

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

Scope of Review/Plan

The transition plan which follows responds to the HCBS Community Rule published on March 17, 2014 by the Centers for Medicare and Medicaid Services (CMS). 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. It is with this general perspective in mind, that the Massachusetts Rehabilitation Commission (MRC) conducted a review and assessment of our compliance for the following three HCBS waivers operated by MRC; The Traumatic Brain Injury (TBI) Waiver; the ABI-Non Residential Waiver; and the MFP-Community Living Waiver.

While all three of 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, the TBI waiver also extends to support participants in 24 hour provider-operated residential settings. Following the review of compliance in non-residential and residential settings, this transition plan focuses primarily on 24 hour residential settings, while awaiting more specific guidance on day/employment services from CMS which will apply to all three waivers.

Process MRC Engaged In

The review process in which MRC is engaged involved a number of critical steps:

1. A thorough review of MRC's regulations, policies and procedures, provider qualifications and quality management and oversight systems across all three MRC-operated waivers. This was critical to determining whether the systemic infrastructure was consistent with the principles of community integration. (Section I)
2. An on-site review of all existing 24-hour residential settings by supervisory staff of the Brain Injury and Statewide Specialized Community Services to determine those settings that were in good standing (see section below entitled Review of quality management and oversight systems) and met standards consistent with the HCBS Rule.
3. Identified sites were then categorized as fully compliant, or partially compliant based on the review tool (see section below entitled Review of Specific Residential Settings)
4. Completion of a review and response to public comments following publication of the draft transition plan, open public forums, and receipt of public input.
5. Once finalized, implementation of the plan and its various components will be monitored on a quarterly basis.

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

Public Input Process

MRC is committed to ensuring this plan is accessible for public review and that the public has an opportunity to have input into it. This will include accommodations for the linguistic, visual and audible accessibility of the transition plan and related presentations, as requested. MRC will participate fully in Massachusetts Medicaid (MassHealth) public input activities including the following:

- Publication of draft plan and posting for 30 days with the opportunity for comments to be submitted by email or regular mail.
- Public Forums will be held on November 6, 2014 from 6:00 p.m. to 8:00 p.m. at Massachusetts Bay Community College in Wellesley, Massachusetts, and November 12, 2014 from 10:30 a.m. to 12:30 p.m. at Westfield State University in Westfield, Massachusetts.
- Review and comment on all input received by email, mail and in the public forums

I. Systemic Review of State Infrastructure

Listed below are the documents that were reviewed to determine whether and how MRC is positioned to assure that our standards are consistent with those outlined in the new community rule. Where areas for improvement were identified, they are indicated below as part of the transition plan.

- MRC regulations 107 CMR 12.00: Statewide Head Injury Program
- MRC Community Living Division Policies and Procedures
- Review of Quality Management and oversight systems including review of the Annual Monitoring Tool

Findings and Areas for Improvement

1. Regulations: While MRC manages the compliance with regulations through contractual agreements with providers, the Statewide Head Injury Program regulations were reviewed and no changes were determined necessary to be in compliance with the CMS ruling.
2. MRC recognizes the importance of developing homes that are in settings that are integrated in and supports full access to the greater community; as a result MRC will no longer be developing new homes in excess of five people. Larger homes can feel and appear institutional and may not fully meet the intent of the CMS requirements.
3. Policies and Procedures:
Through the efforts underway by the members of the established MRC policy workgroup, the following policies were specifically identified as needing modifications or revisions in order to assure compliance with the CMS rule:
 - a. The CMS rule requires individuals to have a legally enforceable agreement comparable to a lease. The intent of this rule is to safeguard individuals against an

arbitrary or capricious eviction from their home. Residential providers, however, do not necessarily have a specific document that either the individual and/or his/her guardian sign to assure that they will not be evicted without due process. MRC will develop a template by April 2015 for such an agreement and phase in implementation for each individual in provider operated settings. MRC will additionally provide guidance in the policies and procedures revision for the oversight by MRC staff of this requirement for participants in non-residential settings to provide the same tenancy protections. This will include a review of the formal and informal tenancy agreements of chosen settings (i.e., shared apartments, homes, etc.) to ensure for maximum control over this setting and sustainability.

- b. The CMS rule requires that Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. For reasons associated with health and safety, this has not been a common practice in MRC residential homes. A policy will be developed by January 2015 that will address this requirement and modifications to this practice where specific health and safety issues present will be addressed in a participant's person-centered service plan.
- c. The CMS rule requires Individuals to 1) have the freedom and support to control their own schedules and activities, and have access to food at any time: 2) Individuals are able to have visitors of their choosing at any time. 3) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. 4) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. Furthermore, any modification to these and other conditions specified must be supported by a specific assessed need and justified in the person-centered service plan.

MRC has determined that the following 10 policies for residential providers must be revised by January 2015 to ensure compliance with the CMS ruling:

- Residential Guidelines regarding family members, significant others, friends and legal guardians
- Program participant expectations
- Elopement policy for site based programs
- Alcohol and Drug Abstinence Policy
- Leave of Absence Policy
- Sharps Policy
- Smoking Policy
- Telephone, Cable and Internet Usage Policy
- Unsupervised time in Residence/community Policy
- Vacation Policy

4. Transition Plan

MRC has formed an internal work group to revise the Policies and Procedures consistent with the CMS ruling. These revisions will remove any restrictive policies or procedures while ensuring for the use of comprehensive and ongoing assessments to inform individualized plans where restrictive interventions may be determined appropriate. For example, the policy detailing residential guidelines for family members, significant others, friends, and guardians can no longer reflect specific times in which visitors are allowed. If, however, guidelines around visitor times supports the wellbeing, needs and preferences of the individual, these visitor limitations would result from an assessment and be clearly detailed in the person's individual service plan.

