

ATTACHMENT B – Non-Residential Services Addendum to Massachusetts Statewide HCBS Transition Plan

The Massachusetts Rehabilitation Commission Non-Residential Services Addendum to the Transition Plan for Compliance with the HCBS Community Rule

Introduction

This transition plan for non-residential services responds to the HCBS Community Rule published on March 17, 2014, by the Centers for Medicare & Medicaid Services (CMS) and is an addendum to the state's initial submission of a transition plan which focused on 24-hour residential settings (see Appendix A for a summary of transition plan tasks and timelines).

The CMS Community Rule is intended to assure that individuals receiving long-term services and supports have full access to the benefits of community living and the opportunity to receive services in the most integrated settings possible. The new rule creates a more outcome-oriented definition of home and community based settings, rather than one based solely on a setting's location, geography, size or physical characteristics. With this general perspective in mind, the Massachusetts Rehabilitation Commission (MRC), in collaboration with the Massachusetts Department of Developmental Services (DDS), conducted a review and assessment of our compliance within the following HCBS Waiver Programs:

- The Traumatic Brain Injury (TBI) Waiver
- The Acquired Brain Injury Non-Residential Habilitation (ABI-N) Waiver
- The Money Follows the Person Community Living (MFP-CL) Waiver

These waivers support individuals in the community in their own homes or apartments, or in homes and apartments with family members and other informal supports, and, in the case of the TBI Waiver, in 24-hour residential settings. Each waiver includes employment and day supports services. In reviewing the status of MRC's compliance with the requirements of the HCBS Community Rule for these non-residential services, we are working closely with DDS for consistency in practices, standards and qualifications of the many shared providers of day and employment services. This addendum specifically addresses both Day and Employment Settings.

For day services, these include the following programs/settings:

- Community-Based Day Services (CBDS) – focuses on meaningful day activities resulting from individualized goals and supports that enable a full range of community activities and opportunities for developing, enhancing, and maintaining competency in personal, social and community activities.
- Day Habilitation programs settings – certain waiver day services may be co-located in settings of Day Habilitation programs. These services are site-based programs that provide the therapeutic services of speech, physical and occupational therapy as well as nursing and health management. These specialized programs support individualized and

goal based activities and services that promote independence, social inclusion, and optimum health.

- Acquired Brain Injury Day Services – provide flexible day services with an emphasis on community supports and functional skill development.

For employment services, these include the following services which occur in a variety of settings:

- Supported Employment – services and supports to assist individuals to obtain and maintain paid employment in a work place where individuals without disabilities are employed. Supported employment may be conducted in a variety of settings, and will often occur in typical work sites where persons without disabilities are employed.
- Pre-Vocational Services – services comprised of a range of learning and experiential types of activities that prepare an individual for paid or unpaid employment in an integrated, community setting. These settings will be reviewed consistent with the planned review for day service

This transition plan will outline the steps MRC has taken or will be taking, in concert with DDS, to identify and implement strategies needed to enhance outcomes for individuals in these settings to assure full compliance with the Community Rule by March 2019. Due to the number of MRC providers who are also qualified by DDS for employment supports, the transition plan relies on the initiatives of DDS's "Blueprint for Success: Employing Individuals with Intellectual Disabilities in Massachusetts," (Blueprint for Success) which will ensure compliance with the Community Rule with respect to employment settings. MRC will work to support individuals as existing employment providers transform their services under the Blueprint for Success initiative to alternative models reflective of fully integrated employment or community-based day services.

Overall MRC Assessment Process for Non-Residential Settings

The review process in which MRC is engaged involved a number of critical steps and the timeline for these steps is referenced in Appendix A:

1. A thorough review of MRC's regulations, policies and procedures, waiver service definitions, provider qualifications, and quality management and oversight systems was conducted. This was critical to determining whether the systemic infrastructure was consistent and inclusive of the principles of community integration. (Section I–Systemic Assessment)
2. MRC, in concert with DDS, agreed to the utilization and shared distribution of the Day Services survey tool, developed by DDS, for those shared providers of waiver day services, in order to avoid duplication of effort. The purpose of the survey was to gather data from DDS-qualified Community-Based Day Support (CBDS) providers to inform the establishment or enhancement of existing standards for what constitutes a meaningful day for individuals for whom employment is not a goal, as well as best practices, challenges, and qualitative and quantitative measures for CBDS services. As of the date of submission of this transition plan, surveys have been distributed, but data aggregation

and analysis has not yet been completed. (Please refer to the attached timetable for completion of activities)

