chapter.</p> <p>(2) Facility or provider policies and procedures may include only the reactive strategies provided in the Agency- approved curriculum. No change to the approved curriculum or variation of a specific reactive strategy may be employed without an Agency-approved variance or waiver obtained in advance through Section <u>120.542</u>, F.S. A proposed variance to a reactive strategy must demonstrate that it is designed for a specific client and the variance request must include documented evidence of need and benefit. Variance requests will be evaluated by the Local Review Committee and the Agency's Senior Behavior Analyst.</p> <p>(3) Providers and facilities that employ reactive strategies are required to implement procedures to ensure the safety of staff and clients during the use of reactive strategies and to ensure that Agency clients are not placed at risk because of existing medical conditions.</p> <p>(4) All staff implementing reactive strategies</p>			
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		<p>must be certified in advance for all reactive strategy techniques used or approved for use by the facility or provider.</p> <p>(5) A variation of a specific reactive strategy may be employed only if it is designed for a specific client with documented evidence of need and benefit, and only if evaluated and approved in advance of implementation by the Local Review Committee and the Agency's Senior Behavior Analyst.</p> <p>(6) The provider or facility must conduct an internal review of its emergency procedures at least annually with a written evaluation that addresses the following issues:</p> <p>(a) Proposed methods of reducing the use of reactive strategies;</p> <p>(b) Policy evaluations and proposals to ensure that all applications of reactive strategies are being conducted in accordance with the Agency-approved emergency procedure curriculum and administered in a safe manner; and,</p> <p>(c) Compliance with this rule chapter, including appropriate records and reports of reactive strategies.</p> <p>The facility or provider must maintain this written evaluation for a minimum of five years and make it available to the Agency upon request.</p> <p><u>65G-8.004</u>, F.A.C. – Initial Assessments.</p> <p>(1) Upon an individual's admission to a facility or program and at least annually thereafter, the facility or provider must obtain information and documents relevant to the use of reactive strategies from a variety of sources for the individual's records. Appropriate sources include the individual, his or her family members, treating medical professionals, and other informants familiar with the individual. The individual's records must include the following documentation:</p> <p>(a) A physician's report of medical conditions or physical limitations that would place him or her at risk of physical injury during restraint or seclusion, or otherwise preclude the use of one or</p>			
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		<p>more reactive strategies; and</p> <p>(b) Documentation of any history of trauma, such as a history of sexual or physical abuse that the informants, individual, facility, or providers believe to be relevant to the use of reactive strategies.</p> <p>(2) Medical conditions or physical limitations that might create a risk to the individual include, but are not limited to, the following:</p> <ul style="list-style-type: none"> (a) Obesity; (b) Cardiac conditions; (c) Pregnancy; (d) Asthma or other respiratory conditions; (e) Impaired gag reflex; (f) Back conditions or spinal problems; (g) Seizure disorders; (h) Deafness; (i) Blindness; (j) Limitations on range of motion; (k) Osteoporosis; (l) Osteopenia; and (m) Hemophilia. <p>In addition to the annual review, the individual's file information must be updated whenever there is a change in the individual's physical or psychological condition that might affect his or her tolerance of one or more reactive strategies, or updated in compliance with any reassessments required by State or Federal law.</p> <p><u>65G-8.005</u>, F.A.C. - Authorizations for Specific Reactive Strategies.</p> <p>(1) Upon initiating any reactive strategy, staff must immediately notify the highest- level direct care supervisor.</p> <p>(2) Each use of a reactive strategy requires continuous staff supervision.</p> <p>(3) The following reactive strategies can be approved only by the following authorizing agents:</p> <ul style="list-style-type: none"> (a) The authorizing agent for medical protective equipment or chemical restraint must be a 			
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		<p>physician licensed under Chapter 458 or 459, F.S;</p> <p>(b) The authorizing agent for behavioral protective devices must be either a Certified Behavior Analyst certified by the Behavior Analyst Certification Board®, Inc.; a behavior analyst certified by the Agency pursuant to Section 393.17, F.S., and by Rule 65G-4.003, F.A.C.; a psychologist licensed under Chapter 490, F.S.; or a clinical social worker, marriage and family therapist, or mental health counselor licensed under Chapter 491, F.S.</p> <p>(c) The authorizing agent for mechanical restraint must be a Certified Behavior Analyst certified by the Behavior Analyst Certification Board®, Inc.; a behavior analyst certified by the Agency pursuant to Section 393.17, F.S., and by Rule 65G-4.003, F.A.C.; a physician licensed under Chapter 458 or 459, F.S.; a psychologist licensed under Chapter 490, F.S.; or a clinical social worker, marriage and family therapist, or mental health counselor licensed under Chapter 491, F.S.</p> <p>(d) The authorizing agent or staff person with approval authority for seclusion must have at least a bachelor's degree, two years of experience serving individuals with developmental disabilities, and be certified in reactive strategies through an Agency-approved emergency procedure curriculum; and, The authorizing agent or staff person with approval authority for manual restraint must be certified in reactive strategies through an Agency-approved emergency procedure curriculum.</p> <p>65G-8.006, F.A.C. - Limitations on Use and Duration of Reactive Strategies.</p> <p>(1) All authorizations for a reactive strategy must include a clear rationale for its use.</p> <p>(2) Reactive strategies must not be implemented automatically or as part of a deceleration plan for undesirable behaviors, as punishment, as a substitute for an</p>			
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		<p>implementation plan, or for the convenience of staff.</p> <p>(3) At the onset of seclusion or restraint implementation, staff will notify the appropriate authorizing agent of the conditions leading up to the use of the reactive strategy. The authorizing agent is responsible for terminating any procedure not in compliance with this rule.</p> <p>(4) Each use of a reactive strategy requires continuous staff monitoring.</p> <p>(5) A reactive strategy must provide for the least possible restriction consistent with its purpose.</p> <p>(6) A reactive strategy must be terminated immediately when the emergency ends.</p> <p>(7) Reactive strategies must be implemented in a manner that permits the greatest possible amount of comfort and protection from injury to the individual.</p> <p>(8) The Agency may disapprove the use of any emergency procedure, system, strategy, or program that does not meet the above requirements or that contains procedures the Agency determines to be unsafe.</p> <p>(9) If an individual exhibits behavior requiring a reactive strategy at a frequency of more than two times in any thirty-day period, or six times in any twelve-month period, then the facility or provider should submit a request for behavior analysis services for that individual, including documentation of the frequency of reactive strategy use.</p> <p>(10) The facility or provider must provide written behavioral criteria for termination of a reactive strategy, conforming to the Agency-approved emergency procedure curriculum, to all staff trained in those techniques.</p> <p>Reactive strategies must be terminated within five minutes after predetermined behavioral criteria have been met. Providers and facilities may seek an exemption from this requirement through the variance and waiver process authorized by Section 120.542, F.S.</p>			
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		<p><u>65G-8.007</u>, F.A.C. - Seclusion and Restraint.</p> <p>(1) Every effort should be made to avoid unnecessary use of seclusion and restraint; therefore, staff should try to redirect and diffuse problem behavior before employing the reactive strategy of seclusion and restraint.</p> <p>(2) Seclusion and restraint as a reactive strategy may be utilized only if certified staff persons are available in sufficient number to ensure its safe implementation.</p> <p>(3) Staff must continuously observe the client during restraint procedures, monitor respiration rate, and determine when release criteria have been met.</p> <p>(4) Seclusion and restraint procedures exceeding one hour require approval by an authorizing agent.</p> <p>(5) Seclusion and restraint may not exceed two hours without visual review and approval of the procedure by an authorizing agent or the agent's on-site designee.</p> <p>(6) Staff must obtain additional authorization for use of seclusion and restraint for a behavioral episode occurring more than fifteen minutes after termination of a prior procedure, and document the additional use in the individual's record.</p> <p>(7) Before initiating a seclusion or restraint procedure, staff must inspect the environment and the individual in order to ensure that any foreign objects that might present a hazard to the individual's safety are removed.</p> <p>(8) Any room in which the individual is held must have sufficient lighting and ventilation to permit the individual to see and breathe normally, and must have enough space to permit him or her to lie down comfortably.</p> <p>(9) The door to any room in which an individual is secluded without an attending staff person must not be locked; however, the door can be held shut by a staff person using a spring bolt, magnetic hold, or other mechanism that permits the individual in seclusion to leave the room if the caregiver leaves the vicinity. Forensic facilities</p>			
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		<p>may seek a waiver or variance from this requirement through Section 120.542, F.S.</p> <p>(10) An individual mechanically restrained for more than one hour must be permitted an opportunity for motion and exercise for at least ten minutes of each hour that the individual is restrained.</p> <p>65G-8.008, F.A.C. – Chemical Restraint.</p> <p>(1) Chemical restraint is used for behavioral control; it is not standard treatment for medical or psychiatric conditions.</p> <p>(2) An individual may be given a chemical restraint only on the written order of an authorized physician who has determined that the chemical is the least restrictive, most appropriate alternative available.</p> <p>The authorizing physician either must be present at the onset of the emergency requiring restraint, or must provide telephone consultation with an authorized staff person who is present and has personally examined the individual.</p> <p>(4) If the authorizing physician is not present to write the order, he or she must dictate the order's contents to another on-site licensed medical professional;</p> <p>(5) An order for chemical restraint must be recorded in the individual's record on the same date it is issued, along with the expected results of the medication and a detailed description of the behaviors that justified the use of chemical restraint.</p> <p>(6) A licensed medical professional must conduct a face-to-face evaluation of the individual within one hour of administration of a chemical restraint, if the restraint was ordered by telephone. The medical professional must record the results of this evaluation in the individual's record and document whether the administration of medication achieved the expected results.</p> <p>(7) Staff must monitor an individual who has been chemically restrained at least once every half-hour and record the effects of the restraint in</p>			
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		<p>the individual's record.</p> <p><u>65G-8.009</u>, F.A.C. - Prohibited Procedures. The following reactive strategies are prohibited: (1) Reactive strategies involving noxious or painful stimuli, as prohibited by Section <u>393.13(4)(g)</u>, F.S.;</p> <p>(2) Untested or experimental procedures;</p> <p>(3) Any physical crisis management technique that might restrict or obstruct an individual's airway or impair breathing, including techniques whereby staff persons use their hands or body to place pressure on the client's head, neck, back, chest, abdomen, or joints;</p> <p>(4) Restraint of an individual's hands, with or without a mechanical device, behind his or her back;</p> <p>(5) Physical holds relying on the inducement of pain for behavioral control;</p> <p>(6) Movement, hyperextension, or twisting of body parts; Any maneuver that causes a loss of balance without physical support (such as tripping or pushing) for the purpose of containment;</p> <p>(8) Any reactive strategy in which a pillow, blanket, or other item is used to cover the individual's face as part of the restraint process;</p> <p>(9) Any reactive strategy that may exacerbate a known medical or physical condition, or endanger the individual's life;</p> <p>(10) Use of any containment technique medically contraindicated for an individual;</p> <p>(11) Containment without continuous monitoring and documentation of vital signs and status with respect to release criteria; and</p> <p>(12) Use of any reactive strategy on a "PRN" or "as required" basis.</p> <p><u>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook</u>, pages 2-76. - Waiver support coordinators promote the health, safety, and well-being of recipients. They also promote the</p>			
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		<p>dignity and privacy of, and respect for, each recipient, including sharing personal information and decisions when necessary.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VIII(C)(5)(a)(4), For ADHC providers, that they shall conform to the HCB Settings Requirements. The Managed Care Plan shall include the following statement verbatim in its provider agreement with ADHC providers:</u></p> <p>(insert ADHC provider identifier) will support the enrollee's to facilitate the enrollee's personal goals and community activities.</p> <p>Enrollees accessing adult day health services in (insert ADCC identifier) shall be offered services with the following option unless medical, physical, or cognitive impairments restrict or limit exercise of these options.</p> <p>Choice of</p> <ul style="list-style-type: none"> • Daily activities • Physical environment • With whom • Access to telephone and unlimited length of use • Eating schedule • Activities scheduled; and • Participation in facility and community activities. <p>Right to have</p> <ul style="list-style-type: none"> • Right to privacy • Right to dignity and respect • Freedom from coercion and restraint; and • Opportunities to express self through individual initiative, autonomy and independence. <p><u>Florida Developmental Disability Individual Budgeting Waiver - Appendix G-2: Safeguards</u></p>			
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<p>7. Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to</p>	<p>Compliant Section 409.221(3), F.S., Rule Division 59A, F.A.C., the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, and the SMMC contracts require settings to optimize, but does not regiment individual initiative, autonomy, and independence in making</p>	<p>59G-13.075, F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act. All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by</p>	None	None	N/A

