Summary of Purpose
On March 17, 2014, the Centers for Medicaid and Medicare Services (CMS) promulgated new federal regulations for Home and Community Based (HCB) Waiver Service Settings requirements. The federal regulations are 42 CFR 441.301(c)(4)-(5). CMS posted additional guidance to help states assess compliance and remediate areas that are not fully in compliance. More information on the rules can be found on the CMS website at www.medicaid.gov/hcbs. Each waiver has a separate, detailed transition plan posted online.

Overview of Process
The waiver settings being reviewed for compliance include the Wyoming Assisted Living Facility, Child Developmental Disabilities, Acquired Brain Injury, Supports, and Comprehensive Medicaid Waivers. (Long Term Care and Children’s Mental Health Waivers do not have settings that need a transition plan.)

In a report to CMS under this new requirement, the state must include:
- An inventory and description of all HCB service settings;
- A summary of how each setting meet or does not meet the federal HCB settings requirements;
- A list of any areas of non-compliance that need to be addressed to bring the setting into compliance;
- A waiver-specific transition plan to bring all HCB settings for that waiver into compliance, including a plan to monitor ongoing compliance; and
- A 30-day public comment period on the transition plan with a response summary of comments received.

Assessment of Compliance in HCB Settings
The Wyoming Department of Health State Medicaid Agency is working with the various providers, participants, guardians, and other stakeholders involved in the waiver programs to gather the information needed to assess our current compliance with HCB setting regulations through surveys, interviews, site visits, and data analysis. Below is a summary of the state’s approach for developing and implementing a HCB Setting Transition Plan for each waiver, which is subject to approval by CMS.

<table>
<thead>
<tr>
<th>Transition Plan Development Activities</th>
<th>Due Date</th>
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<tbody>
<tr>
<td>Form a Transition Taskforce with various stakeholders to develop the Transition Plans.</td>
<td>11-1-2014</td>
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<tr>
<td>Issue surveys to providers to evaluate their own settings by type and location.</td>
<td>8-1-2014</td>
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<tr>
<td>Summarize all HCB settings and areas of non-compliance based on provider surveys.</td>
<td>10-30-2014</td>
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<tr>
<td>Develop state standards for informed choice, integration, setting characteristics and locations based on input from Transition Task force</td>
<td>10-1-2014</td>
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<tr>
<td>Develop draft transition plan per waiver (which are posted separately on the Department’s website: <a href="http://health.wyo.gov/healthcarefin/equalitycare/index.html">http://health.wyo.gov/healthcarefin/equalitycare/index.html</a></td>
<td>10-1-2014</td>
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<tr>
<td>Conduct a 30 day public comment period. Hold public forums, post 2 public notices with website and forum schedule, and post draft plan to website.</td>
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<tr>
<td>Submit a waiver specific transition plan that reflects changes based on public comments.</td>
<td>11-15-2014</td>
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Public Comment

Public comment was taken from October 3, 2014 through November 3, 2014. The public was invited to submit comments through an email address (bhdmail@wyo.gov) and forums were held at six locations across the state (Laramie, Cheyenne, Jackson, Evanston, Sheridan and Casper). A presentation on the state’s transition plans was conducted at this year’s Mega Conference and a recording was posted using YouTube, and the link was on the Division’s website for people who cannot attend in person. Two conference calls were held for people during the 30 day period, so they could call in with their comments. A newsletter with information on the Transition Plan and forum schedule was sent to all waiver participants or guardians and information was sent out to nearly 2,000 people on the Division’s listserv. The transition taskforce, which has members from various roles within the waiver system, reviewed and discussed input collected to help make final changes to the Transition plan.

Changes to the Transition Plan Due To Public Comment

Public comments overwhelmingly recommended that the Division focus on assuring services are supporting people to be integrated in the community instead of focusing on the location where services are delivered. Because of this emphasis, the division removed some flags from the provider setting analysis. The industrial park and zoning flags for settings were eliminated. The settings were evaluated for distance from other residences or businesses, but the distance will not be used to disqualify a setting from being considered HCB. Settings that are adjacent to other providers providing disability specific services will not disqualify a setting from being considered HCB. The non-residential settings that appear to segregate people with disabilities from the general public will not be disqualified from being considered HCB on this fact alone; the setting will be evaluated for other characteristics and individual experiences before being considered non-HCB. Residential settings do not have to be integrated within the setting but must meet the other standards for HCB and for provider operated settings as specified in the rule. Rather than requiring specific milestones each year, providers will be issued a report of areas of non-compliance and will complete a transition plan with milestones and timelines each year. They will have the rest of the five years to come into compliance with the standards but must make progress each year. State monitoring processes will oversee the provider’s compliance to their own transition plans.