3. Data gleaned from the surveys will be shared with MRC and used by DDS to inform the existing Employment Work Group that is also addressing enhancement of CBDS as well as a recently formed group of advocates, participants/family members, and other stakeholders regarding the following:
 - a. The development of definitions and standards for what constitutes a meaningful day service,
 - b. The incorporation of both qualitative and quantitative measures into the DDS licensure and certification process,
 - c. The modification of the MRC monitoring tool to reflect changes in program expectations and standards.
 - d. Systemic strategies to assist all CBDS providers to achieve the outcomes of the Community Rule including but not limited to technical assistance, staff development and training, rate reform and budgetary enhancements.
4. For those providers of TBI, ABI, or MFP waiver day services, who are not also licensed or certified by DDS as CBDS providers, MRC used and distributed the same Day Services survey tool to those 7 waiver day service providers in day habilitation and ABI day service settings. This was distributed with the same intent to collect data to support the establishment of standards around what constitutes a meaningful day for individuals, best practices, challenges, and qualitative and quantitative measures for day services. As of the date of submission of this transition plan, surveys have been distributed, but data aggregation and analysis has not yet been completed.
5. Under the ABI and MFP waivers, MRC uses the University of Massachusetts Medical School Provider Network Administration group (UMMS-PNA) to credential day and employment services providers. UMMS-PNA, under a contract with MassHealth, credentials organizations following the MRC Provider Standards. Additionally, MRC supports the credentialing process of new day service providers by conducting an initial site visit and subsequent annual site visits. These visits use a comprehensive monitoring tool inclusive of an assessment of the physical site; policies and procedures to ensure for safety and quality measures; staffing requirements and qualifications; individualized service planning; and community integration. This initial and annual monitoring tool will be reviewed and enhanced as necessary to ensure incorporation of oversight measures that fully assess and ensure compliance with the Community Rule. For the credentialing of employment providers, MRC will work with UMMS-PNA to ensure that the requirements of the Community Rule are reflected in the review tool used by the UMMS-PNA in the credentialing and recredentialing process.
6. The draft transition plan was published, an open public forum was conducted, and review of, and response to public comments was completed, prior to finalizing this transition plan addendum.
7. Implementation of the finalized plan and its various components will be subject to periodic updates with stakeholders to gather continued feedback and keep stakeholders apprised of progress toward full implementation of the plan. Stakeholders involved will include those consistent with DDS but additionally the Brain Injury Association of Massachusetts as well as the MFP/ABI/TBI Stakeholders Advisory Committee.

Details of findings are described in more depth in the sections that follow. In addition, please refer to the chart summarizing tasks and timeframes in Appendix A.

Public Input Process

MRC is committed to ensuring this plan is reviewed publicly and that the public has an opportunity to have input into it. As part of the commitment to an open and public process the following forums/ meetings took place or will take place leading up to the submission of the transition plan to CMS:

- Initial introduction of the intent of the HCBS rule and the process MRC was going to use, with MRC staff and providers;
- A provider meeting will be scheduled to review the final rule requirements and changes to MRC's policies and procedures.
- Information and updates on the MRC web-site will be available for review

MRC participated fully in Massachusetts Medicaid (MassHealth) public input activities including the following:

- Publication of draft plan for 30 days with the opportunity for comments to be submitted by e-mail or regular mail
- Public Forum held on June 1, 2015 from 1-3 PM in Worcester, MA.
- Review and comment on all input received by e-mail, mail and in the public forum

I. Systemic Assessment

Listed below are the policies, regulations and related documents that were reviewed to determine whether and how MRC is positioned to assure that its standards are consistent with those outlined in the new community rule for both residential and non-residential services and supports. To ensure specific service settings comply with the new rule, MRC's own regulations/policies must set the appropriate standards and expectations. Where areas for improvement were identified, they are indicated below as part of the transition plan. The following reviews have taken place or will be undertaken soon:

- 1) MRC regulations 107 CMR 12.00 Statewide Head Injury Program
- 2) MRC Community Living Division Policies and Procedures
- 3) HCBS Waiver Service Definitions
- 4) Provider Standards established for ABI/MFP/TBI Waiver Programs
- 5) Provider Qualifications including review of the open bid process for providers
- 6) Quality Management and oversight systems

Findings and Remedial Actions

1) Regulations:

MRC regulations 107 CMR 12.00 Statewide Head Injury Program were reviewed and were found to be in compliance with the final rule. These regulations described the referral, application, and eligibility determination process, case closure process, and rights to appeal.

2) Policies and Procedures

The MRC Community Living Division Policies and Procedures manual has been reviewed to ensure compliance with the Community Rule for day and employment settings and revisions will be made where necessary with input from stakeholders. Identified changes are limited to the incorporation of behavioral assessment and management into the Person-Centered Plan.