These draft policies will be reviewed with stakeholders by March 2015 to ensure MRC fully understands the implications of these changes for the providers and participants. MRC will share changes we make to our policies and procedures with DDS, as well as with the Statewide Transition Plan workgroup to promote consistency between agencies. Once the draft policies have been finalized in April 2015, MRC will develop and initiate a statewide training schedule for all staff and providers by June 2015. At the same time, the MRC clinical and program staff will begin to assess each participant who will require a change to their person centered plan as a result of these policies changes as it relates to current behavioral intervention plans. MRC clinical staff will additionally consult with the clinicians of each provider where these changes in person centered plans might result in the development or modification of behavioral intervention plans consistent with the CMS Ruling.

Also related to policies and procedures, MRC will embark on the development of a similar transition plan to ensure compliance in the areas of day and employment waiver services upon additional guidance from CMS.

5. Provider Qualifications

Providers of 24 hour residential settings were recently the subject of an open bid process and were required to be qualified to provide services and supports. All providers that were determined qualified were shown to adhere to the requirements for supports to individuals. The RFR that providers responded to outlined critical outcomes with respect to choice, control, privacy, rights, integration and inclusion in community life. This process demonstrated, for all residential providers, MRC's commitment to the HCBS settings requirements. On an annual basis, provider qualifications are reviewed through the Annual Monitoring process described in the following section. No changes are recommended as part of the transition plan for the way in which providers are qualified.

6. Review of quality management and oversight systems.

MRC has an extensive and robust quality management system which addresses the criteria in the HCBS rule in every aspect of the system. Below are those components of the MRC system that monitor and relate to outcomes addressed in the community rule:

- a. Annual Monitoring tool: For all services that MRC funds, MRC reviews indicators that speak to the quality of service provided and compliance with MRC policies and procedures and CMS. Included in this assessment, is a review of the participant's functional goals ensuring that they are person centered, review of the behavior plan (if applicable), as well as any specialized protocols. In addition, there is a thorough review of the physical site, safety plans, medication management, medical and clinical management, participant finances and staffing development. Providers are evaluated and rated on each of these indicators and must show improvement in any area where an indicator is not met. As such, the process provides on-going monitoring and oversight to assure that providers are offering services and supports that are consistent with the HCBS community rule. No changes are needed as part of this transition plan.
- b. Residential Coordinator Monitoring Tool: This tool is administered by the Residential Coordinator on a monthly basis. The tool ensures compliance with all MRC requirements, and ensures that participants are receiving services consistent with their person centered plan and CMS requirements. No changes were identified to assure that this tool reviews important indicators and builds off of the participant's desired goals and objectives.

II. Review of Specific Residential Settings

MRC embarked upon a review of its 24 hour residential settings by utilizing the following process:

- A review of all contracts determined that MRC has contracts with providers for 44 staffed residential programs located throughout the state of Massachusetts.
- A tool was developed that was based on the exploratory questions that CMS had published. The Residential Supervisor and the Residential Coordinator, who are both familiar with the site, reviewed each home in person to identify any areas where changes were necessary to ensure full compliance.
- MRC staff who have conducted site visits on a monthly basis assisted the Residential Supervisor in evaluating and completing the form.
- Adaptations have been made to participants' homes in order to ensure full accessibility. Hoyer lifts, roll-in showers, accessible kitchens, roll-out beds, ramps and lifts are available to those participants who require them. New homes that are being constructed are all fully accessible in order for participants to remain in their homes should their needs change.

Appendix A- Summary of Tasks and Timelines

Appendix A

SUMMARY OF TRANSITION PLAN TASKS AND TIMELINES

Transition category

Policies and Procedures:

Specific tasks

Establish policies workgroup to support revisions of Policies and Procedures

Start Date:

September 2014

Completion Date:

January 2015

Specific tasks

Review revised Policies and Procedures with DDS

Start Date:

February 2015

Completion Date:

March 2015

Specific tasks

Solicit input from stakeholders regarding policy revisions

Start Date:

February 2015

Completion Date:

March 2015

Specific tasks

Train MRC staff on new policies and procedures

Start Date:

March 2015

Completion Date:

May 2015

Specific tasks

Train MRC providers on new policies and Procedures

Start Date:

April 2015

Completion Date:

June 2015

Specific tasks

Development of a policy to ensure right to privacy through locks on entrance door

Start Date:

September 2014

Completion Date:

January 2015

Specific tasks

Implementation of finalized revised Policy and Procedures

Start Date:

n/a

Completion Date:

November 2015

Transition category

Participant Services:

Specific tasks

Identify participants who will be impacted by policy revisions

Start Date:

April 2015

Completion Date:

June 2015

Specific tasks

Develop plan for each identified participant with appropriate clinical consultation

Start Date:

April 2015

Completion Date:

November 2015

Specific tasks

Implement plan for each participant with any modifications documented in individual service plans

Start Date:

November 2015

Completion Date:

January 2016

Transition category

Settings:

Specific tasks

Implementation of locks on bedroom doors

Start Date:

November 2015

Completion Date:

January 2016

Specific tasks

Development of template for leases

Start Date:

January 2015

Completion Date:

April 2015

Specific tasks

Implementation of leases for all participants in provided operated residences

Start Date:

April 2015

Completion Date:

April 2016