<table>
<thead>
<tr>
<th>Validity testing of provider survey assessment</th>
<th>12-1-2014</th>
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<tbody>
<tr>
<td>• Provide a survey to waiver participants, guardians, and other stakeholders to evaluate and give input on provider settings by type and location.</td>
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</tr>
<tr>
<td>• Conduct a state evaluation of settings to check for compliance with standards.</td>
<td>3-1-2015</td>
</tr>
<tr>
<td>Evaluate state services, policies, provider training, certification and licensing requirements to ensure compliance with the HCBS settings.</td>
<td>7-1-2015</td>
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TRANSITION PLAN OVER THE NEXT FIVE YEARS

Year 1 - Milestones for March 17, 2014 and March 16, 2015

1. **Milestone: By June 2014 and ongoing until 2016, an HCB Settings Transition Stakeholder team has been established and meets monthly. This stakeholder team represents a cross section of the waiver providers from each Wyoming Waiver. Participants, and agency staff meet to discuss and set standards and complete self-assessments for Wyoming and help with ongoing issues.**

   **Action items:**
   - Request members & charter team expectations
   - Meet regularly, monthly if possible
   - Have members from multiple levels within the waiver systems, advocacy groups, participants, guardians, providers and have various parts of the state represented.

2. **Milestone: By November 2014, the state will inventory provider settings for each Wyoming Waiver and conduct a preliminary assessment of compliance with HCB standards in federal rules. Settings must be evaluated to see if they meet the standards and are required to fix the areas of non-compliance in order to remain HCB providers according to the state’s approved transition plan. Settings will be considered one of the following:**
   a) In Compliance (fully align with the Federal requirements)
   b) Does not comply with the Federal requirements and will require modifications
   c) Cannot meet the Federal requirements and require removal from the program and/or the relocation of individuals
   d) Presumptively non-home and community-based but for which the state will provide justification / evidence to show that those settings do not have the characteristics of an institution and do have the qualities of HCBS (to be evaluated by CMS through heightened scrutiny process

   **Action Items:**
   - Develop provider survey to assess settings
   - Providers complete it
   - State and team review and analyze survey responses
   - Determine compliance for each setting and the remediation and improvements that are needed
   - Summarize results for CMS

3. **Milestone: By March 2015 and throughout 2019, the state will conduct additional analysis of provider settings with participant, guardian, case manager, and state staff respondents for validity testing of the provider settings and compliance with federal requirements.**

   **Action items:**
   - State staff analysis by 3-2015
   - Stakeholder survey from 10-2014 through 5-2015
   - Develop and disseminate surveys to participants, guardians, case managers, other stakeholders
   - Collect and analyze responses
   - Use the Representative Sample Case Review to look at data on participant’s satisfaction with service settings, integration, and informed choice
Use Case Management Quarterly Report data in EMWS to evaluate integration, progress on objectives, satisfaction with services, and employment data.

Settings that are found to meet any of the following criteria will be subject to the heightened scrutiny process by CMS:

- a) 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.
- b) People in the setting have limited, if any, interaction with the broader community.
- c) Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

4. **Milestone: In October 2014, the state will conduct Public Forums to review transition plan and gather public input, as required by CMS.**

**Action items:**
- Schedule forums for October 2014
- Put transition information together
- Present at forums and receive input on plan

5. **Milestone: In November 2014, develop statewide transition plan and waiver specific transition plans to submit to CMS and evaluate them every six months.**

**Action items:**
- Transition plan for each year finalized
- Summarize public comment and make changes to draft plans as appropriate
- Discuss comments with Task Force
- Providers with areas of non-compliance identified
- Due dates for remediation identified

6. **Milestone: By September 2014 and ongoing quarterly through the next five years, the state will develop and deploy a communication strategy to inform and educate participants, guardians, providers, legislators on the new standards and requirements.**

**Action items:**
- Summarize decisions from Transition Task force
- Communicate information to public in multi-media approaches
- Reach all audiences with consistent message and needed changes to state rules and policies
- States must ensure the full Transition Plan is available to the public for public comment, including individuals receiving services, individuals who could be served, and the full stakeholder community

