

Draft Waiver Specific Transition Plan

Long-term Care Waiver 1915(c) Compliance

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 an initial transition plan to demonstrate how states plan 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 Long-term Care (LTC) 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 transition plan describes how the state will assess, determine compliance, remediate and monitor continued compliance with the HCB settings requirements. The transition plan outlines Florida's process with timeframes that will be used to ensure compliance with the HCB Setting Rule.

II. Overview

The LTC Waiver is managed by the Florida Agency for Health Care Administration (Agency). The Florida Department of Elderly Affairs (DOEA) is responsible for certain monitoring the activities under this waiver to ensure compliance with all state and federal requirements. The LTC Waiver is being assessed to ensure individuals receiving HCBS services 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 Residential Tool for residential facilities.

A. LTC Compliance Assessment

Overall Programmatic Assessment

To assess the level of compliance with the HCB setting requirements, Florida assessed the State's regulatory requirements for LTC facilities, the LTC managed care contract requirements, and the LTC 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 by August 25, 2014, the Agency has determined the program is in compliance with the HCB setting requirements on the basis of state rules and regulations, contractual provisions, 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 accessed the services offered under the LTC waiver. Based upon this analysis, the Agency has determined services under the LTC are delivered in locations where the HCB setting rule applies. Table 1 lists the LTC services and the settings in which the services are provided. This review was completed by August 25, 2014.

Table 1 LTC Services Crosswalk	
Service	Settings
Adult Day Health Care	Residential and non-residential settings
Case Management	Residential and non-residential settings
Homemaker	Residential and non-residential settings
Respite	Residential and non-residential settings
Attendant Care	Residential and non-residential settings
Intermittent and Skilled Nursing	Residential settings
Medical Equipment and Supplies	Residential and non-residential settings
Occupational Therapy	Residential and non-residential settings
Personal Care	Residential and non-residential settings
Physical Therapy	Residential and non-residential settings
Respiratory Therapy	Residential and non-residential settings
Speech Therapy	Residential and non-residential settings
Transportation	Non-residential settings
Adult Companion	Residential and non-residential settings
Assisted Living	Residential settings
Behavior Management	Residential and non-residential settings
Caregiver Training	Residential and non-residential settings
Home Accessibility Adaptations	Residential and non-residential settings
Home Delivered Meals	Residential and non-residential settings
Medication Administration	Residential and non-residential settings
Medication Management	Residential and non-residential settings
Nutritional Assessment and Risk Reduction	Residential and non-residential settings
Personal Emergency Response System (PERS)	Residential and non-residential settings
Structured Family Caregiving	Residential and non-residential settings

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

All residential facilities are assessed for compliance with the HCB settings requirements as part of the credentialing process used for the LTC Managed Care Plan's (MCP) provider network. During program implementation, the State reviewed a sample of residential settings to validate MCP findings. The LTC contract includes plan requirements for HCB settings, and other provider requirements, and prohibits inclusion of any facilities in MCP networks that do not meet these standards.

Ongoing on-site monitoring and validation is conducted by DOEA using the HCB Characteristics Residential Tool. Please see Attachment III for a copy of the Residential Tool. The assessment tool is designed by the State to determine whether residential providers are compliant with the HCB 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 interviews, and resident/recipient questions as appropriate.

To make determinations for future monitoring improvements, the Agency analyzed the past year's data. For the period August 2013-2014, DOEA assessed 415 settings out of a total of 1,763. Of the 415 residential facilities assessed, 349 were determined to be compliant with HCB settings requirements defined as meeting all 24 standards on the monitoring tool. Of the residential facilities determined to be non-compliant, the most common issues were:

- The facility has areas within the facility that an enrollee cannot enter without permission or an escort;
- There is not a washer/dryer for enrollees to use if they choose to do their own laundry;
- Enrollees are not made aware of community activities via a community board, flyers, etc.; and
- Enrollees were not given the option of having a private or semi-private room.

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.

Based on the initial assessment completed by August 25, 2014, the Agency does not anticipate that any of the residential facilities will be unable to meet the federal requirements. In those instances when a LTC 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 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 to relocate residents to a compliant facility.

The Agency will also incorporate the finalized assessment tool into the LTC monitoring process as described under 'Residential Settings Assessment'. This will ensure the validity of all provider assessments and allow the Agency to determine future actions necessary to ensure continued compliance with the federal requirements.

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 LTC 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 LTC Waiver timeline for completing the ongoing monitoring of recipient residential locations and all approved service locations.