<p>interact.</p>	<p>life choices. This includes, but is not limited to, daily activities, physical environment, and with whom to interact. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation</p>	<p>reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487. (3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530. Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee. (5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf. 409.221(3), F.S. - It is the intent of the Legislature to nurture the autonomy of those citizens of the state, of all ages, who have disabilities by providing the long-term care services they need in the least restrictive, appropriate setting. It is the intent of the Legislature to give such individuals more choices in and greater control over the purchased long-term care services they receive.</p>			
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		<p><u>59A-36.021(2)(g)</u>, F.A.C. – The facility must develop and implement specific written policies and procedures that address how to involve residents in decisions concerning the resident. The services must provide opportunities and encouragement for the resident to make personal choices and decisions. If a resident needs assistance to make choices or decisions, a family member or other resident representative must be consulted. Choices must include at a minimum whether:</p> <ol style="list-style-type: none"> 1. To participate in the process of developing, implementing, reviewing, and revising the resident's service plan; To remain in the same room in the facility, except that a current resident transferring into an extended congregate care services may be required to move to the part of the facility licensed for extended congregate care, if only part of the facility is so licensed; 3. To select among social and leisure activities; 4. To participate in activities in the community. At a minimum the facility must arrange transportation to such activities if requested by the resident; and 5. To provide input with respect to the adoption and amendment of facility policies and procedures. <p><u>SMMC Contract, Attachment II, Exhibit II- B</u>, Section VIII(C)(5)(a)(4), For ADHC providers, that they shall conform to the HCB Settings Requirements. The Managed Care Plan shall include the following statement verbatim in its provider agreement with ADHC providers:</p> <p>(insert ADHC provider identifier) will support the enrollee's to facilitate the enrollee's personal goals and community activities.</p> <p>Enrollees accessing adult day health services in (insert ADCC identifier) shall be offered services</p>			
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		<p>with the following option unless medical, physical, or cognitive impairments restrict or limit exercise of these options.</p> <p>Choice of</p> <ul style="list-style-type: none"> • Daily activities • Physical environment • With whom • Access to telephone and unlimited length of use • Eating schedule • Activities scheduled; and • Participation in facility and community activities. <p>Ability to have</p> <ul style="list-style-type: none"> • Right to privacy • Right to dignity and respect • Freedom from coercion and restraint; and • Opportunities to express self through individual initiative, autonomy and independence. 			
<p>8. Individual choice regarding services and supports, and who provides them, is facilitated.</p>	<p>Compliant Sections 393.13(3)(h), 393.0661(1), 393.0662(1), 409.221(4)(a), F.S., Rule Divisions 59A and 58G, F.A.C., the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, and the SMMC contracts require settings to facilitate individual choice regarding services and supports, and who provides them. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation</p>	<p><u>59G-13.075</u>, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.firules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-</p>	None	None	N/A

		<p>residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>393.13</u>(3)(h), F.S. - Persons with developmental disabilities shall have a right to consent to or refuse treatment, subject to the powers of a guardian advocate appointed pursuant to s. <u>393.12</u> or a guardian appointed pursuant to chapter 744.</p> <p><u>393.0661</u>(1), F.S. - The redesign of the home and community-based services system shall include, at a minimum, all actions necessary to achieve an appropriate rate structure, client choice within a specified service package, appropriate assessment strategies, an efficient billing process that contains reconciliation and</p>			
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		<p>monitoring components, and a redefined role for support coordinators that avoids potential conflicts of interest and ensures that family/client budgets are linked to levels of need.</p> <p>393.0662(1), F.S. - The Agency for Persons with Disabilities shall establish an individual budget, referred to as an iBudget, for each individual served by the home and community-based services Medicaid waiver program. The funds appropriated to the agency shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. For the iBudget system, eligible clients shall include individuals with a diagnosis of Down syndrome or a developmental disability as defined in s.393.063. The iBudget system shall be designed to provide for: enhanced client choice within a specified service package; appropriate assessment strategies; an efficient consumer budgeting and billing process that includes reconciliation and monitoring components.</p> <p>409.221(4)(a), F.S. - The Agency for Health Care Administration shall establish the consumer-directed care program which shall be based on the principles of consumer choice and control. The agency shall implement the program upon federal approval. The agency shall establish interagency cooperative agreements with and shall work with the Departments of Elderly Affairs, Health, and Children and Families and the Agency for Persons with Disabilities to implement and administer the program. The program shall allow enrolled persons to choose the providers of services and to direct the delivery of services, to best meet their long-term care needs.</p> <p>59A-36.021(6)(c), F.A.C. – The service plan must be developed and agreed upon by the resident or the resident’s representative or designee, surrogate, guardian, or attorney-in- fact, and must reflect the responsibility and right of the resident to consider options and assume risks</p>			
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		<p>when making choices pertaining to the resident's service needs and preferences.</p> <p>59G-13.080(6)(h)(2), F.A.C. – In providing applicants or participants freedom of choice, the Agency or its designee must afford recipients the opportunity to choose from those enrolled providers capable of providing the covered services identified in the recipient's plan of care.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-4. The iBudget Waiver is designed around individual choice. Recipients served through the waiver can select among enrolled, qualified providers and can change providers at any time within the funds allocated in their individual budget allocations. Freedom of choice includes individual responsibility for selection of the most appropriate residential environment and combination of services and supports to accomplish the recipient's goals and objectives set forth in their support plans, while ensuring the level of services provided is appropriate to address the recipient's needs.</p> <p>SMMC Contract, Attachment II, Exhibit II- B, Section VI (E)(5)(c)(2)(b) - Provides the enrollee with information about the available providers when service needs are identified so that the enrollee can make an informed choice of providers.</p>			
<p>9. Provider owned or controlled residential settings: The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a forceable agreement by the individual receiving services, and the individual has, at a minimum, the same</p>	<p>Compliant/Silent Rule Division 59A, F.A.C. ensures residents of Assisted Living Facilities have a written agreement prior to, or at the time of admission.</p> <p>SMMC Contract, Attachment II, Exhibit II- B requires provider owned or controlled residential</p>	<p>59G-13.075, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB</p>	None	None	N/A

<p>responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>providers to comply with HCB setting requirements. Section VI(e)(1)(b)(10), specifically requires residential agreements between individuals and facilities</p> <p>Silent Rule 59A-36.018(1), F.A.C. is silent related to the residents' responsibilities and protections from eviction.</p> <p>The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p>Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>59A-36.018(1), F.A.C. (1) Pursuant to Section 429.24, F.S., the facility must offer a contract for execution by the resident or the resident's legal representative before or at the time of admission. The contract must contain</p>			
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		<p>the following provisions:</p> <p>(a) A list of the specific services, supplies and accommodations to be provided by the facility to the resident, including limited nursing and extended congregate care services that the resident elects to receive;</p> <p>The daily, weekly, or monthly rate;</p> <p>(c) A list of any additional services and charges to be provided that are not included in the daily, weekly, or monthly rates, or a reference to a separate fee schedule that must be attached to the contract;</p> <p>(d) A provision stating that at least 30 days written notice will be given before any rate increase;</p> <p>(e) Any rights, duties, or obligations of residents, other than those specified in Section 429.28, F.S.;</p> <p>(f) The purpose of any advance payments or deposit payments, and the refund policy for such advance or deposit payments;</p> <p>(g) A refund policy that must conform to Section 429.24(3), F.S.;</p> <p>(h) A written bed hold policy and provisions for terminating a bed hold agreement if a facility agrees in writing to reserve a bed for a resident who is admitted to a nursing home, health care facility, or psychiatric facility. The resident or responsible party must notify the facility in writing of any change in status that would prevent the resident from returning to the facility. Until such written notice is received, the agreed upon daily, weekly, or monthly rate may be charged by the facility unless the resident's medical condition prevents the resident from giving written notification, such as when a resident is comatose, and the resident does not have a responsible party to act on the resident's behalf;</p> <p>(i) A provision stating whether the facility is affiliated with any religious organization and, if so, which organization and its relationship to the facility;</p> <p>(j) A provision that, upon determination by the</p>			
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		<p>administrator or health care provider that the resident needs services beyond those that the facility is licensed to provide, the resident or the resident's representative, or agency acting on the resident's behalf, must be notified in writing that the resident must make arrangements for transfer to a care setting that is able to provide services needed by the resident. In the event the resident has no one to represent him or her, the facility must refer the resident to the social service agency for placement. If there is disagreement regarding the appropriateness of placement, provisions outlined in Section 429.26(8), F.S., will take effect;</p> <p>(k) A provision that residents must be assessed upon admission pursuant to subsection 59A-36.006(2), F.A.C., and every 3 years thereafter, or after a significant change, pursuant to subsection (4) of that rule;</p> <p>(l) The facility's policies and procedures for self-administration, assistance with self-administration, and administration of medications, if applicable, pursuant to Rule 59A-36.008, F.A.C. This also includes provisions regarding over-the-counter (OTC) products pursuant to subsection (8) of that rule; and</p> <p>(m) The facility's policies and procedures related to a properly executed DH Form 1896, Do Not Resuscitate Order.</p> <p>SMMC Contract, Attachment II, Exhibit II- B, Section VIII(c)(5)(a)(2), The Managed Care Plan includes the following provisions in its provider contracts for ALFs and AFCHs, that they shall conform to the HCB Settings Requirements. The Managed Care Plan shall include the following statement verbatim in its provider contracts with ALF and AFCH providers: (Insert ALF/AFCH identifier) will support the enrollee's community inclusion and integration by working with the case manager and enrollee to facilitate the enrollee's personal goals and community activities. Enrollees residing in (insert ALF/AFCH identifier)</p>			
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		<p>shall be offered services with the following options unless medical, physical, or cognitive impairments restrict or limit exercise of these options.</p> <p>Choice of:</p> <ul style="list-style-type: none"> • Private or semi-private rooms, as available; • Roommate for semi-private rooms; • Locking door to living unit; • Access to telephone and unlimited length of use; • Eating schedule; • Activities schedule; and • Participation in facility and community activities. <p>Ability to have:</p> <ul style="list-style-type: none"> • Unrestricted visitation; and • Snacks as desired. <p>Ability to:</p> <ul style="list-style-type: none"> • Prepare snacks as desired; and • Maintain personal sleeping schedule. <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section IX(E)(3)(a)(11)</u>, requires residential agreements between facilities and the enrollee.</p>			
<p>10. Provider owned or controlled residential settings: Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>Compliant Sections 393.13(3)(a), and 393.13(4)(a)(3), F.S., Rule Division 59A, F.A.C., the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, and the SMMC contracts require provider owned or controlled residential settings ensure each individual has privacy in their sleeping or living unit and that units have</p>	<p><u>59G-13.075</u>, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at <u>http://www.flrules.org/Gateway/referenc</u></p>	<p>None</p>	<p>None</p>	<p>N/A</p>

	<p>entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p> <p>The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p>e.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>393.13(3)(a)</u>, F.S. - Persons with developmental disabilities shall have a right to dignity, privacy, and humane care, including the right to be free from abuse, including sexual abuse, neglect, and exploitation.</p> <p><u>393.13(4)(a)(3)</u>, F.S. - Clients have an unrestricted right to visitation subject to</p>			
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		<p>reasonable rules of the facility. However, this provision may not be construed to permit infringement upon other clients' rights to privacy</p> <p><u>59A-36.021(3)(a)</u>, F.A.C. – Each extended congregate care facility must provide a homelike physical environment that promotes resident privacy and independence including a private room or apartment, or a semi private room or apartment, shared with a roommate of the resident's choice. The entry door to the room or apartment must have a lock that is operable from the inside by the resident with no key needed. The resident must be provided with a key to the entry door on request. The resident's service plan may allow for a non-locking entry door if the resident's safety would otherwise be jeopardized.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VIII(c)(5)(a)(2)</u>, The Managed Care Plan includes the following provisions in its provider contracts for ALFs and AFCHs, that they shall conform to the HCB Settings Requirements. The Managed Care Plan shall include the following statement verbatim in its provider contracts with ALF and AFCH providers: (Insert ALF/AFCH identifier) will support the enrollee's community inclusion and integration by working with the case manager and enrollee to facilitate the enrollee's personal goals and community activities. Enrollees residing in (insert ALF/AFCH identifier) shall be offered services with the following options unless medical, physical, or cognitive impairments restrict or limit exercise of these options.</p> <p>Choice of:</p> <ul style="list-style-type: none"> • Private or semi-private rooms, as available; <p>Roommate for semi-private rooms; Locking door to living unit; Access to telephone and unlimited length of use; Eating schedule; Activities schedule; and</p>			
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		<p>Participation in facility and community activities.</p> <p>Ability to have: Unrestricted visitation; and Snacks as desired.</p> <p>Ability to: Prepare snacks as desired; and Maintain personal sleeping schedule.</p>			
<p>11. Provider owned or controlled residential settings: Individuals sharing units have a choice of roommates in that setting.</p>	<p>Compliant/ Silent Rule Division 59A, F.A.C. and the Statewide Medicaid Managed Care contracts require provider owned or controlled residential settings to ensure that individuals sharing units have a choice of roommates in that setting.</p> <p>The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p><u>59G-13.075</u>, F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487. The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment,</p>	None	None	N/A

		<p>must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>59A-36.021(3)(a)</u>, F.A.C. - Each extended congregate care facility must provide a homelike physical environment that promotes resident privacy and independence including a private room or apartment, or a semi private room or apartment, shared with a roommate of the resident's choice.</p> <p><u>59A-37.009(3)(d)</u>, F.A.C. – Married residents shall be provided the option of sharing bedroom accommodations, but non-related residents of different genders shall not be required to share bedroom accommodations.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B, Section VIII(c)(5)(a)(2)</u>, The Managed Care Plan includes the following provisions in its provider contracts for ALFs and AFCHs, that they shall conform to the HCB Settings Requirements. The Managed Care Plan shall include the following statement verbatim in its provider contracts with ALF and AFCH providers: (Insert ALF/AFCH identifier) will support the enrollee's community inclusion and integration by working with the case manager and enrollee to facilitate the enrollee's personal goals and</p>			
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		<p>community activities. Enrollees residing in (insert ALF/AFCH identifier) shall be offered services with the following options unless medical, physical, or cognitive impairments restrict or limit exercise of these options.</p> <p>Choice of:</p> <ul style="list-style-type: none"> • Private or semi-private rooms, as available; • Roommate for semi-private rooms; • Locking door to living unit; • Access to telephone and unlimited length of use; • Eating schedule; • Activities schedule; and • Participation in facility and community activities. <p>Ability to have:</p> <ul style="list-style-type: none"> • Unrestricted visitation; and Snacks as desired. <p>Ability to:</p> <ul style="list-style-type: none"> • Prepare snacks as desired; and • Maintain personal sleeping schedule. 			
<p>12. Provider owned or controlled residential settings: Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>Compliant Rule Divisions 59A and 65G, F.A.C. require provider owned or controlled residential settings ensure individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.</p>	<p><u>59G-13.075</u>, F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act. (2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at</p>	<p>None</p>	<p>None</p>	<p>N/A</p>

		<p>http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the Home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>59A-37.006(7)(f), F.A.C. - The adult family care home provider shall also ensure the provision of a congenial and homelike atmosphere within the residence.</p>			
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		<p>59A-37.009(3)(e), F.A.C. - In addition to closet space, each bedroom shall have separate and private storage space for each resident's clothing and personal effects. Residents shall be allowed to keep and use reasonable amounts of personal belongings, and shall be allowed to decorate their private quarters in an individual style provided such decor does not damage the provider's property.</p> <p>65G-2.007(5)(i), F.A.C. – Each resident shall be allowed to decorate his or her private quarters in an individual style that will respect the care of the property and other residents who may share the bedroom</p>			
<p>13. Provider owned or controlled residential settings: Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.</p>	<p>Compliant/ Silent The SMMC Contract requires that provider owned or controlled residential settings ensure that individuals have access to food at any time.</p> <p>The Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook requires that individuals have access to the choice of meaningful day activities, but is silent on the requirement that they have control of their own schedule.</p> <p>Rule Divisions 59A and 64E, F.A.C., are silent on the requirements that individuals have access to food at any time and develop their own schedules.</p>	<p>59G-13.075, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-title42-vol4/xml/CFR-2017-title42-vol4-</p>	None	None	N/A

	<p>The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation</p>	<p>part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>59A-36.012(2)(f), F.A.C - For facilities serving three or more meals a day, no more than 14 hours must elapse between the end of an evening meal containing a protein food and the beginning of a morning meal. Intervals between meals must be evenly distributed throughout the day with not less than 2 hours nor more than 6 hours between the end of one meal and the beginning of the next. For residents without access to kitchen facilities, snacks must be offered at least once per day.</p> <p>64E-12.004(2)(n), F.A.C. - As part of an organized activity, residents may participate in food preparation under direct supervision of the designated staff person in charge of food service activities, who is knowledgeable in food hygiene safety.</p>			
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		<p>64E-12.004(3)(a), F.A.C. – Any organized food preparation activity in which residents may participate in food preparation as part of the organized activity must be under the direct supervision of a trained food service employee, per Rule 64E-11.012, F.A.C. This does not apply to specific designated therapeutic classes with activities for an individual or a group of individuals provided by a licensed occupational or physical therapist as part of their occupational, physical, or rehabilitation therapy activities to regain basic self-sufficiency skills.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 1-7. Choices made by recipients regarding how to use their time in order to gain direction, purpose, and quality in their daily lives is critical to the person's well-being and health. The recipient's choice of meaningful day activities can be based on interests, skills, and talents. Meaningful day activities can involve choices that are not paid for by the waiver, including paid employment, volunteer work, and school. For those services funded by the waiver, the meaningful day activity must directly address identified goals in the recipient's support plan.</p> <p>SMMC Contract, Attachment II, Exhibit II- B, Section VIII(c)(5)(a)(2), The Managed Care Plan includes the following provisions in its provider contracts for ALFs and AFCHs, that they shall conform to the HCB Settings Requirements. The Managed Care Plan shall include the following statement verbatim in its provider contracts with ALF and AFCH providers: (Insert ALF/AFCH identifier) will support the enrollee's community inclusion and integration by working with the case manager and enrollee to facilitate the enrollee's personal goals and community activities. Enrollees residing in (insert ALF/AFCH identifier) shall be offered services with the following options unless medical, physical, or cognitive</p>			
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		<p>impairments restrict or limit exercise of these options.</p> <p>Choice of:</p> <ul style="list-style-type: none"> • Private or semi-private rooms, as available; • Roommate for semi-private rooms; • Locking door to living unit; • Access to telephone and unlimited length of use; • Eating schedule; • Activities schedule; and • Participation in facility and community activities. <p>Ability to have:</p> <ul style="list-style-type: none"> • Unrestricted visitation; and • Snacks as desired. <p>Ability to:</p> <ul style="list-style-type: none"> • Prepare snacks as desired; and • Maintain personal sleeping schedule. 			
<p>14. Provider owned or controlled residential settings: Individuals are able to have visitors of their choosing at any time.</p>	<p>Compliant Section 393.13(4)(a)(3), F.S. and the SMMC Contract, Attachment II, Exhibit II-B ensures that individuals have unrestricted rights to visitation as long as the visitation does not infringe upon other individuals' rights to privacy.</p> <p>However, sections 393.13(4)(a)(3), 429.28(1)(d), and 429.85(1)(d) F.S. include limitations to individuals access to visitors at any time.</p> <p>The State promulgated Rule 59G-13.075, F.A.C. in</p>	<p><u>59G-13.075</u>, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>The Agency for Health Care Administration, or its designee, will assess residential and non-</p>	<p><u>429.28</u>(1)(d), F.S. - Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his or her choice, at any time between the hours of 9 a.m. and 9 p.m. at a minimum. Upon request, the</p>	None	N/A

	<p>2018, making it fully compliant with this regulation.</p>	<p>residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p><u>393.13(4)(a)(3)</u>, F.S. - Clients have an unrestricted right to visitation subject to reasonable rules of the facility. However, this provision may not be construed to permit infringement upon other clients' rights to privacy.</p> <p><u>SMMC Contract, Attachment II, Exhibit II- B</u>, Section VIII(c)(5)(a)(2), The Managed Care Plan includes the following provisions in its provider contracts for ALFs and AFCHs, that they shall conform to the HCB Settings</p>	<p>facility shall make provisions to extend visiting hours for caregivers and out-of-town guests, and in other similar situations.</p> <p><u>429.85(1)(d)</u>, F.S. – A resident of an adult family-care home may not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the State Constitution, or the Constitution of the United States solely by reason of status as a resident of the home. Each resident has the right to have unrestricted private communication, including receiving and sending unopened correspondence, having access to a</p>		
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		<p>Requirements. The Managed Care Plan shall include the following statement verbatim in its provider contracts with ALF and AFCH providers: (Insert ALF/AFCH identifier) will support the enrollee's community inclusion and integration by working with the case manager and enrollee to facilitate the enrollee's personal goals and community activities.</p> <p>Enrollees residing in (insert ALF/AFCH identifier) shall be offered services with the following options unless medical, physical, or cognitive impairments restrict or limit exercise of these options</p> <p>Choice of:</p> <ul style="list-style-type: none"> • Private or semi-private rooms, as available; • Roommate for semi-private rooms; • Locking door to living unit; • Access to telephone and unlimited length of use; • Eating schedule; • Activities schedule; and • Participation in facility and community activities. <p>Ability to have:</p> <ul style="list-style-type: none"> • Unrestricted visitation; and • Snacks as desired. <p>Ability to:</p> <ul style="list-style-type: none"> • Prepare snacks as desired; and • Maintain personal sleeping schedule. 	<p>telephone, and visiting with any person of his or her choice, at any time <u>between the hours of 9 a.m. and 9 p.m. at a minimum.</u></p>		
<p>15. Provider owned or controlled residential settings: The setting is physically accessible to the</p>	<p>Compliant Rule Divisions 59A and 65G, F.A.C. the Developmental Disabilities Individual Budgeting Waiver Services Coverage</p>	<p><u>59G-13.075</u>, F.A.C. - (1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and</p>	<p>None</p>	<p>None</p>	<p>N/A</p>

