

Draft Waiver Specific Transition Plan

1915(c) Developmental Disabilities Individual Budgeting Waiver

I. 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) 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 states to evaluate their current HCB settings and develop a transition plan to demonstrate how the states plans to come into compliance with the requirements outlined in the rule. CMS included a public notice process requirement in the rule to ensure transparency.

The purpose of this waiver specific transition plan is to ensure that individuals receiving HCBS in the Developmental Disabilities Individual Budgeting (iBudget) waiver are integrated in 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 iBudget Transition Plan describes how the state will assess, determine compliance, remediate and monitor continued compliance with the HCB settings requirements. The transition plan outlines the state's process with timeframes that will be used to ensure compliance with the HCB Setting Rule.

II. Overview

The iBudget Waiver is managed by the Florida Agency for Health Care Administration (Agency). The Florida Agency for Persons with Disabilities (APD) is responsible for monitoring certain activities under this waiver to ensure compliance with all state and federal requirements. The iBudget Waiver is being assessed to ensure individuals receiving HCBS have access to a home-like environment and community inclusion, and that all HCBS settings are in compliance with the HCB Setting Rule requirements specified in 42 CFR 441.301(c)4.

The waiver specific transition plan includes:

- An overall programmatic assessment;
- A regulatory assessment;
- A residential settings assessment;
- A non-residential settings assessment;
- A description of the public notice process;
- A timeline of transition plan milestones;
- A state rules and regulations crosswalk and
- The HCB Characteristics Review Tool for residential facilities.

A. iBudget Compliance Assessment

Overall Programmatic Assessment

To assess the level of compliance with the HCB setting requirements, Florida assessed the State's regulatory requirements for iBudget facilities and the iBudget monitoring process. The assessment was conducted to determine whether the facilities:

- fully align with the Federal requirements,
- do not comply with the federal requirements and will require modifications,

- cannot meet the federal requirements and require removal from the program and/or the relocation of individuals, or
- are presumed to be institutional.

Based upon this preliminary analysis completed June 15, 2014, the Agency has determined the program complies with the HCB setting requirements on the basis of state rules and regulations and residential monitoring. As part of the State’s on-going monitoring, the Agency will develop a process for the assessment and monitoring of non-residential facilities providing HCBS on an annual basis.

To determine the level of compliance with the HCB setting requirements specified in 42 CFR 441.301(c)4, Florida first assessed the services offered under the iBudget waiver. Based upon this analysis, the Agency has determined services under the iBudget waiver are delivered in locations where the HCB setting rule applies. Table 1 lists the iBudget services and the settings in which the services are provided. This review was completed by June 15, 2014.

Table 1 iBudget Services Crosswalk	
Service	Settings
Residential Habilitation	Residential and non-residential settings
Respite	Residential settings
Support Coordination	Residential and non-residential settings
Adult Dental Services	Non-Residential setting
Occupational Therapy	Residential and non-residential settings
Physical Therapy	Residential and non-residential settings
Private Duty Nursing	Residential and non-residential settings
Respiratory Therapy	Residential setting
Skilled Nursing	Residential and non-residential settings
Specialized Medical Equipment and Supplies	Residential settings
Specialized Mental Health Counseling	Residential and non-residential settings
Speech Therapy	Residential and non-residential settings
Transportation	Non-residential settings
Behavior Analysis Services	Residential and non-residential settings
Behavior Assistant Services	Residential and non-residential settings
Dietitian Services	Residential and non-residential settings
Environmental Accessibility Adaptations	Residential settings
Life Skills Development	Residential and non-residential settings
Personal Emergency Response System	Residential and non-residential settings
Personal Supports	Residential and non-residential settings
Residential Nursing	Residential setting
Special Medical Home Care	Residential setting
Supported Living Coaching	Residential setting

Regulatory Assessment

As part of the preliminary assessment of current state regulations, standards, and policy, the Agency has determined that state facility settings requirements are consistent with HCB settings

requirements. To assess regulatory requirements, the Agency reviewed all applicable state rules and statutes and determined their compliancy with federal regulation. Please see Attachment II, State Rules and Regulations Crosswalk, which outlines the states assessment process and its results.

To ensure continued compliance, the Agency will monitor on an on-going basis all changes to future state statutes, regulations, standards, and policy each year.