**Table 2
Ongoing Monitoring Timeline**

Service	Settings	Timeframe
Adult Day Health Care	Residential and non-residential settings	Annual
Case Management	Residential and non-residential settings	Annual
Homemaker	Residential and non-residential settings	Annual
Respite	Residential and non-residential settings	Annual
Attendant Care	Residential and non-residential settings	Annual
Intermittent and Skilled Nursing	Residential settings	Annual
Medical Equipment and Supplies	Residential and non-residential settings	Annual
Occupational Therapy	Residential and non-residential settings	Annual
Personal Care	Residential and non-residential settings	Annual
Physical Therapy	Residential and non-residential settings	Annual
Respiratory Therapy	Residential and non-residential settings	Annual
Speech Therapy	Residential and non-residential settings	Annual
Transportation	Non-residential settings	Annual
Adult Companion	Residential and non-residential settings	Annual
Assisted Living	Residential settings	Annual
Behavior Management	Residential and non-residential settings	Annual
Caregiver Training	Residential and non-residential settings	Annual
Home Accessibility Adaptations	Residential and non-residential settings	Annual
Home Delivered Meals	Residential and non-residential settings	Annual
Medication Administration	Residential and non-residential settings	Annual
Medication Management	Residential and non-residential settings	Annual
Nutritional Assessment and Risk Reduction	Residential and non-residential settings	Annual
Personal Emergency Response System (PERS)	Residential and non-residential settings	Annual
Structured Family Caregiving	Residential and non-residential settings	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 draft transition plan, a link to the plan, and the locations and addresses where public comments may be submitted.

- In addition, the Agency will send notice to the LTC Plans who will distribute the public notice to their case manager to share with their plan members.

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	HCB Characteristic (c) Waiver Impacts, Waiver Compliance with HCB Setting Rule
Regulatory Assessment	Determine impacted state regulation and compliance with elements of HCB Settings 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, DOEA	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, DOEA	HCB Settings Residential Monitoring Tool

Attachment I

Transition Plan Milestones					
Task	Description	Start Date	End Date	Resource(s)	Outcome/Goal
Residential Monitoring Tool	Implement revised HCB Settings Monitoring Tool	6/17/14	Ongoing	DOEA	Ongoing monitoring in accordance with waiver.
Waiver Specific Transition Plan	Develop Transition Plan	8/25/14	2/16/15*	AHCA Policy	Transition Plan for LTC
Public Comment Period	Waiver and Transition Plan	2/3/15	3/5/15	AHCA Policy	Solicit public comment
Develop and submit LTC waiver amendment	Include Draft Waiver Specific Transition Plan – subject to public comment.	5/30/14	3/12/15*	AHCA Policy	LTC Waiver Amendment
Non-Residential Setting Assessment	Develop non-residential setting monitoring tool.	1/5/14	3/12/15	AHCA Policy, DOEA	HCB 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, DOEA, MCPs	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 Finalized	Finalize Transition Plan	6/1/15*	6/15/15*	AHCA Policy	Revise as appropriate and submit to CMS

*Tentative date

Attachment II

State Rules and Regulations Crosswalk				
State Regulatory Requirement	Description	Settings Impacted	Compliance with Fed Rule	Remediation Action
393.067 F.S.	Developmental Disabilities, Facility license	Assisted Living Facilities	No conflict	N/A
419.001 F.S.	Community Residential Homes	Assisted Living Facilities Adult Family Care Homes	No conflict	N/A
Chapter 408, Part II, F.S.	Health Care Licensing: General Provisions	All licensed Facilities	No conflict	N/A
Chapter 429, Part I F.S.	Assisted Living Facilities	Assisted Living Facilities	No conflict	N/A
Chapter 429, Part II F.S.	Adult Family Care Homes	Adult Family Care Homes	No conflict	N/A
Chapter 429, Part III F.S.	Adult Day Care Centers	Adult Day Care Centers	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	All Licensed Residential Facilities	No conflict	N/A
429.28 F.S.	Access to Telephone and Usage Length, Unlimited Visitation, Snacks as Desired	All Licensed Residential Facilities	No conflict	N/A

Attachment II

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	All Licensed Residential Facilities	No conflict	N/A
Chapter 58A-14 F.S.	Adult Family Care Homes	Adult Family Care Homes	No conflict	N/A
Chapter 58A-5, F.A.C.	Assisted Living Facilities	Assisted Living Facilities	No conflict	N/A
Chapter 58A-6 F.A.C.	Adult Day Care Centers	Adult Day Care Centers	No conflict	N/A
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 Adult Family Care Homes Adult Day Care Centers	No conflict	N/A
Chapter 65G-2 F.A.C.	Licensure of Residential Facilities	All residential facilities	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 (e.g., knock twice and wait for a response, etc.).		

Attachment III

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

<p>4.4 Are visitors of the resident’s choosing allowed at any time?</p>	<p>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.</p>		
<p>4.5 Is transportation provided or arranged by the setting to community activities?</p>	<p>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.</p>		
<p>5. Other</p>	<p style="text-align: center;">Interpretive Guideline</p>	<p>(Y or N)</p>	<p>Comments</p>
<p>5.1 Are enrollees allowed to keep their own money?</p>	<p>Enrollees are offered the option to keep their own money and the option to control their own finances.</p>		
<p>5.2 Are enrollees allowed to come and go from the setting at will?</p>	<p>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.</p>		
<p>5.3 Do enrollees know how to file an anonymous complaint?</p>	<p>Information is available to enrollees on how to file an anonymous complaint. Telephone numbers for the Agency Consumer Complaint Hotline, Long-Term Care Ombudsman, and the Abuse and Exploitation Hotline are posted in a common area of the facility.</p>		

Reviewer’s signature and credentials:

Date: