

The Massachusetts Statewide Transition Plan for Compliance with the CMS Home and Community Based Services Community Rule

I. Overview

The Centers for Medicare and Medicaid Services (CMS) published its final rule related to Home and Community Based Services (HCBS) for Medicaid-funded long term services and supports provided in residential and non-residential home and community-based settings. The final rule took effect March 17, 2014. States are required to submit transition plans to CMS within one year of the effective date indicating how they intend to comply with the new requirements within a reasonable time period. If states amend or renew any of their currently operating waivers or state plan amendments prior to the effective date, that action serves as a trigger for the state to submit a transition plan for all its waivers under 1915(c), as well as any state plan amendments under 1915(i) or 1915(k) within 120 days of the amendment/renewal submission. The following is Massachusetts' statewide transition plan pursuant to this requirement. The main focus of this Transition Plan is on residential supports offered through HCBS waivers. On December 15, 2014 CMS issued guidance to assist states in complying with the final rule as it relates to non-residential services, such as employment and day services. During the coming months the state will review this guidance and develop a strategy to conduct an assessment of non-residential service compliance, similar to that conducted for residential programs. Once complete, the state will conduct an additional public input process prior to the submission to CMS of additional information related to day and employment waiver services. All such services will be in compliance with CMS requirements before March 2019.

II. Background

This document describes the Statewide HCBS Transition Plan of the Massachusetts Executive Office of Health and Human Services (EOHHS), the single State Medicaid Agency, as required by the CMS HCBS final regulation related to new federal requirements for home and community-based settings. This Transition Plan includes the state's assessment of its regulations, standards, policies, licensing requirements, and other provider requirements to ensure settings that comply with the new federal requirements. The transition plan also describes actions the state proposes to assure full and on-going compliance with the HCBS settings requirements, with specific timeframes for identified actions and deliverables.

This Statewide HCBS Transition Plan covers the ten 1915(c) HCBS waivers currently operating in Massachusetts:

- Frail Elder Waiver
- Intensive Supports Waiver for Adults with Intellectual Disabilities
- Community Living Waiver for Adults with Intellectual Disabilities
- Adult Supports Waiver for Adults with Intellectual Disabilities
- Money Follows the Person Community Living Waiver
- Money Follows the Person Residential Supports Waiver
- Acquired Brain Injury Residential Habilitation Waiver
- Acquired Brain Injury Non-Residential Habilitation Waiver

- Traumatic Brain Injury Waiver
- Children’s Autism Spectrum Disorder Waiver

The day-to-day operations of these HCBS waivers are the responsibility of three state agencies within EOHHS: the Executive Office of Elder Affairs (EOEA), the Department of Developmental Services (DDS), and the Massachusetts Rehabilitation Commission (MRC). Massachusetts does not currently offer services through the state plan under 1915(i) or 1915(k) authority.

MassHealth convened an interagency workgroup to address how best to comply with the requirements of the new settings rule. The interagency workgroup includes representatives from EOHHS Disability Policy and Programs, Department of Developmental Services, Massachusetts Rehabilitation Commission, Executive Office of Elder Affairs and MassHealth. Starting in January 2014, the workgroup met monthly to ensure that a cohesive statewide transition plan was established to address the unique needs of individuals across a wide variety of community-based settings. This workgroup reviewed public input received regarding the draft transition plan and will continue to meet to review progress towards full implementation of the final plan.

In addition to participating on the interagency workgroup, DDS, MRC and EOEA each undertook a review of their regulations, standards, policies, licensing requirements, and other provider requirements to ensure compliance of settings with the new federal requirements, as they apply within each of the waivers for which they are responsible.