7. **Milestone: By March 2015, the state will assess state service definitions, rules, and facility requirements for compliance and determine areas that need remediated. The state must ensure its own policies, services, rules, or requirements are not promoting services in a manner that violates the new federal laws. Any areas of non-compliance on the state side must be addressed as well.**

**Action Items:**
- Critique all waiver service definitions, waiver rules, and facility requirements to see where they are out of compliance with federal rules
- Adjust the services, rules, or facility requirements with involvement from a stakeholder team
8. **Milestone:** By February 2015 and ongoing through 2019, the state will develop a plan for monitoring and enforcing ongoing compliance with the new standards and provider requirements. States must ensure that providers meet the milestones in the transition plan and continue to meet the standards on an ongoing basis.

**Action items:**
- Adjust provider monitoring and on-site visits to ensure compliance with transition plan deadlines to reach compliance with HCB setting standards.
- Develop a provider self-assessment to help providers diagnose issues that should be improved or fixed in their organization.
- Issue additional information to case managers to help monitor service delivery according to the new standards and report individual progress or issues to the Division.
- Use monitoring processes to address areas of non-compliance with standards through certification processes and incident/complaint monitoring processes.
- Use the Representative Sample Case Review to look at data on participant’s satisfaction with service settings, integration, and informed choice.
- Use Case Management Quarterly Report data to evaluate integration, progress on objectives, satisfaction with services, and employment data.

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9. **Milestone:** By October 2015, the state will update state rules and laws where required to meet new standards. The state needs to ensure the rules and laws do not conflict with the federal regulations.

**Action items:**
- The state seeks stakeholder input to adjust rules to meet new standards.
- Rule changes are made according to state procedures.
- State works with legislators to adjust statutes as needed.

10. **Milestone:** By October 2015, provider HCB settings that are fully assessed by the state and found to meet one of the following qualities will be presumed institutional in nature:

a) 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.

b) People in the setting have limited, if any, interaction with the broader community.

c) Settings that use/authorize interventions/restrictions that are used in institutional settings or are deemed unacceptable in Medicaid institutional settings (e.g. seclusion).

If notified of this status, the provider may ask the state to request approval from CMS to be considered HCB because of the other HCB qualities and individual experiences that meet the federal standards. Through the ongoing analysis of settings, if any setting is found to be Non-HCB based on the new rules, but the state determines that evidence proves it should be considered HCB, the state must provide the evidence to CMS and the setting is subject to approval through the heightened scrutiny process.

**Action items:**
- Setting analysis completed to determine which settings are out of compliance and are “flagged” for corrective action.
- Providers are issued a report of findings, and if a setting meets one of the listed criteria, the setting is subject to the heightened scrutiny process.
The provider may request the state submit an exception to CMS and will provide evidence of how each setting:
   a) Supports full access to the greater community to the same degree as individuals not receiving Medicaid HCBS.
   b) Is selected by the individual from options including non-disability specific settings.
   c) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.
   d) Optimizes individual independence in making life choices including daily activities, physical environment, and with whom to interact.
   e) Facilitates individual choice regarding services and supports, and who provides them.

The state will submit a detailed request with evidence by October 31, 2015 for settings that are deemed not HCB, which are subject to the heightened scrutiny process by CMS.

11. **Milestone:** By April 2015, each HCB setting that has areas of noncompliance with the new standards found by state staff will be issued Corrective Action for any of the following standards where their residential setting is not in compliance.
   - A lease or written residency agreement with each participant
   - Each individual has privacy in their sleeping or living unit
   - Units have lockable entrance doors, with the individual and appropriate staff having keys to doors as needed
   - Individuals sharing units have a choice of roommates
   - Individuals have freedom to furnish and decorate within the lease/agreement
   - Individuals have freedom and support to control their schedules and activities and have access to food any time
   - Individuals may have visitors at any time
   - The setting is physically accessible to the individual

Providers will be able to uniquely adjust or restructure their business to meet the standards. They have until March 2019 to come into compliance in all areas.

**Action items:**
- Setting analysis completed to determine which setting are out of compliance and are “flagged” for corrective action
- Providers issued a report of findings and areas that need corrections
- The provider’s transition plan must include milestones and timeframes that outline how and when they will correct each requirement by the end of the fifth year.
- Provider transition plan will be submitted to the state for review and approval.

12. **Milestone:** By March 2016, any provider found out of compliance with an HCB standard in any setting must develop and implement a transition plan to make changes in order to meet the standards. The provider must ensure the policies and practices of their organization are changed where appropriate and that board members, staff, participants and guardians are aware of the systemic changes. Providers will be able to uniquely adjust or restructure their business to meet the standards within the four years left in the transition plan, but must report annual progress on milestones.

**Action Items:**
- Providers are issued a report of where they are not in compliance with specific settings.
- Providers develop a detailed action plan with milestones and timelines each year that outline the changes or actions that will be taken in order to come into full compliance with all HCB standards by the end of year five. The transition plan will require providers develop or update operating policies and procedures to address how they will demonstrate that each setting:
a) Is integrated in and supports full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree as individuals not receiving Medicaid HCBS.

b) Is selected by the individual from options including non-disability specific settings.

c) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.

d) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including daily activities, physical environment, and with whom to interact.

e) Facilitates individual choice regarding services and who provides them.

- States will develop provider self-assessment to assist the provider in adjusting business practices to meet the standards.
- State will work with providers to make adjustments to the action plan, if needed.
- State must approve each provider transition plan.

13. Milestone: By March 2016, participants who need a modification to a right specified in the new standards must have the modification or restriction identified and documented in a signed plan of care approved by the state according the requirements listed in § 441.301(c)(4)(vi)(A) through (D). Participants must have their rights protected. Any modification to their rights must be fully documented and explored by the team according to the new HCB standards.

Action items:
- The Case manager will work the participant’s plan of care team to inform the participant and guardian of their rights in the new regulations.
- For any modification or restriction to a person’s right the team must include the following information in the plan of care:
  a) Identify a specific and individualized assessed need.
  b) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.
  c) Document less intrusive methods of meeting the need that have been tried but did not work.
  d) Include a clear description of the condition that is directly proportionate to the specific assessed need.
  e) Include regular collection and review of data to measure the ongoing effectiveness of the modification.
  f) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
  g) Include the informed consent of the individual.
  h) Include an assurance that interventions and supports will cause no harm to the individual.
- The plan of care will be submitted to the Division for review and approval on the person’s annual plan renewal date.

14. Milestones: By March 2016, the participant’s team documents in the plan of care, which is signed by the participant or guardian, how the HCB setting(s) chosen in the plan:
  a) Is integrated in and supports full access to the greater community to the same degree as individuals not receiving Medicaid HCBS.
  b) Is selected by the individual from options including non-disability specific settings.
  c) Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.
d) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices including daily activities, physical environment, and with whom to interact.

e) Facilitates individual choice regarding services and supports, and who provides them. The plan of care is developed using person-centered practices to ensure the providers know how to support the person in an individualized fashion. The plan approval process ensures the participant and guardian signs and approves the how services will be delivered.

**Action items:**
- Each Participant has choice and information provided according to the new standards.
- The state will revise the plan of care to include the new standards and offer guidance on how to complete the sections using person-centered practices.
- The revised plan of care will be submitted to the Division for review and approval on the person's annual plan renewal date.

15. **Milestone: By December 2015, the State Five Year Transition plan implemented and evaluated.**

**Action items:**
- The state’s five year transition plan is further implemented and evaluated for its progress. Feedback will be acquired through surveys and stakeholder meetings.
- Any substantial changes to a Transition Plan will incorporate the public notice and input process into that submission.

16. **Milestone: By March 2016, the state will develop and monitor a plan to address provider capacity and setting capacity if issues with capacity arise. The state must ensure that the participants served on the waivers and the number of providers and settings available are equitable.**

**Action items:**
- The state will provide training and support to providers to assist with provider stability and capacity.
- Areas of the state with provider shortages will be reviewed and addressed.
- The state will address shortage issues that may result due to the changes required in the provider setting standards.

17. **Milestone: By March 2016, the state will implement changes to provider monitoring practices to oversee the provider compliance to their own transition plans and milestones. CMS requires the state to ensure the provider is meeting state standards and must address areas of noncompliance through technical assistance, corrective action plans or other sanctioning actions.**

**Action items:**
- Provider surveying and monitoring practices by the state will be adjusted to check for compliance with the standards and the provider’s own action plan for transitioning.
- The state’s process for issuing corrective action will be used in areas of non-compliance found.