3) HCBS Waiver Service Definitions

MRC reviewed all Waiver service definitions to determine if the definitions themselves meet the following requirements:

1. Does the service ensure that individuals receive services in the community to the same degree of access as individuals not receiving Medicaid Home- and Community-based services?
2. Does the service definition allow for integration and access to the greater community?
3. Are the services selected by the individual?
4. Does the service optimize interaction, autonomy, and independence in making life choices?
5. Does the service facilitate choices regarding supports and who provides them?

Based on these criteria, we determined that all current Waiver service definitions comply with the HCBS rule. In addition, the flexibility of these waivers to use multiple providers or diverse day or employment service settings ensures for maximum choice and opportunity for participants to access various settings and specialized services based on individualized interests.

4) Provider standards for ABI/MFP Waiver Programs

The MRC Provider Standards for Acquired Brain Injury (ABI) and Money Follows the Person (MFP) Waiver Service Providers identify the requirements to become credentialed to provide waiver day and employment services. These standards have requirements in general for all providers and additional requirements for each type of service a provider is seeking to provide. A thorough review identified no areas where the standards were in conflict with the Community Rule and in several places the standards appropriately speak to community inclusion and individualized person-centered service planning. They also point directly to the MRC Community Living Division Provider Manual which articulates many of the policies and procedures which align with the Community Rule. As noted above additional changes in the MRC Community Living Division Provider Manual will be made in order to strengthen language in alignment with the Community Rule.

5) Provider Qualifications

Waiver providers of day and employment services are qualified in several different ways. For the ABI and MFP waivers, day and employment providers are credentialed by the

UMMS-PNA under a contract with MassHealth. Organizations interested in providing one or more ABI/MFP waiver services submit an application to UMMS-PNA. UMMS-PNA follows the MRC Provider Standards to credential these organizations to provide a waiver service. Compliance with the licensure and/or certification standards of another Executive Office of Health and Human Services agency fulfills the specific service qualifications and is used to augment the full credentialing process by UMMS-PNA. For new day service providers who do not have licensure and/or certification via another Executive Office of Health and Human Services agency who has expanded their qualifications to include the requirements of the community rule, MRC supports the UMMS-PNA full credentialing process by conducting an initial site visit and subsequent site visits to ensure compliance.

Providers of day and employment services under the TBI Waiver are the subject of open bid processes and are either qualified by MRC and DDS to provide these services and supports. These Request for Responses (RFR) that day and employment providers respond to outline critical outcomes with respect to choice, control, career exploration, employment, rights, integration and inclusion in community life. MRC reviews the credentials of those waiver service providers who are not qualified by DDS through annual, onsite monitoring to ensure that all day and employment settings utilized for TBI waiver services, meet the requirements of the community rule.

For the ABI/MFP/TBI waivers, MRC utilizes a total of 44 day and employment waiver providers. Of these providers, 26 are qualified to provide both waiver day and employment supports.

Through further analysis, 26 of the 33 currently qualified day service providers are certified or licensed for comparable day services by DDS. As part of this transition plan, DDS is expanding their licensure/certification process to include the requirements of the Community rule to ensure compliance. The remaining seven qualified day service providers, are qualified for waiver day services and will undergo on-site reviews to support the full credentialing requirement by UMMS-PNA.

Of the 37 qualified supported employment providers, 8 providers are not licensed or certified by DDS. These eight providers undergo monitoring and credentialing for this service by either UMMS-PNA or MRC to ensure for the compliance with the standards of this service and the requirements of the community rule.

6) Review of quality management and oversight systems.

While MRC has many quality management systems in place, those components that most directly relate to the HCBS rule are listed below:

- a. **MRC Monitoring Tool:** The Monitoring Tool measures the quality, content and oversight of the service planning process and its implementation. This tool measures how effective the service planning process is in involving the individual, how well the objectives reflect the vision of the individual, whether the services being delivered address both individual needs and goals, whether the services are modified as needs and goals change, and whether service coordinators are aware of and addressing issues of concern raised by the individual. Proper implementation

of this tool is targeted to ensure optimal person centered outcomes. Changes will be incorporated into this tool, if needed, based on the survey results.

- b. **Certification process:** The Certification process conducted by UMMS-PNA is the basis for qualifying providers under the ABI and MFP waivers. As detailed above, this process occurs for both initial certification of a provider for a specific waiver service as well as annually thereafter to ensure continued qualification for these services.
- c. **Incident Reporting:** MRC uses access to a web-based incident reporting and management system, HCSIS, for two of its referenced waivers, ABI-N and MFP-CL. This incident reporting system is the result of a collaborative interagency project that leveraged and expanded the functionality of DDS's robust incident management system used with other HCBS waivers. For TBI waiver participants, a separate incident reporting system is maintained but with a nearly identical incident reporting tool. In both systems, the provider must report specific details regarding the incident as well as what actions they took to protect the health and safety of the individual and what additional long range actions they may take. Aggregate information from both systems is reviewed and analyzed and forms the basis for service improvement targets.
- d. **Site Feasibility:** Providers intending to serve individuals in site-based settings must have any proposed sites reviewed for their feasibility to provide the necessary physical site requirements for the individuals proposed. Prior to serving any individual in a day or work site, review of the location is conducted to ensure that all necessary safeguards are in place and the location can be approved for occupancy. These safeguards include accessibility issues, so ongoing compliance with certain aspects of the HCBS Community Rule will be monitored for new providers and settings.