<p>individual</p>	<p>and Limitations Handbook, and the Statewide Medicaid Managed Care contracts require provider owned or controlled residential settings ensure the setting is physically accessible to the individual. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation</p>	<p>1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-</p>			
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		<p>guidance/downloads/cib050917.pdf.</p> <p>59A-16.109(1), F.A.C. - The Center shall provide adequate, safe and sanitary facilities appropriate for the services provided by the Center and for the needs of the Participants. All Centers receiving federal funds shall meet regulations for access to the handicapped in compliance with the Americans with Disabilities Act of 1990.</p> <p>59A-37.009(4)(d), F.A.C. – Bathrooms used by physically handicapped residents shall have grab bars for toilets, tubs, and showers. Hot water temperature shall be supervised for persons unable to self-regulate water temperature.</p> <p>65G-2.009(3)(b), F.A.C. - The facility shall not serve residents unless it can meet their specific programmatic and physical accessibility needs.</p> <p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 1-6. - Home Accessibility Assessment requirement. An independent assessment by a professional rehabilitation engineer or other specially trained and certified professional to determine the most cost-beneficial and appropriate accessibility adaptations for a recipient's home.</p> <p>SMMC Contract, Attachment II, Exhibit II- B, Section V(A)(1)(a)(9) - Home Accessibility Adaptation Services — Physical adaptations to the home required by the enrollee's plan of care which are necessary to ensure the health, welfare and safety of the enrollee or which enable the enrollee to function with greater independence in the home and without which the enrollee would require institutionalization. Such adaptations may include the installation of ramps and grab-bars, widening of doorways,</p>			
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		modification of bathroom facilities, or installation of specialized electric and plumbing systems to accommodate the medical equipment and supplies, which are necessary for the welfare of the enrollee. Excluded are those adaptations or improvements to the home that are of general utility and are not of direct medical or remedial benefit to the enrollee, such as carpeting, roof repair or central air conditioning. Adaptations which add to the total square footage of the home are not included in this service. All services shall be provided in accordance with applicable state and local building codes.			
16. Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution	Compliant The HCB Characteristic Assessment tools require provider owned or controlled residential settings ensure the setting is not located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution. There is no contract, handbook, or statutory language that ensures settings are not located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation	<p>59G-13.075, F.A.C. -</p> <p>(1) This rule applies to all settings where Florida Medicaid waiver services are rendered to individuals enrolled in home and community-based service (HCBS) waiver programs authorized under Sections 1915(c), 1915(i), and 1915(k) of the Social Security Act.</p> <p>(2) All settings must be in compliance with the provisions of the home and community-based settings requirements established in accordance with the Centers for Medicare and Medicaid Services' (CMS) Final Rule CMS-2296-F (HCB Settings Rule) March 17, 2014, incorporated by reference, and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10076 and https://federalregister.gov/a/2014-00487.</p> <p>(3) The Agency for Health Care Administration, or its designee, will assess residential and non-residential settings for compliance with Title 42, Code of Federal Regulations (CFR), section 441.530, incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10077 and https://www.gpo.gov/fdsys/pkg/CFR-title42-vol4/xml/CFR-2017-title42-</p>	None	None	N/A

		<p>part441.xml#seqnum441.530.</p> <p>(4) Settings where HCBS services were rendered prior to March 17, 2014, and that are determined to be noncompliant with the HCB Settings Rule through site-specific assessment, must remediate deficiencies in accordance with a plan of remediation developed by the provider and agreed upon by the Agency or its designee.</p> <p>(5) Settings that fail to comply with the HCB Settings Rule will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients. The State must be in compliance with the HCB Settings Rule by March 17, 2022, in accordance with the Extension Period for Compliance with the home and Community-Based Settings Criteria informational bulletin, incorporated by reference available at http://www.flrules.org/Gateway/reference.asp?No=Ref-10079 and available on CMS' Web site at https://www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf.</p> <p>Developed and implemented an HCBS settings evaluation tool utilized to conduct compliance reviews of HCBS settings to ensure services are provided in settings that comport with the regulation.</p>			
<p>17. Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital.</p>	<p>Compliant</p> <p>The Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, all 1915(c) waivers and the HCB Settings Assessment tools require that the HCBS settings not include nursing facilities, institutions for mental diseases, intermediate care facilities for individuals with intellectual disabilities and</p>	<p>Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, page 2-41.</p> <p>- Place of Service - Personal supports are provided in the recipient's own home, family home, licensed residential facility if being used as respite, or when or engaged in a community activity. Personal supports can also be provided at the recipient's place of employment. No service can be provided or received in the provider's home, the home of a relative or friend of the provider, a hospital, an ICF/IID or other institutional environment.</p> <p>Developed and implemented an HCBS settings</p>	None	None	N/A

	hospitals. The State promulgated Rule 59G-13.075, F.A.C. in 2018, making it fully compliant with this regulation.	evaluation tool utilized to conduct compliance reviews of HCBS settings to ensure services are provided in settings that comport with the regulation.			
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ATTACHMENT 3: LTC ASSESSMENT TOOL – RESIDENTIAL SETTINGS

Agency for Health Care Administration

Home and Community- Based Assessment Tool

Residential Settings

TABLE OF CONTENTS

Section I – Presumptively Institutional

Section II – HCBS Characteristics

1. Setting
2. Room and Privacy
3. Meals
4. Activities and Community Integration
5. Respect, Rights, and Choice
6. Other

Section III – Signatures

REVIEWER:	Reviewer Name:	
	Reviewer Contact Information:	
	Date of Review:	

PROVIDER:	Name:	
	Medicaid ID Number:	
	Type	<input type="checkbox"/> Assisted Living Facility <input type="checkbox"/> Adult Family Care Home
	Address:	
	County:	
	Location:	<input type="checkbox"/> Urban <input type="checkbox"/> Rural

PROVIDER CONTACT:	Name:	
	Telephone Number:	
	Email Address:	

FACILITY:	Number of Direct Staff:	
	Setting Capacity:	
	Number of Individuals Served:	Waiver Recipients: _____ Non-Waiver Individuals: _____

This tool must be used during all credentialing and re-credentialing activities.

SECTION I – PRESUMPTIVELY INSTITUTIONAL

Settings will receive a copy of the assessor's completed report, including findings of deficiency or non-compliance.

Settings that are determined to be presumptively institutional, may elect to have individualized intensified review by the State or its designee by submitting evidence that demonstrates that individuals receiving home and community-based services in the setting are integrated into the greater community in accordance with the HCB Settings Rule. These settings can also elect to coordinate with the State or its designee to implement a plan of remediation to come into compliance.

Assessors may utilize facility observation, individual file review, setting policy review, or individual interview to ensure that settings are compliant with HCBS requirements.

**** Note: If the answer to any probing question in Section I is 'yes,' the setting is presumptively institutional. Please use the 'Comments' section to clarify answers where applicable.***

Presumptively Institutional Criteria	Probing Questions	PI?*	PI?*	Comments
<p>A. The Setting is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.</p>	<p>1. Is the setting located in a nursing facility? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is the setting located in an Institution for Mental Diseases (IMD)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Is the setting located in an Intermediate Care Facility for individuals with intellectual or developmental disabilities (ICF/DD)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Is the setting located in a hospital? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>B. The setting is in a building on the grounds of, or immediately adjacent to, a public institution.</p>	<p>1. Is the setting in a building on the grounds of or immediately adjacent to an IMD? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is the setting in a building on the grounds of or immediately adjacent to an ICF/DD? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>C. The setting has the effect of isolating individuals receiving Medicaid HCBS from the broader community</p>	<p>1. Does the design of the setting or model of service provision limit full access to the greater community, including with individuals not receiving Medicaid-funded HCBS? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Does the setting restrict individuals choice to receive services or to participate in activities outside of the setting? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Is the setting located separate and apart from the broader community? Does the setting limit full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to engage in community life equally to individuals not receiving Medicaid HCBS and in a way that is consistent with the individual's person-centered service plan? 4. Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
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*PI – Presumptively Institutional

SECTION II – HCBS CHARACTERISTICS

Settings will receive a copy of the assessor's completed report, including findings of deficiency or non-compliance.

Settings that are determined to be non-compliant may elect to have individualized intensified review by the State or its designee by submitting evidence that demonstrates that individuals receiving home and community-based services in the setting are integrated into the greater community and exercise autonomy, in accordance with the HCB Settings Rule. These settings can also elect to coordinate with the State or its designee to implement a plan of remediation to come into compliance.

Assessors may utilize facility observation, individual file review, setting policy review, or individual interview to ensure that settings are compliant with HCBS requirements.

****Note: A federal standard is met when the answers to all probing questions related to that standard are 'yes.'***
Please use the 'Comments' section to clarify answers where applicable.

1. Setting

Federal Standard	Probing Questions	Std Met ?	Std Met ?	Comments
<p>1.1 The setting does not intentionally, or effectively, isolate individuals from the surrounding community and persons who are not receiving Medicaid HCB services.</p> <p><i>Expectation:</i> Individuals do not live in isolated compounds, or settings that limit their potential integration with the community at large.</p>	<p>a. Do individuals receiving Medicaid HCB services live among those who do not within the setting? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are individuals able to come and go from the setting and its grounds at will? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>1.2 The setting's common areas have a home-like feel.</p> <p><i>Expectation:</i> Communal areas do not resemble an institution and are comfortable and conducive to comfortable and social interactions free from undue restrictions.</p>	<p>a. Are the common areas decorated in a home-like fashion? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Is there a common living room/social area with home-like furnishings? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>1.3 The setting is traversable by the individuals it serves; it meets the needs of individuals who require supports.</p> <p><u>Expectation:</u> <i>Individuals are able to make their way through the hallways, doorways, and common areas with or without assistive devices. Supports are available to individuals who require them.</i></p>	<p>a. Are there supports for independent movement through the setting for individuals who need them (grab bars, ramps, and assistive doors)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can individuals of varying ambulatory needs access all common areas/hallways independently?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>1.4 Visitors are not restricted from entering the setting, and there is a private meeting room to receive visitors.</p> <p><u>Expectation:</u> <i>Individuals are able to receive visitors. Visitation is not restricted or hampered by setting policies or practices. There is a comfortable private place for individuals to have visitors.</i></p>	<p>a. Are individuals free to have visitors at any time?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can individuals have visitors without informing the setting in advance?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Are there provisions for private visitation in home-like settings?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Are individuals free to have visitors in any authorized space within the setting?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>1.5 There are no areas within the setting that the individual cannot enter without permission or an escort.</p> <p><i>Expectation: Individuals are able to access all areas of the setting unless their safety would be jeopardized, e.g., individuals do not have access to maintenance rooms, janitor's closets, etc.</i></p>	<p>a. If individuals are restricted from entering areas within the setting, does the setting's policy dictate that the restrictions be addressed in individuals' files?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>1.6 Individuals have access to standard household amenities/appliances.</p> <p><i>Expectation: Individuals have independent access to appliances and household amenities in order to complete standard household chores and activities of daily living.</i></p>	<p>a. Do individuals have reasonable access to laundry facilities?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are individuals able to complete personal chores/housekeeping if necessary?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

1. Room/Privacy

Federal Standard	Probing Questions	Std Met ?	Std Met ?	Comments
<p>2.1 Individuals have a choice of private/semi-private room and choice of roommate, if applicable.</p> <p><u>Expectation:</u> <i>Individuals have the ability to choose whether to upgrade to a private room. If the individual is housed in a semi-private room, they are not auto- assigned a roommate.</i></p>	<p>a. Do individuals have the option to elect a private room when applicable? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can individuals choose their roommate if applicable? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Does the lease agreement contain information about this? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Can married couples elect to share, or not to share, a room? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2.2 The individuals' living quarters are home-like.</p> <p><u>Expectation:</u> <i>Individuals' living quarters do not resemble institutional settings or wards. Individuals have the ability to maintain their personal space according to their preferences, and living quarters are the appropriate size for the number of residents.</i></p>	<p>a. Can individuals decorate their personal space? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can individuals have home furnishings in their personal space? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Can individuals personalize their furniture arrangement? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>2.3 Individuals have privacy in their living quarters.</p> <p><u>Expectation:</u> <i>Individuals have the right to privacy including lockable doors to their living quarters unless the individual's physical or cognitive condition means their safety could be compromised if afforded privacy.</i> <i>Reasons to limit a person's right to privacy are fully and accurately documented.</i></p>	<p>a. Do the individuals' bedroom doors have keyed locks? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can bathroom doors be locked? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Does the setting's policy require that instances of privacy limitation are fully and accurately documented in individuals' files? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2.4 The setting has an appropriate policy for staff access to individuals' rooms.</p> <p><u>Expectation:</u> <i>Setting staff respects the individual's privacy in their room, is familiar with, and properly implements the policy and procedure to enter the individual's room (e.g., knock twice and wait for a response, etc.).</i></p>	<p>a. Does the setting's policy require staff, other residents, and visitors to knock and receive permission prior to entering an individual's room or bathroom? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are situations under which an individual's room would be accessed without his/her permission, or without prior notification addressed in the lease/written agreement? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>2.5 If the desired living arrangement is not available when the individual moves in, the individual is given the opportunity to change when their first choice becomes available.</p> <p><u>Expectation:</u> <i>Individuals are given the option to move room and/or change roommate if their preference becomes available.</i></p>	<p>a. Can an individual change rooms and/or roommate? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the lease/written agreement or other documents inform residents how to request a change of room/roommate? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Does the facility alert individuals that room/roommate preference is available? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2.6 Individuals are able to make/send private telephone calls/text/emails at their preference and convenience.</p> <p><u>Expectation:</u> <i>Individuals are able to communicate at will with persons of their choosing and in privacy.</i></p>	<p>a. Can individuals have private cell phones, computers, telephones or other communication devices for personal communications? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are individuals able to contact persons of their choosing in privacy? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>2.7 Individuals know how to file an anonymous complaint.</p> <p><u>Expectation:</u> <i>Information is available to individuals on how to file an anonymous complaint. Telephone numbers for the Agency Consumer Complaint Hotline, and the Abuse and Exploitation Hotline are posted in a common area of the setting.</i></p>	<p>1. Does the setting use plain language to make information about how to file an anonymous complaint available to individuals? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is information (in plain language) about filing complaints posted in obvious and accessible areas? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Does the setting have procedures to facilitate individuals receiving information on how to file an anonymous complaint in an appropriate manner? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2.8 Restrictions are identified, documented and based on the individual's needs and preferences.</p> <p><u>Expectation:</u> <i>The setting should not unduly restrict the individual.</i></p>	<p>a. Is there an updated person-centered plan in place for any individual who has restrictions? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the setting's policy require that restrictions documented on an individual basis with complete reasoning and evidentiary support? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

2. Meals

Federal Standard	Probing Questions	Std Met ?	Std Met ?	Comments
<p>3.1 Individuals are not required to follow a set schedule for meals. <u>Expectation:</u> <i>Individuals have the choice of when to eat.</i></p>	<p>a. Do individuals have access to food/snacks outside of prescribed meal times? Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Do individuals have access to food/snacks outside of prescribed meal times?</p> <p>c. If an individual misses a meal, can they eat it, or a replacement at another time? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Can individuals request an alternate meal? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>3.2 Individuals are afforded dignity and respect during meal times. <u>Expectation:</u> <i>Individuals are free from unnecessary interventions and rules during meal times which may impinge on their ability to eat and drink with dignity and respect.</i></p>	<p>a. Do individuals have a choice to wear or not wear bibs or other protection equipment? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are individuals required to stay in the dining room/at the table during meal times? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. May individuals eat alone, or with people of their choosing? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. May individuals eat in their private living quarters or in areas of the facility other than a designated dining room? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>3.3 Individuals have access to snacks and are allowed to make their own snacks; there is an area individuals can use to keep their own food and prepare snacks.</p> <p><u>Expectation:</u> <i>Individuals have access to a kitchenette a food preparation area, or a place where they can store snacks that are accessible at any time.</i></p>	<p>a. Is there a place where individuals can prepare their own snacks? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Do individuals have a place to store their personal snacks/food items? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
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3. Activities/ Community Integration

Federal Standard	Probing Questions	Std Met?	Std Met?	Comments
<p>4.1 Individuals have access to newspapers, radio, computers, television, and/or the internet.</p> <p><u>Expectation:</u> <i>Individuals have access to outside communications.</i></p>	<p>a. Do individuals have access to publications or newspapers of their own choosing? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Do individuals have access to radios and televisions? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Does the facility afford individuals access to the internet for personal use and/or computers with internet access for communal use? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>4.2 Transportation is provided, or arranged, by the setting to community activities.</p> <p><u>Expectation:</u> <i>Individuals can get to community activities such as shopping, restaurants, religious institutions, senior centers, etc. The setting should have a policy for requesting transportation, and Individuals should be made aware of the policy. Observe sign-up sheets, instructions on how to request transportation, etc.</i></p>	<p>a. Is transportation provided or arranged for shopping, restaurant, religious institutions, and other community activities? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the facility have a way to ask for information or access to transportation services? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Is there evidence that the individuals have been instructed on how to request transportation? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Are there transportation sign-up sheets or logs that reflect residents have access to transportation services and are integrated into the broader community? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
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4. Respect/Rights/Choice

Federal Standard	Probing Questions	Std Met?	Std Met?	Comments
<p>5.1 Individual choices are accommodated, including:</p> <ul style="list-style-type: none"> • Option to keep their own money and control their own resources. • Create their personal daily schedules (e.g., decide when to wake up or go to bed; go to the movies, the mall, religious events, etc.) • May be employed outside of the setting. • Meal options including where, when and with whom to eat. <p><u>Expectation:</u> <i>Individuals have the right to live in an environment free from coercion where their choices are accounted for and honored in accordance with the person-centered plan unless the individual's safety would be jeopardized.</i></p>	<p>a. Do individuals have the option of having personal bank accounts? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can the individuals access their funds at any time (i.e., afterhours, weekends, holidays) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Do individuals' schedules vary from each other's? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Are individuals able to participate in community activities? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>e. Does the setting aid individuals who wish to pursue competitive employment? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>f. Can the individual choose from whom they receive services and supports? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>5.2 Individuals, or their delegate, are active participants in the development of, and updates to, the person-centered plan.</p> <p><u>Expectation:</u> <i>Individuals and/or their representatives' ability to participate in the person-centered planning process is not impinged upon by the setting, and their contributions/opinions are viewed as instrumental to the settings care planning process.</i></p>	<p>a. Is/are the individuals/chosen representative(s) aware of how to schedule a person-centered planning meeting?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>a. Does the setting's policy require that individual's person-centered plans reflect positive interventions and supports were used prior to any plan modifications and/or the restriction of an HCB characteristic requirement?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
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5. Other

Federal Standard	Probing Questions	Std Met?	Std Met?	Comments
<p>6.1. Modifications to HCB characteristics are addressed and documented.</p> <p><u>Expectation:</u> <i>Modifications to the HCB characteristics requirements are supported by an assessed need and justified in the individual's person-centered plan.</i></p>	<p>b. Does individual's person-centered plans reflect all modifications to HCBS characteristics?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the setting's policy require that individual's person-centered plans reflect positive interventions and supports were used prior to any plan modifications and/or the restriction of an HCB characteristic requirement?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>6.2. The setting has a legally enforceable lease, residency agreement, or other form of written agreement for each individual.</p> <p><u>Expectation:</u> <i>Lease contains eviction protections and eviction appeal rights.</i></p>	<p>c. Is there a signed lease or written agreement that meets the HCBS Rule requirements in randomly selected individual files?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Does the lease/agreement include protections to address eviction processes and appeals comparable to Florida's Landlord/Tenant Laws?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

SECTION III – SIGNATURES

Each setting will receive a copy of the assessor’s completed report, including findings of deficiency or non-compliance within ten (10) days of its on-site assessment.

Settings that are determined to be presumptively institutional, or otherwise non-compliant, may elect to have individualized intensified review by the State or its designee by submitting an evidentiary packet or a plan of remediation. Templates for both are available on the State’s web site at [http://ahca.myflorida.com/medicaid/Policy and Quality/Policy/federal authorities/federal waivers/rule.shtml](http://ahca.myflorida.com/medicaid/Policy%20and%20Quality/Policy/federal%20authorities/federal%20waivers/rule.shtml). Settings have 10 days to respond to their Managed Care Organization with plan of remediation.

Settings that fail to come in compliance within the timeline outlined in their plan of remediation will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients.

Setting Representative Name (printed): _____

Setting Representative Signature: _____

- I certify that the information recorded in this document is true, valid, and accurate to the best of my knowledge.
- I acknowledge that to continue to provide HCBS services to Medicaid recipients, an evidentiary packet or plan of remediation must be completed for this setting.

Reviewer Name (printed): _____

Reviewer Signature: _____

- I certify that the information recorded in this document is true, valid, and accurate to the best of my knowledge.

ATTACHMENT 4: LTC ASSESSMENT TOOL – NON-RESIDENTIAL SETTINGS

Agency for Health Care Administration

Home and Community- Based Assessment Tool

Non-Residential Settings

TABLE OF CONTENTS

Section I – Presumptively Institutional

Section II – HCBS Characteristics

1. Community Integration
2. Respect, Rights, and Choice
3. Employment

Section III – Signatures

REVIEWER:	Reviewer Name:	
	Reviewer Contact Information:	
	Date of Review:	

PROVIDER:	Name:	
	Medicaid ID Number:	
	Type	<input type="checkbox"/> Adult Day Care Center <input type="checkbox"/> Other - _____
	Address:	
	County:	
	Location:	<input type="checkbox"/> Urban <input type="checkbox"/> Rural

PROVIDER CONTACT:	Name:	
	Telephone Number:	
	Email Address:	

FACILITY:	Number of Direct Staff:	
	Setting Capacity:	
	Number of Individuals Served:	Waiver Recipients: _____ Non-Waiver Individuals: _____

SECTION I – PRESUMPTIVELY INSTITUTIONAL

Settings will receive a copy of the assessor's completed report, including findings of deficiency or non-compliance.

Settings that are determined to be presumptively institutional, may elect to have individualized intensified review by the State or its designee by submitting evidence that demonstrates that individuals receiving home and community-based services in the setting are integrated into the greater community in accordance with the HCB Settings Rule. These settings can also elect to coordinate with the State or its designee to implement a plan of remediation to come into compliance.

Assessors may utilize facility observation, individual file review, setting policy review, or individual interview to ensure that settings are compliant with HCBS requirements.

**** Note: If the answer to any probing question in Section I is 'yes,' the setting is presumptively institutional. Please use the 'Comments' section to clarify answers where applicable.***

Presumptively Institutional Criteria	Probing Questions	PI?*	PI?*	Comments
<p>A. The Setting is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.</p>	<p>1. Is the setting located in a nursing facility? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is the setting located in an Institution for Mental Diseases (IMD)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Is the setting located in an Intermediate Care Facility for individuals with intellectual or developmental disabilities (ICF/DD)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Is the setting located in a hospital? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>B. The setting is in a building on the grounds of, or immediately adjacent to, a public institution.</p>	<p>1. Is the setting in a building on the grounds of or immediately adjacent to an IMD? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is the setting in a building on the grounds of or immediately adjacent to an ICF/DD? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>C. The setting has the effect of isolating individuals receiving Medicaid HCBS from the broader community.</p>	<p>1. Does the design of the setting or model of service provision limit full access to the greater community, including with individuals not receiving Medicaid-funded HCBS? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Does the setting restrict individuals choice to receive services or to participate in activities outside of the setting? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Is the setting located separate and apart from the broader community? Does the setting limit full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to engage in community life equally to individuals not receiving Medicaid HCBS and in a way that is consistent with the individual's person- centered service plan? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
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*PI – Is setting Presumptively Institutional

SECTION II – HCBS CHARACTERISTICS

Settings will receive a copy of the assessor's completed report, including findings of deficiency or non-compliance.

Settings that are determined to be non-compliant may elect to have individualized intensified review by the State or its designee by submitting evidence that demonstrates that individuals receiving home and community-based services in the setting are integrated into the greater community and exercise autonomy, in accordance with the HCB Settings Rule. These settings can also elect to coordinate with the State or its designee to implement a plan of remediation to come into compliance.

Assessors may utilize facility observation, individual file review, setting policy review, or individual interview to ensure that settings are compliant with HCBS requirements.

****Note: A federal standard is met when the answers to all probing questions related to that standard are 'yes.'
Please use the 'Comments' section to clarify answers where applicable.***

1. Community Integration

Federal Standard	Probing Questions	Std Met ?	Std Met ?	Comments
<p>1.1 The setting is traversable by the individuals it serves; it meets the needs of individuals who require supports.</p> <p><u>Expectation:</u> <i>Individuals are able to make their way through the hallways, doorways, and common areas with or without assistive devices. Supports are available to individuals who require them.</i></p>	<p>a. Are there supports for independent movement through the setting for individuals who need them (grab bars, ramps, and assistive doors)?</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Can individual of varying ambulatory needs access all common areas/hallways independently?</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>1.2 The setting is located in the community and is equally accessible for individuals not receiving Medicaid HCBS.</p> <p><u>Expectation:</u> Locations should be in community settings and access should be similar for those not receiving HCBS.</p>	<p>a. Is the setting within a community (comprised of social, religious, and occupational resources)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are HCBS recipients free to associate with non-recipients within the setting and in the community?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Are there opportunities for community activities not funded by Medicaid (religious, educational, social, and occupational)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
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2. Rights/Respect/Choice

Federal Standard	Probing Questions	Std Met ?	Std Met ?	Comments
<p>2.1 Individuals, or their delegate, are active participants in the development of, and updates to, the person-centered plan.</p> <p><u>Expectation:</u> <i>Individuals and/or their representatives' ability to participate in the person-centered planning process is not impinged upon by the setting, and their contributions/opinions are viewed as instrumental to the settings care planning process.</i></p>	<p>a. Is/are the individuals/chosen representative(s) aware of how to schedule a person-centered planning meeting? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Is there documentation to suggest that individuals/representatives were present during the last person-centered plan meeting? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2.2 Individual choices are accommodated, including:</p> <ul style="list-style-type: none"> • Option to keep their own money and control their own resources. • Create their personal daily schedules (e.g., decide when to wake up or go to bed; go to the movies, the mall, religious events, etc.) • May be employed outside of the setting. • Meal options including where, when and with whom to eat. <p><u>Expectation:</u></p>	<p>a. Does the setting make it easy for individuals to make choices about daily activities? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the setting offer individuals an easy way to select or change the person through which they receive their services? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Does the setting encourage freedom of choice and autonomy in policy and practice? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Does the setting allow individuals to</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p><i>Individuals have the right to live in an environment free from coercion where their choices are accounted for and honored in accordance with the person-centered plan unless the individual's safety would be jeopardized.</i></p>	<p>bring in personal resources such as money, food or other personal items? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>e. Can individuals keep/control their own resources? Yes <input type="checkbox"/> No <input type="checkbox"/></p>			
<p>2.3 Setting promotes an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.</p> <p><u>Expectation:</u> <i>Confidential information about the individual should be maintained in a secure file with only appropriate staff provided access to this information.</i></p>	<p>a. Does the setting have a prearranged secure location for individuals' files both in policy and in practice? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the setting's policy require that staff are trained to provide authorized services with respect for the individual's privacy, dignity, and free from restraint and coercion? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Do staff converse with individuals while providing assistance/services and during the course of the day? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>d. Do staff address individuals in the manner they wish to be addressed? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

<p>2.4 Individuals know how to file an anonymous complaint.</p> <p><u>Expectation:</u> Information is available to individuals on how to file an anonymous complaint. Telephone numbers for the Agency Consumer Complaint Hotline, and the Abuse and Exploitation Hotline are posted in a common area of the setting.</p>	<p>a. Does the setting use plain language to make information about how to file an anonymous complaint available to individuals? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Is information (in plain language) about filing complaints posted in obvious and accessible areas? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>c. Does the setting have procedures to facilitate individuals receiving information on how to file an anonymous complaint in an appropriate manner? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	
<p>2.5 Restrictions are identified, documented and based on the individual's needs and preferences.</p> <p><u>Expectation:</u> The service setting should not unduly restrict an individual.</p>	<p>a. Is there an updated person-centered plan in place for the individual? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Are restrictions documented on an individual basis with complete reasoning and evidentiary support? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

3. Employment

Federal Standard	Probing Questions	Std Met?	Std Met?	Comments
<p>3.1 Setting assists individuals who wish to gain competitive employment and refers them to appropriate resource(s).</p> <p><i>Expectation: The setting has a training program that aids individuals who wish to pursue employment in the community.</i></p>	<p>a. Does the setting aid individuals who wish to pursue competitive employment in the community? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b. Does the setting assist individuals with development of employment preparation skills? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

SECTION III – SIGNATURES

Each setting will receive a copy of the assessor’s completed report, including findings of deficiency or non-compliance within ten (10) days of its on-site assessment.

Settings that are determined to be presumptively institutional, or otherwise non-compliant, may elect to have individualized intensified review by the State or its designee by submitting an evidentiary packet or a plan of remediation. Templates for both are available on the State’s web site at

[http://ahca.myflorida.com/medicaid/Policy and Quality/Policy/federal authorities/federal waivers/rule.shtml](http://ahca.myflorida.com/medicaid/Policy%20and%20Quality/Policy/federal%20authorities/federal%20waivers/rule.shtml).

Settings have 10 days to respond to their Managed Care Organization with plan of remediation.

Settings that fail to come in compliance within the timeline outlined in their plan of remediation will be ineligible to participate in the provision of HCBS to Florida Medicaid recipients.

Setting Representative Name (printed): _____

Setting Representative Signature: _____

- I certify that the information recorded in this document is true, valid, and accurate to the best of my knowledge.
- I acknowledge that to continue to provide HCBS services to Medicaid recipients, an evidentiary packet or plan of remediation must be completed for this setting.

Reviewer Name (printed): _____

Reviewer Signature: _____

ATTACHMENT 5: IBUDGET ASSESSMENT TOOL – RESIDENTIAL SETTINGS

Waiver:	Developmental Disabilities Individual Budgeting (iBudget) <input checked="" type="checkbox"/>
Reviewer:	
Date of Review:	
Name of Provider:	
Address:	
County:	
Contact Person for Provider:	
Telephone Number:	
Email Address:	
HCBS Provider ID Number:	
License Number:	
Setting Location:	Urban <input type="checkbox"/> Rural <input type="checkbox"/>
Provider Type:	Group Home <input type="checkbox"/> Explain: Other Residential Provider <input type="checkbox"/>
Number of Direct Care Staff:	
Setting Capacity:	
Number of Recipients Served Daily:	Waiver Recipients: _____ Non-waiver Recipients: _____

Presumptively Institutional Settings

Presumptively Institutional Criteria ⁶	Probing Questions	Setting Meets Presumptively Institutional Criteria Yes / No	Comments
<p>A. The setting is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.</p>	<p>1. Is the setting located in a nursing home/facility? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is the setting located in an Institution for Mental Diseases (IMD)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Is the setting located in an Intermediate Care Facility for individuals with intellectual or developmental disabilities (ICF/DD)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Is the setting located in a hospital? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES NO</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>B. The setting is in a building on the grounds of, or immediately adjacent to, a public institution.</p>	<p>1. Is the setting in a building on the grounds of or immediately adjacent to an IMD? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is the setting in a building on the grounds of or immediately adjacent to an ICF/DD? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>YES NO</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

⁶ All standards are in accordance with Title 42, Code of Federal Regulations, Section 441.301

<p>C. The setting has the effect of isolating individuals receiving Medicaid HCBS from the broader community.</p>	<p>The setting has the effect of isolating individuals receiving Medicaid HCBS from the broader community due to one of the following:</p> <ol style="list-style-type: none"> 1. The setting is designed to provide people with disabilities multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities, thereby limiting interaction with the broader community. Yes <input type="checkbox"/> No <input type="checkbox"/> 2. The setting uses/authorizes interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion) Yes <input type="checkbox"/> No <input type="checkbox"/> 3. The setting is a farmstead or a disability-specific farm community that is on a large parcel of land with little ability to access the broader community outside the farm. While sometimes people from the broader community may come on-site, people from the farm do not go out into the broader community as part of their daily life. Yes <input type="checkbox"/> No <input type="checkbox"/> 4. The setting is in a gated/secured community for people with disabilities where multiple types of services are provided and the individuals receiving HCBS do not leave the grounds of the gated community to access activities or services in the broader community. Yes <input type="checkbox"/> No <input type="checkbox"/> 5. There are multiple settings co-located and operationally related (i.e., operated and 	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
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	<p>controlled by the same provider) that congregate a large number of people with disabilities together and provide for significant shared programming and staff, such that people's ability to interact with the broader community is limited. An example of this setting is several group homes and adult day care centers or adult day training settings on the same campus, street, or court.</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>6. The setting is a place where individuals live and work or attend an educational program in the same building or in buildings in close proximity to each other (e.g. two buildings side by side). Individuals do not travel into the broader community to live or to attend work/school and therefore their integration into the community is limited to large group activities.</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
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HCB Characteristics- Residential

Setting

Standard	Probing Questions	Standard Met or Not Met	Comments
<p>1.1 The setting does not intentionally, or effectively, isolate individuals from the surrounding community and persons who are not receiving Medicaid HCB services.</p> <p><u>Expectation:</u> Individuals do not live in isolated compounds, or settings that limit their potential integration with the community at large.</p>	<p>1. Do individuals receiving Medicaid HCB services live among those who do not within the facility?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are individuals able to come and go from the facility and its grounds at will?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Does the nature of the setting encourage community integration (i.e., no gated compounds, campus-like settings, or settings where an individual lives and works/attends training within a short distance)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	
<p>1.2 The setting's common areas have a home-like feel.</p> <p><u>Expectation:</u> Communal areas do not resemble an institution and are comfortable and conducive to comfortable and social interactions free from undue restrictions.</p>	<p>1. Are the common areas decorated in a home-like fashion (paint, artwork, home furnishings etc.)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Is there a common living room/social area with home-like furnishings?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

<p>1.3 The setting is traversable by the individuals it serves; it meets the needs of individuals who require supports.</p> <p><u>Expectation:</u> Individuals are able to make their way through the hallways, doorways, and common areas with or without assistive devices. Supports are available to individuals who requires them.</p>	<p>1. Are supports provided for individuals who need them to move around the facility independently/at will (grab bars, ramps, viable emergency exits, etc.)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are hallways/common areas accessible to individuals of varying needs?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Individuals, or groups of individuals, are not restricted from areas of the facility because of their specific ambulatory needs?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	
<p>1.4 Visitors are not restricted from entering the setting, and there is a private meeting room to receive visitors.</p> <p><u>Expectation:</u> Individuals are able to receive visitors. Visitation is not restricted or hampered by setting policies or practices. However, unrestricted visitation rights may not be construed to permit infringement upon other clients'/individuals' rights to privacy. There is a comfortable private place for individuals to have visitors.</p>	<p>1. Are visiting hours restricted?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are individuals or visitors required to give advance notice for visitation?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Are there provisions for private visitation in home-like settings?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Are there restricted visitor meeting areas?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