III. Public Input

Massachusetts is committed to ensuring that our statewide transition plan is reviewed publicly and that public input is incorporated into the final plan. The state provided opportunities for public comment on the statewide transition plan during a 30 day public comment period beginning October 15 through November 15, 2014. EOHHS held two public forums; the first took place on November 6, 2014 beginning at 6:00 p.m. at Massachusetts Bay Community College in Wellesley, Massachusetts; the second was held on November 12, 2014 beginning at 10:30 a.m. at Westfield State University in Westfield, Massachusetts. Both public forums were advertised in three newspapers, including the Boston Globe, Worcester Telegram and Gazette and the Springfield Republican, on October 15, 2014. The advertisement in each newspaper directed individuals to the EOHHS website at: <http://www.mass.gov/eohhs/gov/departments/masshealth/> for further information. Information in this link includes a summary of the new federal rule, the statewide transition plan, links to the DDS, MRC and EOEA agency-specific transition plans, and provided the mailing address and e-mail address for submission of public responses, comments and input to the transition plan. Links to the draft transition plan and information on the public comment period was also sent out by email to several hundred people, including key advocacy organizations and the Native American tribal contacts. The transition plan was also discussed during the quarterly conference call on October 21, 2014 with the tribal representatives.

At the first public forum held on November 6, 2014 in Wellesley, 256 attendees signed in and 55 spoke; in Westfield 88 attendees signed in and 39 spoke. Additional people attended in each location who did not sign the sign-in sheet. In total 323 individuals or agencies submitted comments in writing, through email, mail and written testimony, with nearly 100 people submitting comments through

multiple formats. A summary of the comments received and the state's response to these comments is included here in Attachment D.

The state's final transition plan including revisions based on the receipt of public comments, is posted on the EOHHS website concurrent with submission to CMS.

IV. Statewide Transition Plan

Massachusetts created a workgroup that includes representatives from the state agencies involved in operating its 1915(c) waivers to plan its response to the new CMS rule on home and community based settings and to develop its approach to this statewide HCBS transition plan. As a result, each of these state agencies created a plan to comply with the final rule. EOEA, MRC and DDS each submitted a plan to the workgroup that includes:

- a review of applicable state standards, rules, regulations and policies;
- assessment of waiver residential settings, if applicable;
- summary of how each setting meets or does not meet the federal HCBS setting requirements;
- if applicable, time frame for the development of a plan and process for bringing identified HCBS settings into compliance; and
- a plan for ensuring the health and welfare of waiver participants who reside in locations that may need to take corrective action in order to fully comply within a specified period.

Below is a list of Massachusetts 1915(c) HCBS waivers and the state agency that oversees their day-to-day operation. EOEA, MRC and DDS each submitted a compliance plan related to their specific waiver(s), which has been reviewed, discussed by the statewide transition plan workgroup, and which are included as attachments to this plan. As you will see in the attachments, each state agency's compliance plan differs in scope. The DDS plan is considerably more extensive because they oversee more than half of the ten HCBS waivers in Massachusetts and a large number of residential group homes.

1915(c) Waiver	State Operating Agency
Frail Elder Waiver	Executive Office of Elder Affairs
Traumatic Brain Injury Waiver	Massachusetts Rehabilitation Commission
MFP Community Living Waiver	Massachusetts Rehabilitation Commission
ABI Non-Residential Waiver	Massachusetts Rehabilitation Commission
MFP Residential Supports Waiver	Department of Developmental Services
ABI Residential Habilitation Waiver	Department of Developmental Services
Intensive Supports Waiver for Adults with ID	Department of Developmental Services
Community Living Waiver for Adults with ID	Department of Developmental Services
Adults Supports Waiver for Adults with ID	Department of Developmental Services
Children's Autism Spectrum Disorder Waiver	Department of Developmental Services

Agency-specific HCBS Transition Plans

a. Department of Developmental Services

The Department of Developmental Services, an agency within EOHHS, the single state Medicaid agency, has primary responsibility for day-to-day operation of six HCBS waivers, as noted below.

- Intensive Supports Waiver for Adults with ID
- Community Living Waiver for Adults with ID
- Adult Supports Waiver for Adults with ID
- Children's Autism Spectrum Disorder Waiver
- Acquired Brain Injury Residential Habilitation Waiver
- Money Follows the Person Residential Supports Waiver

The transition plan addressing all waivers for which DDS has operational responsibility is the most extensive in keeping with the broad populations served through these waivers as well as the numbers of MassHealth members served through these waivers in residential settings. The DDS transition plan is included here in Attachment A.