Residential Setting Assessment

Residential facilities were assessed for compliance with the HCBS settings requirements using the HCB Characteristics Residential Tool. Please see Attachment III to view the Tool. The assessment tool is designed by the State to determine whether residential providers are compliant with the HCBS settings requirements: home-like environment, and community inclusion. Facility reviewers are instructed to employ multiple assessment tactics when analyzing each standard including independent observation, record and file review, provider questions, and resident/recipient questions as appropriate.

In June 2014, APD e-mailed a link to an electronic self-assessment containing the HCB Characteristics Residential tool to all licensed residential facilities. This survey was intended to assess existing levels of compliance with the new waiver requirements. As of August 2014, 917 providers (54%) responded to the survey out of 1,691. An initial analysis of the assessment results reveal that the majority of residential providers are either already meeting the new federal standards or should be able to achieve full compliance with the implementation of minor programmatic changes. A random sample of the completed self-assessments will be reviewed by APD staff to ensure the validity of the responses. The State will conduct a complete assessment of all residential settings (in which waiver services are being rendered) in order to determine full compliance.

The Agency will continue assessing the residential monitoring tool and provider training in accordance with its findings. For a timeline of all steps required in the assessment of residential facilities, please see Attachment I, Transition Plan Milestones.

The Agency anticipates the residential facilities will be able to meet the federal requirements by the end of the implementation period. In those instances when an iBudget facility is found to be non-compliant, the Agency will take the following remediation steps:

- Provide written notice of the deficiency with a timeframe for the facility to make any necessary modifications to ensure compliance. The State will work with providers to help achieve and maintain compliance.
- For facilities that do not make the required modifications within the specified timeframes, the Agency will provide written notice that the facility will be terminated from the program and develop a transition plan to relocate residents to a compliant facility.

Non-Residential Setting Assessment

The Agency will develop an assessment tool to evaluate the non-residential settings to ensure in compliance with the federal requirements. The Agency will send providers the developed tool for the purposes of self-assessment and its efficacy. Based on the results and provider feedback, the Agency will determine initial compliance, remediation steps and modify the tool as necessary. In instances when a non-residential facility is found to be non-compliant, the Agency will take the following remediation steps:

- Provide written notice of the deficiency with a timeframe for the facility to make any necessary modifications to ensure compliance. The State will work with providers to help achieve and maintain compliance.
- For facilities that do not make the required modifications within the specified timeframes, the Agency will provide written notice that the facility will be terminated from the program and develop a transition plan to relocate residents to a compliant facility.

For a timeline of steps required in the assessment of non-residential facilities, please see Attachment I, Transition Plan Milestones.

B. Continued Compliance

To ensure on-going compliance of the iBudget Waiver with the provisions of the HCB Settings Rule, the Agency has established following monitoring plan:

- The Agency will assure continued compliance with the HCB settings Rule prior to the submission of any waiver amendments and renewals.
- Waiver case managers will ensure recipients do not receive services in a setting that is not in compliance with the HCB Settings Rule.
- The Agency will ensure on-going monitoring of recipient residential locations and all approved service locations.
- The Agency will continue to modify its monitoring activities based on its continuing assessment and public input to ensure full compliance with the rule.

Table 2 provides the iBudget Waiver timeline for completing the ongoing monitoring of recipient residential locations and all approved service locations.

Table 2 Ongoing Monitoring Timeline		
Service	Settings	Timeframe
Residential Habilitation	Residential and non-residential settings	Annual
Respite	Residential settings	Annual
Support Coordination	Residential and non-residential settings	Annual
Adult Dental Services	Non-Residential setting	Annual
Occupational Therapy	Residential and non-residential settings	Annual
Physical Therapy	Residential and non-residential settings	Annual
Private Duty Nursing	Residential and non-residential settings	Annual
Respiratory Therapy	Residential setting	Annual
Skilled Nursing	Residential and non-residential settings	Annual
Specialized Medical Equipment and Supplies	Residential settings	Annual
Specialized Mental Health Counseling	Residential and non-residential settings	Annual
Speech Therapy	Residential and non-residential settings	Annual
Transportation	Non-residential settings	Annual

**Table 2
Ongoing Monitoring Timeline**

Service	Settings	Timeframe
Behavior Analysis Services	Residential and non-residential settings	Annual
Behavior Assistant Services	Residential and non-residential settings	Annual
Dietitian Services	Residential and non-residential settings	Annual
Environmental Accessibility Adaptations	Residential settings	Annual
Life Skills Development	Residential and non-residential settings	Annual
Personal Emergency Response System	Residential settings	Annual
Personal Supports	Residential and non-residential settings	Annual
Residential Nursing	Residential setting	Annual
Special Medical Home Care	Residential setting	Annual
Supported Living Coaching	Residential setting	Annual

C. Public Notice Process

The Agency is required to have a 30-day public comment period to allow for meaningful public comment prior to submission of this transition plan. The Agency will provide two statements of public notice on the transition plan. The Agency will summarize all comments received during that public comment period and describe how the issues were addressed in the transition plan prior to submission to CMS.

Statements of Public Notice

- The Agency will publish a notice of the comment period and a link to the waiver specific transition plan on Florida’s Administrative Register and the Agency website. The statements of public notices will provide information on the upcoming public comment period for the transition plan, a link to the plan, and the locations and addresses where public comments may be submitted.
- The Agency will notice iBudget providers through the distribution of a provider alert.
- In addition, the Agency will send notice to the support coordinators who will distribute the public notice to share with their recipients.

Please Note: The Agency will also notify the Florida Federally Recognized Tribes.

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 I

Transition Plan Milestones					
Task	Description	Start Date	End Date	Resource(s)	Outcome/Goal
Assessment Plan					
Waiver Assessment	Review impacted service descriptions and applicable settings.	3/5/14	3/30/14	AHCA Policy	HCBS Characteristic (c) Waiver Impacts, Waiver Compliance with HCBS Final Rule
Regulatory Assessment	Determine impacted state regulation and compliance with elements of HCBS rule.	4/1/14	8/25/14	AHCA Policy	State Rules and Regulations Crosswalk
Provider assessment	Determine number of active providers for each impacted provider type.	5/1/14	8/25/14	AHCA Policy	Provider lists
Programmatic Preliminary Assessment	Overall preliminary assessment from operating/programmatic agencies	6/18/14	8/25/14	AHCA Policy, APD	Interagency Assessment
Action Plan					
Communications Plan	Develop public comment protocol, notices and training schedule.	5/1/14	8/1/14	AHCA Policy	Public Comment Protocol, ongoing training dates, AHCA webpage incl. HCBS Factsheet and related documentation.
Residential Setting Monitoring Tool	Revise monitoring tool	5/1/14	6/16/14	AHCA Policy, APD	HCBS Settings Residential Monitoring Tool
Residential Monitoring Tool	Implement revised HCBS Settings Monitoring Tool	6/15/14	Ongoing	APD	Ongoing monitoring in accordance with waiver.

Attachment I

Transition Plan Milestones					
Task	Description	Start Date	End Date	Resource(s)	Outcome/Goal
Initial Transition Plan	Develop waiver-specific initial Transition Plan	8/25/14	2/16/15*	AHCA Policy	Waiver Specific Transition Plan: iBudget Waiver
Public Comment Period	Waiver and Initial Transition Plan	2/3/15	3/5/15	AHCA Policy	Solicit public comment
Develop and submit iBudget waiver amendment	Include Draft Initial Transition Plan – subject to public comment.	5/30/14	3/12/15*	AHCA Policy	iBudget Waiver Amendment
Non-Residential Setting Assessment Survey	Develop non-residential setting monitoring tool.	1/5/14	3/12/15	AHCA Policy, APD	HCBS Settings Non-Residential Monitoring Tool
Non-Residential Monitoring Tool	Test non-residential monitoring tool via provider self-assessment	2/19/15	3/31/15	AHCA Policy, APD	Tool refinement and preliminary compliance data
Statewide Transition Plan Development	Develop Statewide Transition Plan	2/16/14* *Est.	4/30/15* *Est	AHCA Policy	Finalized and approved for public comment
Statewide Transition Plan Public Comment	30-day Public Comment Period	5/1/15* *Est.	6/1/15* *Est	AHCA Policy	Review Public Comments as Received
Statewide Transition Plan	Develop and submit Statewide Transition Plan to include all waivers	6/1/15*	6/15/15*	AHCA Policy	Completion of the Statewide Transition Plan