<p>1.5 There are no areas within the setting that the individual cannot enter without permission or an escort. If there are such areas, list in Comments.</p> <p><u>Expectation:</u> Individuals are able to access all areas of the setting unless their safety would be jeopardized, e.g., individuals do not have access to maintenance rooms, janitor's closets, etc.</p>	<p>1. Are individuals restricted from entering areas within the setting? If so, randomly check client files to ensure this restriction is addressed and list the areas in comments section, along with the reason why.</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	
<p>1.6 Individuals have access to standard household amenities/appliances.</p> <p><u>Expectation:</u> Individuals have access to appliances and household amenities to complete standard household chores and activities of daily living.</p>	<p>1. Do individuals have access to laundry facilities?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are individuals able to complete personal chores/housekeeping if necessary?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

Room/Privacy

Standard	Probing Questions	Standard Met or Not Met	Comments
<p>2.1 Individuals have a choice of private/semi-private room and choice of roommate, if applicable.</p> <p><u>Expectation:</u> Individuals have the ability to choose whether to upgrade to a private room (room and board rates may differ based on the individual's election of a private or semi-private room.) If the individual is housed in a semi-private room, they are not auto- assigned a roommate.</p>	<p>1. Do individuals have the option to elect a private room?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Can individuals choose their roommate if applicable?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Does the lease agreement contain information about this?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

<p>2.2 The individuals' living quarters are home-like.</p> <p><u>Expectation:</u> Individuals' living quarters do not resemble institutional settings or wards. Individuals have the ability to maintain their personal space according to their preferences, and living quarters are the appropriate size for the number of residents.</p>	<p>1. Can individuals decorate their personal space? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Can individuals have home furnishings in their personal space? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Can individuals personalize their furniture arrangement? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	
<p>2.3 Individuals have privacy in their living quarters.</p> <p><u>Expectation:</u> Individuals have the right to privacy including lockable doors to their living quarters unless the individual's physical or cognitive condition means their safety could be compromised if afforded privacy. Reasons to limit a person's right to privacy are fully and accurately documented.</p>	<p>1. Do the individuals' room and bathroom have a locking door? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are individuals allowed to lock their doors? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	
<p>2.4 The setting has an appropriate policy for staff access to individual rooms.</p> <p><u>Expectation:</u> Setting staff respects the individual's privacy in their room, is familiar with, and properly implements the policy and procedure to enter the individual's room (e.g., knock twice and wait for a response, etc.).</p>	<p>1. Do staff, other residents and visitors always knock, and receive permission prior to entering an individual's room or bathroom? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Were the situations under which an individual's room would be accessed without his/her permission, or without prior notification addressed in the lease/written agreement? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	

<p>2.5 If the desired living arrangement is not available when the individual moves in, the Individual is given the opportunity to change when their first choice becomes available.</p> <p><u>Expectation</u> Individuals are given the option to move room and/or change roommate if their preference becomes available.:</p>	<ol style="list-style-type: none"> 1. Can an individual change rooms and/or roommate? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Does the lease/written agreement or other documents inform residents how to request a change of room/roommate? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Does the facility alert individuals that room/roommate preference is available? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>2.6 Individuals are able to make/send private telephone calls/texts/emails at their preference and convenience.</p> <p><u>Expectation:</u> Individuals are able to communicate at will with persons of their choosing and in privacy.</p>	<ol style="list-style-type: none"> 1. Can individuals have private cell phones, computers, telephones or other communication devices for personal communications? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Are individuals able to contact persons of their choosing in privacy? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>2.7 Individuals have been provided information in an appropriate manner on how to file an anonymous complaint.</p> <p><u>Expectation:</u> Information is available to Individuals on how to file an anonymous complaint. Telephone numbers for the Agency Consumer Complaint Hotline, and the Abuse and Exploitation Hotline are posted in a common area of the setting</p>	<ol style="list-style-type: none"> 1. Does the facility use plain language to make information about how to register an anonymous complaint available to individuals? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Is information (in plain language) about filing complaints posted in obvious and accessible areas? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Does the setting have procedures to facilitate individuals receiving information on how to file an 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

	<p>anonymous complaint in an appropriate manner?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>2.8 Restrictions are identified, documented and based on the Individual's needs and preferences.</p> <p><u>Expectation:</u> The service setting should not unduly restrict the Individual.</p>	<p>1. Is there an updated person-centered plan in place for the individual?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are restrictions documented on an individual basis with complete reasoning and evidentiary support?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

Meals

Standard	Probing Questions	Standard Met or Not Met	Comments
<p>3.1 Individuals are not required to follow a set schedule for meals.</p> <p><u>Expectation:</u> Individuals have the choice of when to eat.</p>	<p>1. Do individuals have access to food/snacks outside of prescribed meal times?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. If an individual misses a meal, can they eat it, or a replacement at another time?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Can individuals request an alternate meal?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>3.2 Individuals are afforded dignity and respect during meal times.</p> <p><u>Expectation:</u> Individuals are free from unnecessary interventions and rules during meal times which may impinge on their ability to eat and drink with dignity and respect.</p>	<p>1. Are individuals required to wear bibs or other protection equipment unjustifiably?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are individuals required to stay in the dining room/at the table during meal times?</p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. May individuals eat alone, or with people of their choosing?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. May individuals eat in their private living quarters or in areas of the facility other than a designated dining room?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>3.3 Individuals have access to snacks and are allowed to make their own snacks; there is an area Individuals can use to keep their own food and prepare snacks (e.g., kitchen or snack preparation area with refrigerator, sink, and microwave).</p> <p><u>Expectation:</u> Individuals have access to a food preparation area (a place to prepare and reheat foods), or a place where they can store snacks that are accessible at any time.</p>	<p>1. Is there a place where individuals can prepare their own snacks?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Do individuals have a place to store their personal snacks/food items?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

Activities/Community Integration

Standard	Probing Questions	Standard Met or Not Met	Comments
<p>4.1 Individuals have access to newspapers, radio, computers, television, and/or the internet.</p> <p><u>Expectation:</u> Individuals have access to outside communications.</p>	<p>1. Do individuals have access to publications or newspapers of their own choosing?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Do individuals have access to radios and televisions?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Does the facility afford individuals access to the internet for personal use and/or computers with internet access for communal use?</p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

	Yes <input type="checkbox"/> No <input type="checkbox"/>		
<p>4.2 Transportation is provided, or arranged, by the setting to community activities.</p> <p><u>Expectation:</u> Individuals can get to community activities such as shopping, restaurants, religious institutions, senior centers, etc. The setting should have a policy for requesting transportation, and Individuals should be made aware of the policy. Observe sign-up sheets, instructions on how to request transportation, etc.</p>	<p>1. Is transportation provided or arranged for shopping, restaurant, religious institutions, and other community activities?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Does the facility have a policy that describes how residents gain access to transportation services?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Is there evidence that the individuals have been instructed on how to request transportation?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Are there transportation sign-up sheets or logs that reflect residents have access to transportation services and are integrated into the broader community?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

Respect/Rights/Choice

Standard	Probing Questions	Standard Met or Not Met	Comments
<p>5.1 Individual choices are accommodated including:</p> <ul style="list-style-type: none"> • Option to keep their own money and control their own resources. • Create their personal daily schedules (e.g., decide when to wake up or go to bed; go to the movies, the mall, religious events, etc.) 	<p>1. Do individuals have the option of having personal bank accounts?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Can the individuals access their funds at any time (i.e. afterhours, weekends, holidays)</p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

<ul style="list-style-type: none"> • May be employed outside of the setting. • Meal options including where, when and with whom to eat. <p><u>Expectation:</u> Individuals have the right to live in an environment free from coercion where their choices are accounted for and honored in accordance with the person-centered plan unless the individual's safety would be jeopardized.</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Do individuals' schedules vary from each other's? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Are individuals able to participate in community activities? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>5. Does the facility aid individuals who wish to pursue competitive employment? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>6. Can the individual choose from whom they receive services and supports? Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>5.2 Individuals, or their delegate, are an active participant in the development of, and updates to, the person-centered plan.</p> <p><u>Expectation:</u> Individuals and/or their representatives are active participants in the person-centered planning process. Their ability to participate is not impinged upon by the setting, and their contributions/opinions are viewed as instrumental to the settings care planning process.</p>	<p>1. Is/are the individuals/chosen representative(s) aware of how to schedule a person-centered planning meeting? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Were individuals/representatives present during the last person-centered plan meeting? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	

Other

Standard	Probing Questions	Standard Met or Not Met	Comments
<p>6.1. Modifications to HCB characteristics are addressed and documented.</p> <p><u>Expectation:</u></p>	<p>1. Does documentation note if positive interventions and supports were used prior to any plan modifications and/or the restriction of an HCB characteristic</p>	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	

<p>Modifications to the HCB characteristics requirements are supported by an assessed need and justified in the individual's person-centered plan.</p>	<p>requirement? Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>6.2. The setting has a legally enforceable lease, residency agreement, or other form of written agreement for each individual.</p> <p><u>Expectation:</u> Lease contains eviction protections and eviction appeal rights.</p>	<p>1. Is there a signed lease or written agreement that meets the CMS Rule requirements in the randomly selected client file? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Does the lease/agreement include protections to address eviction processes and appeals comparable to Florida's Landlord/Tenant Laws? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET <input type="checkbox"/> NOT MET <input type="checkbox"/></p>	

ATTACHMENT 6: IBUDGET ASSESSMENT TOOL – NON-RESIDENTIAL SETTINGS

Waiver:	Developmental Disabilities Individual Budgeting (iBudget) <input checked="" type="checkbox"/>
Reviewer:	
Date of Review:	
Name of Provider:	
Address:	
County:	
Contact Person for Provider:	
Telephone Number:	
Email Address:	
HCBS Provider ID Number:	
License Number:	
Setting Location:	Urban <input type="checkbox"/> Rural <input type="checkbox"/>
Provider Type:	Adult Day Training <input checked="" type="checkbox"/>
Number of Direct Care Staff:	
Setting Capacity:	

Number of Recipients Served Daily:	Waiver Recipients:	Non-waiver Recipients:
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HCB Characteristics- Non-Residential

Community Integration

Standard	Probing Questions	Standard Met: Met or Not Met	Comments
<p>1.1 Setting's common areas are accessible and traversable.</p> <p><u>Expectation:</u> Individuals are able to make their way through the hallways, doorways, and common areas with or without assistive devices. Supports are available to individuals who require them.</p>	<ol style="list-style-type: none"> 1. Are supports provided for individuals who need them to move around the facility independently/at will (grab bars, ramps, viable emergency exits, etc.)? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Are hallways/common areas accessible to individuals of varying needs? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Individuals, or groups of individuals, are not restricted from areas of the facility because of their specific ambulatory needs? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>1.2 Setting is among community resources accessible to the same degree of access as individuals not receiving Medicaid HCBS.</p> <p><u>Expectation:</u> Settings should be in community settings similar to those not receiving HCBS.</p>	<ol style="list-style-type: none"> 1. Is the facility where the service is provided among businesses and community resources? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Are individuals receiving Medicaid HCBS included among those who do not, within the facility? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Are there opportunities for community activities (not funded by Medicaid) for the period of time desired by the individual? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