b. Massachusetts Rehabilitation Commission

The Massachusetts Rehabilitation Commission, an agency within EOHHS, the single state Medicaid agency, has primary responsibility for day-to-day operation of the Traumatic Brain Injury (TBI) Waiver, the Acquired Brain Injury Non-Residential Habilitation (ABI-N) Waiver, and the MFP Community Living (MFP-CL) Waiver. The TBI Waiver includes both residential services and day/employment services and the attached transition plan addresses these settings. The MFP-CL and ABI-N Waivers provides waiver services to individuals in their own homes and apartments; these waivers do not include residential services. Therefore, MRC has identified limited impact of the HCBS settings requirements related to certain day services and employment settings, and has addressed these settings in its plan. The transition plan for the TBI, ABI-N, and MFP-CL waivers is included here in Attachment B.

c. Executive Office of Elder Affairs

The Executive Office of Elder Affairs, an agency within EOHHS, the single state Medicaid agency, has primary responsibility for day-to-day operation of the Frail Elder Waiver. The Massachusetts Frail Elder Waiver provides waiver services to elders in their own homes and apartments; the currently-operating waiver does not include residential services. Therefore, EOEA has identified minimal impact of the HCBS settings requirements related to this waiver and the participants it serves. The transition plan for the Frail Elder waiver is included here in Attachment C.

V. Implementation Timelines

The timeframe below sets out Massachusetts' goals for publishing the Statewide HCBS Transition Plan, holding public forums, accepting and incorporating public input and submitting the plan to CMS. In addition, each of the agency plans establishes goals for achieving full compliance with CMS rules.

Timeline for HCBS Transition Plan

<u>Activity</u>	<u>Date</u>
Announce public forum dates and post draft plan for public review	October 15
Open period for public comments	October 15 – November 15
Hold public forums	November 6 and November 12
Review/incorporate comments/finalize plan	November 16 – December 19
Submit plan to CMS and post final plan on MassHealth website	January 2, 2015
Develop program-specific compliance plans	January – June 2015
Develop and promulgate necessary regulatory changes	March 2014 - January 2017
Full compliance - all Massachusetts HCBS waiver programs	November 2015 – March 2019

VI. Summary

In keeping with its Community First agenda, Massachusetts is committed to supporting people with disabilities and elders to live with dignity and independence in the community as a first choice by expanding, strengthening, and integrating systems of community-based long-term supports that are person-centered, high in quality and provide optimal choice. Massachusetts' proposed Statewide HCBS Transition Plan outlines its process to ensure compliance with the new CMS Home and Community Based Services Community Rule with the understanding that the transition plan may be amended to incorporate additional planning the state may undertake, as well as any new guidance from CMS. The goal of the Massachusetts statewide transition plan is to make certain that individuals being served in the Commonwealth's 1915(c) waivers are integrated in and have access to supports in the community, including opportunities to seek employment, work in integrated settings, and engage in community life.

The Executive Office of Health and Human Services administers and oversees the state's ten 1915(c) waivers through its Office of Medicaid, and operates these waivers through the Executive Office of Elder Affairs, the Massachusetts Rehabilitation Commission, and the Department of Developmental Services. These three agencies operate under the mantle of EOHHS, as the single state agency. Massachusetts has included in this Statewide HCBS Transition Plan specific strategies to identify and address compliance issues relative to each of its ten waivers, most specifically in relation to residential/24 hour settings. The most extensive of these plans, that of the Department of Developmental Services, addresses a residential service system currently serving approximately 7,000 MassHealth members.

EOHHS wishes to assure CMS that the state will be fully compliant with its HCBS settings requirements within CMS's specified timeframe. Our current expectation is that our system will be largely compliant by March of 2016, with a very small number of residential programs only, needing additional time to comply, but not longer than the end date of CMS's requirements, March 16, 2019.

ATTACHMENTS

Attachment A – The Massachusetts Department of Developmental Services Transition Plan for Compliance with the HCBS Community Rule

Attachment B – The Massachusetts Rehabilitation Commission Transition Plan for Compliance with the HCBS Community Rule

Attachment C - The Massachusetts Executive Office of Elder Affairs Transition Plan for Compliance with the HCBS Community Rule

Attachment D – Public Input regarding the draft Transition Plan for Compliance with the HCBS Community Rule