Provider Assessment

- Concurrent with the systemic review delineated in the previous sections, the survey tool was sent out by DDS to the 26 MRC-contracted providers of day services who also contract with DDS. MRC has sent out the same survey tool to its 7 day providers who have been qualified by MRC or by UMMS-PNA. This survey tool incorporates questions that enable a provider to assess where it is in the continuum of outcomes necessary to meet the requirements of the Community Rule.
- Data has been received and is currently under review, aggregation and analysis
- MRC will obtain the analysis completed by DDS to determine trends, best practices, technical assistance requirements, and trainings to ensure that all of the MRC contracted providers are in compliance with the Final Rule.
- Based upon the survey results, providers have identified where they are in achieving the outcomes and will be developing plans to enhance their services when indicated.

Findings

While the review process is still ongoing, it is expected that a certain percentage of the day service settings will be in compliance with the HCBS Rule with little or no changes. Similarly, another percentage of these programs will require more substantive changes to comply. Statewide and nationally there is much research and analysis going into the issue of what constitutes a meaningful day for individuals for whom employment is not a primary goal. MRC and DDS's primary emphasis, therefore, will be on a statewide, systemic and consistent response to modifications necessary to meet the requirements of the Community Rule, as well as ensuring that individual waiver participants have choice and control over their daily activities.

Statewide, the results of the surveys will be utilized by the DDS work group previously identified to determine systemic changes needed. These changes will include, but not be limited to:

- Development of clear guidelines/standards that define day services, including what constitutes meaningful day activities, and how services and supports can be integrated into the community more successfully
- Provision of training and staff development activities to enhance the knowledge of providers and their staff with respect to successful strategies to support individuals
- Development of revised indicators against which to measure provider performance and quality of services
- Technical assistance to providers to assist in enhancing their program design and operation

If settings are determined to be non-compliant, then individuals served in settings that cannot meet requirements will be notified by the Waiver Unit that they will no longer be receiving services in these settings through an HCBS Waiver. Individuals will be informed of their right and supported around their interest to receive services in another setting or through another qualified provider. Additionally, if they choose to stay in their current setting, they will be informed of the implications of that decision.

Ongoing Monitoring and Public Input Processes

1. Ongoing Monitoring

For all day program settings in which changes will be required, MRC will institute a process to assure that the changes occur as stipulated. This process will include consultation and support to providers to enable them to successfully transition, quarterly reporting by providers to update MRC on progress towards compliance, and annual monitoring conducted by MRC staff.

If any of the ongoing monitoring indicate a need for a substantive change in the transition Plan, MRC along with MassHealth will revise the Transition Plan, complete public input activities (as noted below), and resubmit the Transition Plan for CMS approval.

2. Ongoing Public Input

MRC is committed to transparency during both the planning phase and the implementation phase to comply with the HCBS Community Rule. Transparency will be achieved through the following activities:

- 1) Information and updates on the implementation of the Transition Plan will be posted on the MRC website.
- 2) If, in the course of monitoring activities, MRC determines that substantive changes to the Transition Plan are necessary (such as a determination that one or more settings will be held up for heightened scrutiny or that one or more settings have been determined to be non-compliant), MRC and MassHealth will engage in public input activities including:
 - Publication of draft plan for 30 days with the opportunity for comments to be submitted by e-mail or regular mail
 - Public Forums when appropriate
 - Review and comment on all input received by e-mail, mail and in the public forums

Appendices

Appendix A- Summary of Tasks and Timelines

Appendix A

Summary of Tasks and Timelines

Tasks	Timeline
Issue Non-Residential Services Addendum to the Statewide HCBS Transition Plan for public comment	May 2015
Distribute survey tool to non-DDS day programs	May 2015
Public Forum	June 1, 2015
Analyze results of survey	September 2015
Modify MRC Policy and Procedures as necessary	September 2015
Incorporate findings from survey tool into the MRC day program monitoring tool	September 2015
Develop training, consultation plan for providers requiring assistance	October 2015
Convene provider meeting to discuss final rule and implementation Plan	October - November, 2015
Develop transition plan with providers as necessary	December 2015
Full compliance with Final Rule	March 2019