Respect/Rights/Choice

<p>2.1 Individuals are part of the person-centered planning process.</p> <p><u>Expectation:</u> Individuals and/or their representatives are active participants in the planning process.</p>	<ol style="list-style-type: none"> 1. Was the facility chosen by the individual from among several options? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Were individuals/ representatives present during the last person-centered plan meeting? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Do planning meetings occur at times convenient to the individual/representative(s)? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	
<p>2.2 Individual choices are accommodated including:</p> <ul style="list-style-type: none"> • Option to bring and keep control of their own resources. • Opportunity to engage in activities of the individual's choosing. • Ability to interact with people of the individual's choosing. • Meal options (if applicable) including where, when, and with whom to eat. <p><u>Expectation:</u> Individuals have the right to receive services in an environment free from coercion where their choices are accounted for and honored in accordance with the person-centered plan unless the individual's safety would be jeopardized.</p>	<ol style="list-style-type: none"> 1. Does the facility optimize the individual's initiative, autonomy and independence in making choices about activities of daily living? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Are individuals satisfied with the services/supports received and those who deliver them? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Do any facility policies or practices inhibit individuals' choices? Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Does the facility allow individuals to bring in personal resources such as money, food or other person items? Yes <input type="checkbox"/> No <input type="checkbox"/> 5. Can individuals keep/control their own resources? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET <input type="checkbox"/> <input type="checkbox"/></p>	

<p>2.3 Setting promotes an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.</p> <p><u>Expectation:</u> Confidential information about the Individual should be maintained in a secure file with only appropriate staff provided access to this information. Staff are trained to provide services without coercing participants and in a way that participants do not experience a loss of privacy, dignity, or respect.</p>	<ol style="list-style-type: none"> 1. Are files containing individuals' specific information maintained in a secure location and available only to appropriate staff for use in providing the authorized service? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Is staff trained to provide the authorized service with respect for the individual's privacy, dignity, and free from restraint and coercion? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Do staff converse with individuals while providing assistance/services and during the course of the day? Yes <input type="checkbox"/> No <input type="checkbox"/> 4. Do staff address individuals in the manner they like to be addressed? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>2.4 Individuals have been provided information in an appropriate manner on how to file an anonymous complaint.</p> <p><u>Expectation:</u> Information is available to Individuals on how to file an anonymous complaint. Telephone numbers for the Agency Consumer Complaint Hotline, and the Abuse and Exploitation Hotline are posted in a common area of the setting.</p>	<ol style="list-style-type: none"> 1. Does the facility use plain language to make information about how to register an anonymous complaint available to individuals? Yes <input type="checkbox"/> No <input type="checkbox"/> 2. Is information (in plain language) about filing complaints posted in obvious and accessible areas? Yes <input type="checkbox"/> No <input type="checkbox"/> 3. Does the setting have procedures to facilitate individuals receiving information on how to file an anonymous complaint in an appropriate manner? Yes <input type="checkbox"/> No <input type="checkbox"/> 	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

<p>2.5 Restrictions are identified, documented, and based on the individual's needs and preferences.</p> <p><u>Expectation:</u> The service setting should not unduly restrict an individual</p>	<p>1. Is there an updated person-centered plan in place for the individual? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Are restrictions documented on an individual basis with complete reasoning and evidentiary support? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
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Employment

<p>3.1 Setting assists individuals who wish to gain competitive employment and/or refers them to appropriate resource(s).</p> <p><u>Expectation:</u> The setting has a training program that aids individuals who wish to pursue employment in the community.</p>	<p>1. Does the facility aid individuals who wish to pursue competitive employment in the community? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Does the facility assist individuals with development of employment preparation skills? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p>3.2 Setting provides transportation or helps individuals to access transportation.</p> <p><u>Expectation:</u> The setting should help, or facilitate the individual commuting to work.</p>	<p>1. Is there evidence that individuals have been instructed on how to access transportation? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>MET NOT MET</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	

ATTACHMENT 7: RESIDENTIAL AND NON-RESIDENTIAL REMEDIATION TOOLS

Residential Remediation Tool

Provider Name:

Provider Medicaid ID:

Facility Address:

County:

Presumptively Institutional Setting Criteria	Describe why setting meets presumptively institutional setting criteria.	Describe remediation plan and timeline	Date Remediation Completed
A.			
B.			
C.			

Standard 1 Setting	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
1.1			
1.2			
1.3			
1.4			
1.5			
1.6			

Standard 2 Respect/Rights /Choice	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
2.1			
2.2			
2.3			
2.4			
2.5			
2.6			
2.7			
2.8			
2.9			

Standard 3 Meals	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
3.1			
3.2			
3.3			
3.4			
3.5			

Standard 4 Activities/Community Integration	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
4.1			
4.2			
4.3			
4.4			
4.5			
4.6			

Standard 5 Respect/Rights/Choice	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
5.1			
5.2			
5.3			
5.4			
5.5			

Standard 6 Other	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
6.1			
6.2			

Provider Representative Name: _____ **Contact Number:** _____ **Email Address:** _____

Provider Representative Signature: _____ **Date Submitted:** _____

State Agency Representative Name: _____ **Date Received:** _____

Plan of Remediation Approved: Yes No

Reason for Disapproval:

State Agency Representative Signature: _____ **Date of Response:** _____

Non-residential Remediation Tool

Provider Name:

Provider Medicaid ID:

Facility Address:

County:

Presumptively Institutional Setting Criteria	Describe why setting meets presumptively institutional setting criteria.	Describe remediation plan and timeline	Date Remediation Completed
A.			
B.			
C.			

Standard 1 Community Integration	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
1.1			
1.2			

Standard 2 Respect/Rights/Choice	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
2.1			
2.2			
2.3			

2.4			
2.5			

Standard 3 Employment	Describe deficiency	Describe remediation plan and timeline	Date Remediation Completed
3.1			
3.2			

Provider Representative Name: _____ **Contact Number:** _____ **Email Address:** _____

Provider Representative Signature: _____ **Date Submitted:** _____

State Agency Representative Name: _____ **Date Received:** _____

Plan of Remediation Approved: Yes No

Reason for Disapproval:

State Agency Representative Signature: _____ **Date of Response:** _____

ATTACHMENT 8: RESIDENTIAL CHARACTERISTICS AND TRENDS – SELF ASSESSMENT

HCBS Waiver Type	Residential HCBS Setting Type	Number of providers validated
iBudget	Group Homes	355
LTC	Assisted Living Facilities/ Adult Family Care Homes	341
	Total Residential Settings	696

Compliance by Standard

Standard	Number of Settings Compliant
Setting	
1.1 The setting does not intentionally, or effectively, isolate individuals from the surrounding community and persons who are not receiving Medicaid HCB services.	656
1.2 The setting's common areas have a home-like feel.	680
1.3 The setting is traversable by the individuals it serves; it meets the needs of individuals who require supports.	629
1.4 Visitors are not restricted from entering the setting, and there is a private meeting room to receive visitors.	657
1.5 There are no areas within the setting that the Individual cannot enter without permission or an escort.	610
1.6 Individuals have access to standard household amenities/appliances.	591
Room/Privacy	
2.1 Individuals have a choice of private/semi-private room and choice of roommate if applicable.	520
2.2 The individuals' living quarters are home-like.	684
2.3 Individuals have privacy in their living quarters.	491
2.4 The setting has an appropriate policy for staff access to individual rooms.	463
2.5 If the desired living arrangement is not available when the Individual moves in, the Individual is given the opportunity to change when their first choice becomes available.	497
2.6 Individuals are able to make/send private telephone calls/text/emails at their preference and convenience.	686
2.7 Individuals know how to file an anonymous complaint.	624
2.8 Restrictions are identified, documented and based on the Individual's needs and preferences.	485
Meals	
3.1 Individuals are not required to follow a set schedule for meals.	680
3.2 Individuals are afforded dignity and respect during meal times.	653
3.3 Individuals have access to snacks and are allowed to make their own snacks; there is an area Individuals can use to keep their own food and prepare snacks.	643
Activities/Community Integration	
4.1 Individuals have access to newspapers, radio, computers, television,	669

and/or the internet.	
4.2 Transportation is provided, or arranged, by the setting to community activities.	511
Respect/Rights/Choice	
5.1 Individual choices are accommodated.	613
5.2 Individuals, or their delegate, are an active participant in the development of, and updates to, the person-centered plan.	459
Other	
6.1. Modifications to HCB Characteristics are addressed and documented.	514
6.2. The setting has a legally enforceable lease, residency agreement, or other form of written agreement for everyone.	439

ATTACHMENT 9: NON-RESIDENTIAL CHARACTERISTICS AND TRENDS – SELF ASSESSMENT

HCBS Waiver Type	Non-Residential HCBS Setting Type	Number of providers validated
iBudget	Adult Day Training	136
LTC	Adult Day Care Center	182
	Total Non-Residential Setting Validated	318

Compliance by Standard

Standard	Number of Settings Compliant
Community Integration	
1.1 Setting's common areas are accessible and traversable.	249
1.2 Setting is among community resources accessible to the same degree of access as Individuals not receiving Medicaid HCBS.	307
Respect/Rights/Choice	
2.1 Individuals are part of the person-centered planning process.	195
2.2 Individual choices are accommodated	295
2.3 Setting promotes an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint.	300
2.4 Individuals know how to file an anonymous complaint.	240
2.5 Restrictions are identified, documented and based on the Individual's needs and preferences.	200
Employment	
3.1 Setting assists individuals who wish to gain competitive employment and/or refers them to appropriate resource(s).	271
3.2 Setting provides transportation or helps individuals to access transportation.	301

ATTACHMENT 10: HOME AND COMMUNITY-BASED SETTINGS ASSESSMENT VALIDATION

Attachment 10: Home and Community-Based Settings Assessment Validation Data

Long-Term Care Settings:				iBudget Settings:			
	Residential (ALF and AFCH)	Non- Residential (ADC)	LTC Total	Residential	Non- Residential	APD total	Total:
Total Number of HCB settings assessed:	941	90	1,031	2,778	447	3,225	4,256
Total Number of assessments completed ⁷	N/A	N/A	N/A	3,192	542	3,734	3,734
Total number of assessments validated:	941	90	1,031	535	3,709	4,038	4,244
Total number of assessments validated, quality assurance ⁸ :	244	85	329	N/A	N/A	N/A	329
Total number of settings that were compliant:	859	88	947	2,543	413	2,956	3,903
Total number of settings that required remediation:	82	2	84	631	122	753	837
Total number of settings deemed presumptively institutional	1	1	2	0	0	0	2

⁷ For iBudget settings, some settings have been assessed more than once. This is to ensure continued compliance and is why there are more assessments completed than the total number of HCB settings assessed.

⁸ The State's validation sample was selected from the universe of settings assessed from 2015 to present by the health plans. By 2019 when the state assigned the remaining settings requiring assessment to the health plans, a number of settings had either contracted with different or multiple Long-Term Care Plans. The number of settings assessed by plan contains only the 2019 assessments, therefore, the number of settings validated, which contained assessments done previously with the 2015 tool, were more than the number of settings completed for some plans

ATTACHMENT 11: PRESUMPTIVELY INSTITUTIONAL SETTINGS

Attachment 11

Presumptively Institutional Home and Community Based Settings in Florida

HCBS Setting Name	HCBS Setting Type	HCBS Setting Address	Reason Setting is Presumptively Institutional	Number of Individuals Affected
Miami Springs (Fair Haven) Assisted Living	Residential	201 Curtis Parkway Miami Springs, FL 33166	Criteria A	6
IRV Weissman Adult Day Center at Menorah Manor	Non-residential	255 59 th St. North St. Peterburg, FL 33710	Criteria A	2