18. **Milestone: Throughout 2015-16, the state will deploy a communication strategy to inform participants, guardians, providers, legislators.**

**Action items:**
- The state will continue use multiple communication channels to get the information out about the transition plans, new standards, and any areas of concern that need attention.
- Legislators will be contacted with information on the status of the transition plan and setting progress.
Year 3 - Milestones for March 17, 2016 to March 16, 2017

19. **Milestone:** By March 2017, providers will continue to implement transition plan and report progress to the state during recertification processes. Any business changes and policy changes should be evaluated regularly and adjusted as appropriate.

**Action Items:**
- Providers meet milestones in their transition plans and inform staff, participants and guardians regarding the changes in their programs.
- Policies and practices are evaluated and adjusted depending on feedback and issues that arise.
- Adjustments to provider action plans for the transition must be reviewed by the state to ensure the changes still meet the standards.

20. **Milestone:** By October 2016, if any provider settings are subject to the heightened scrutiny process, the providers must make plans to change or repurpose settings that do not comply with the HCB standards by the end of year five. Settings that do not get approved by CMS as “HCB” must make plans to move the setting, offer participants new choice in settings, or give notice to participants that the setting will be closing.

**Action Item:**
- Provider settings that will not meet the new standards according to a decision by CMS must submit action plans for how the setting will transition participants out of its setting by the end of year five if the areas of non-compliance are not addressed.

Year 4 - Milestones for March 17, 2017 to March 16, 2018

21. **Milestone:** By December 2017, providers make final decisions for action plans regarding settings not approved to be HCB from CMS

**Action Items:**
- Providers who have service settings not meeting the new standards as determined by CMS through heightened scrutiny must have action plans for how they will moved or repurposed so that participants are not served in the setting by the end of year four.
- Settings that do not meet the new standards must be relocated for services to be provided by the end of year five.

22. **Milestone:** By March 2018, Providers continue to implement transition plan and report progress to the state during recertification processes.

**Action items:**
- Providers meet milestones in their transition plans and inform staff, participants and guardians regarding the changes in their programs.
- Policies and practices are evaluated and adjusted depending on feedback and issues that arise.
- Adjustments to provider action plans for the transition must be reviewed by the state to ensure the changes still meet the standards.
- Business changes and policy changes must be evaluated regularly and adjusted as appropriate.
23. **Milestone: By December 2018, the statewide transition plan will receive a final evaluation by Division administrators.**

   **Action items:**
   - The state’s five year transition plan is further implemented and evaluated for its progress.
   - Feedback will be acquired through surveys and stakeholder meetings.
   - Any substantial changes to a Transition Plan must incorporate the public notice and input process into that submission.

24. **Milestone: By March 2019, Providers make final adjustments to meet and maintain compliance with all HCB setting standards.**

   **Action Items:**
   - All provider settings must be in compliance by the end of year 5.
   - State staff will evaluate all progress made by providers on their transition plans and address areas of non-compliance or unmet milestones and issue corrective action plans and or sanctions at the end of year five.

25. **Milestone: By March 2019, waiver participants transition to new settings if needed.** Any participants served in a setting that does not meet the state's standards will receive notice to choose another setting and possibly a new provider. If participant chooses to remain in a non-compliant setting waiver funding cannot be used.

   **Action items:**
   - Participants will be identified that are in settings that do not meet compliance with the standards.
   - Participants will receive notice of their options.
   - Participants begin choosing providers or new settings, having transition plans or transitioning off of the waiver if wanting to stay in a non-compliant setting.

**HEALTH AND SAFETY PROCEDURES**

The Wyoming Department of Health State Medicaid Agency oversees the provider certification processes and ongoing oversight of provider compliance with all state standards. Through provider certification visits, incident and complaint management systems described in Appendix G of the approved waiver, the Department will assess providers for ongoing compliance with the HCB Settings. Certification requirements will be adjusted to ensure service settings for this waiver remain in settings that are not institutional or isolating in nature. Any areas of concern will be addressed the Department’s corrective action and sanctioning processes pursuant to Chapter 16 of Wyoming Medicaid Rules. If participants must transition out of a service setting, the Division will involve the Department of Family Services and Protection & Advocacy Systems, Inc.

**FINDING THE WAIVER SPECIFIC TRANSITION PLANS**