*Tentative date

Attachment II

State Rules and Regulations Crosswalk				
State Regulatory Requirement	Description	Settings Impacted	Compliance with Federal Rule	Remediation Action
393.062 F.S.	Legislative Findings and Declaration of Intent	Residential and non-residential settings	No conflict	N/A
393.067 F.S.	Developmental Disabilities, Facility license	Foster Homes, Group Homes, Residential Habilitation Facilities, Comprehensive Transitional Education Program	No conflict	N/A
393.13 F.S.	Treatment of Persons with Developmental Disabilities	Residential and non-residential settings	No conflict	N/A
419.001 F.S.	Community Residential Homes	Assisted Living Facilities	No conflict	N/A
Chapter 408, Part II F.S.	Health Care Licensing: General Provisions	Assisted Living Facilities	No conflict	N/A
Chapter 429, Part I F.S.	Assisted Living Facilities	Assisted Living Facilities	No conflict	N/A
429.24(2) F.S.	Private/Semi Private Room Choice, Choice of Roommate, Locking Door to Living Unit, Eating and Snack Preparation Schedule, Participation in Facility and Community Activities, Maintaining a Personal Sleeping Schedule	Assisted Living Facilities	No conflict	N/A
429.28 F.S.	Access to Telephone and Usage Length, Unlimited Visitation, Snacks as Desired	Assisted Living Facilities	No conflict	N/A
429.24(2) F.S.	Private/Semi Private Room Choice, Choice of Roommate, Locking Door to Living Unit, Eating and Snack Preparation Schedule, Participation in Facility and Community Activities, Maintaining a Personal Sleeping Schedule	Assisted Living Facilities	No conflict	N/A
Chapter 58A-5, F.A.C.	Assisted Living Facilities	Assisted Living Facilities	No conflict	N/A

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Chapter 58T-1 F.A.C.	Training Requiring Provider and Curriculum Approvals	Assisted Living Facilities	No conflict	N/A
Chapter 59A-35 F.A.C.	Health Care Licensing Procedures	Assisted Living Facilities	No conflict	N/A
Chapter 65G-2 F.A.C.	Licensure of Residential Facilities	Foster Homes, Group Homes, Residential Habilitation Facilities, Comprehensive Transitional Education Program	No conflict	N/A
Chapter 65G-3 F.A.C.	Termination, Suspension, or Reduction of Client Services by Service Providers	Foster Homes, Group Homes, Residential Habilitation Facilities, Comprehensive Transitional Education Program	No Conflict	N/A
Chapter 65G-4 F.A.C.	Service Delivery Practice and Procedure	Foster Homes, Group Homes, Residential Habilitation Facilities, Comprehensive Transitional Education Program	No conflict	N/A
APD OP 04-003	Uniform Procedures for the Determination of Residential Habilitation Services and the Submission of Prior Service Authorization Packages	Group Homes, Residential Habilitation Centers, Comprehensive Transitional Education Program, Foster Care Homes, Assisted Living Facilities	No conflict	N/A
APD OP 10-002	Incident Reporting and Risk Prevention for Individuals Living in the Community	Residential and non-residential settings	No conflict	N/A

Attachment III

HCB Characteristics Review Tool			
Date:			
Reviewer Name:			
Enrollee ID (if interview conducted)			
Setting Name			
Address			
1. Setting	Interpretive Guideline	(Y or N)	Comments
1.1 Is the setting integrated within the community?	Enrollees have access to community activities whether the setting of the facility is institutional or residential.		
1.2 Do the facility's common areas have a home-like feel?	Living rooms, parlors, etc. have comfortable, home-like seating areas and decor.		
1.3 Does the facility appear accessible (e.g., wide hallways and doorways, ramps, walkways clear of furniture and rugs)?	Enrollees are able to maneuver through the hallways, doorways, and common areas with or without assistive devices.		
1.4 Do enrollees have a private meeting room to visit with family and friends?	There is a comfortable private place for enrollees to have visitors.		
1.5 Are there areas within the facility that an enrollee cannot enter without permission or an escort? If so, list in Comments.	Enrollees are able to access all areas of the facility unless their safety would be jeopardized, e.g., the enrollees do not have access to maintenance rooms, janitor's closets, etc.		
1.6 Is there a washer and dryer for enrollees to use if they choose to do their own laundry?	The facility has a laundry area for enrollees who choose to do their own laundry.		
2. Room/Privacy	Interpretive Guideline	(Y or N)	Comments
2.1 Are enrollee rooms personalized (e.g., are personal items displayed in the room such as photographs, memorabilia, etc. ;)?	Enrollees are given the option to decorate their room with their own furniture and personal items.		
2.2 Does the enrollee's room have a working lock that allows for privacy?	There is a lockable entrance door on the enrollee's room unless a non-locking door is necessary to protect the enrollee's safety. Reasons to not have a locking door are documented in the facility's enrollee record. Attempts to mitigate safety issues prior to revoking the right to a locked door are documented.		
2.3 Does the facility have a policy and procedure that addresses staff access to enrollee rooms?	Facility staff respects the enrollee's privacy in their room, and is familiar with and properly implements the policy and procedure to enter an enrollee's room		

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	(e.g., knock twice and wait for a response, etc.).		
2.4 Do enrollees have the option of having a private or semi-private room?	Enrollees are offered the option of a private or semi-private room, and the choice is documented in the facility enrollee record. Room and board rates for private and semi-private rooms may be different.		
2.5 Are enrollees allowed to choose their roommate?	Enrollees are offered their choice of roommates and the offer is documented in the facility enrollee record.		
2.6 Do enrollees have access to a telephone in their room or in a common area with privacy for conversations?	There is a telephone available that enrollees can use in a private area at any time.		
3. Meals	Interpretive Guideline	(Y or N)	Comments
3.1 Are enrollees required to follow a set schedule for meals?	If there is a set schedule for meals, the facility has a policy for missed meals that gives the enrollee access to food at all times.		
3.2 Does the enrollee have choice in their meals?	The enrollee is offered a substitute meal if the enrollee does not prefer a meal selection. Posted menus state that alternate meals are available or list the alternate menu selections.		
3.3 Do enrollees have a choice of where to eat their meals in the facility? (e.g., can they sit with their friends or alone or eat in their room?)	Enrollees are given the option to eat in areas other than the dining room.		
3.4 Can enrollees choose to have snacks at any time during the day? Are they allowed to make their own snacks? Is there an area enrollees can use to keep their own food and prepare snacks (e.g., kitchen or snack preparation area with refrigerator, sink, and microwave)?	Enrollees have access to a kitchenette (microwave, refrigerator and sink), a food preparation area (a place to prepare and reheat foods), or a food pantry where they can store snacks that are accessible at any time.		
4. Activities/Community Integration	Interpretive Guideline	(Y or N)	Comments
4.1 Are enrollees made aware of community activities via a community board, flyers, etc.?	An activities calendar is posted in a common area of the facility. Enrollees are consulted in selecting, planning and scheduling activities.		
4.2 Do enrollees have access to newspapers, radio, computers, television, and/or the Internet?	The enrollee has access to outside communications.		
4.3 Are enrollees allowed to 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.)?	Enrollees are allowed to choose how to spend their day including sleeping schedule (i.e., wake up and bedtimes, scheduled or unscheduled naps). Enrollees are allowed to vary their schedule at will.		

Attachment III

4.4 Are visitors of the resident's choosing allowed at any time?	Enrollees are allowed to have visitors of their choice at any time. Standard visiting hours are posted and residents are made aware of afterhours visiting policy. Visitors must be allowed outside of standard visiting hours, but restrictions to accommodate other residents, such as limiting visitors to certain areas of the facility and observing "quiet hours," may be imposed.		
4.5 Is transportation provided or arranged by the setting to community activities?	Transportation is provided or arranged to community activities such as shopping, restaurants, religious institutions and senior centers, etc. The facility should have a policy for requesting transportation and enrollees should be made aware of the policy. Observe sign-up sheets, instructions on how to request transportation, etc.		
5. Other	Interpretive Guideline	(Y or N)	Comments
5.1 Are enrollees allowed to keep their own money?	Enrollees are offered the option to keep their own money and the option to control their own finances.		
5.2 Are enrollees allowed to come and go from the setting at will?	Enrollees are allowed to come and go from the facility, as they desire, unless the enrollee's safety would be jeopardized. Reasons to not allow unrestricted movement are documented in the enrollee's person centered plan. Attempts to mitigate safety issues prior to revoking right to freedom of movement are documented.		
5.3 Do enrollees know how to file an anonymous complaint?	Information is available to enrollees on how to file an anonymous complaint. Telephone numbers for the Agency Consumer Complaint Hotline, Long-Term Care Ombudsman, Disability Rights Florida, and the Abuse and Exploitation Hotline are posted in a common area of the facility.		

Reviewer's signature and credentials:

Date:

Attachment III