

# The Massachusetts Statewide Transition Plan for Compliance with the CMS

## Home and Community Based Services Community Rule

### Addendum for Non-Residential Services

#### I. Overview:

The Centers for Medicare and Medicaid Services (CMS) published its final rule related to home and community based services for Medicaid-funded HCBS waivers provided in residential and non-residential home and community based settings. The final rule took effect March 17, 2014. On February 27, 2015, Massachusetts submitted to CMS a Statewide HCBS Transition Plan that focused primarily on residential services. 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. The state reviewed this guidance and developed a strategy to conduct an assessment of non-residential service compliance, similar to that conducted for residential programs. A draft addendum to the Statewide HCBS Transition Plan was developed by the state that focused primarily on day and employment services. All other waiver services are provided in a participant's home or in the community at large. The state conducted an additional public input process on the draft addendum to the Statewide HCBS Transition Plan related to day and employment waiver services prior to submission to CMS. All such services will be in compliance with CMS requirements by or before March 2019.

#### II. Background

This document describes a draft addendum to 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. This draft addendum specifically addresses non-residential settings and includes the state's assessment of its regulations, standards, policies, licensing requirements, and other provider requirements to ensure non-residential settings comply with the new federal requirements. This addendum to the transition plan also describes actions the state proposes to assure full and ongoing compliance with the HCBS non-residential setting requirements, with specific timeframes for identified actions and deliverables.

This draft addendum to the 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 (ID)
- 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 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).

MassHealth's interagency workgroup continued meeting to address how best to comply with the December 15, 2014 guidance issued by CMS related to non-residential settings. The interagency workgroup includes representatives from the Department of Developmental Services, Massachusetts Rehabilitation Commission, Executive Office of Elder Affairs and MassHealth. The workgroup met to ensure that a cohesive addendum to the statewide transition plan addressed the unique needs of individuals across a wide variety of non-residential settings.

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

### III. Public Input

Massachusetts was committed to ensuring that our draft addendum to the Statewide HCBS Transition Plan was reviewed publicly and that the public input was incorporated into the final plan. The state provided opportunities for public comment on the addendum to the statewide transition plan during a 30 day public comment period beginning May 18, 2015 through June 18, 2015. EOHHS held one public forum on June 1, 2015 from 1pm to 3pm at the Worcester Public Library, 3 Salem Square, in Worcester, Massachusetts. The public forum was advertised in three newspapers, including the Boston Globe, Worcester Telegram and Gazette, and the Springfield Republican, 15 days prior to the forum event. The advertisement in each newspaper directed individuals to the EOHHS website at: <http://www.mass.gov/eohhs/gov/departments/masshealth/> for further information. Materials accessible through this link included the draft addendum to the statewide transition plan, links to the DDS, MRC and EOEA agency-specific transition plan addenda addressing non-residential service settings, a mailing address and an e-mail address to which public responses, comments and input to the transition plan addendum could be sent. In addition, emails were sent to several hundred recipients, which included key advocacy organizations as well as the Native American tribal contacts. The newspaper notice, email and website all provided details for requesting a printed copy of the Non-Residential Services Addendum. Copies of the Non-Residential Services Addenda were also made available at the public forum.

This Addendum to Massachusetts' Statewide HCBS Transition Plan for Non-Residential Services, including revisions based on the receipt of public comments, is posted on the EOHHS website concurrent with submission to CMS.

#### IV. Non-Residential Services Addendum to the Statewide HCBS Transition Plan

Massachusetts' workgroup, which includes representatives from the state agencies involved in operating its 1915(c) waivers, met to plan the state's response to the December 2014 guidance issued by CMS, addressing non-residential settings and to develop an addendum to the Statewide HCBS Transition Plan. As a result, each of these state agencies created a plan to comply with the final rule. EOE, MRC and DDS each submitted a plan to the workgroup that includes:

- a review of applicable state standards, rules, regulations and policies;
- an assessment of waiver non-residential settings, if applicable;
- a plan to identify whether each non-residential setting meets or does not meet the federal HCBS setting requirements;
- if applicable, the time frame for development of a plan and process for bringing identified non-residential settings into compliance; and
- a plan for ensuring the health and welfare of waiver participants that best meets their needs in non-residential settings.

Below is a list of Massachusetts 1915(c) HCBS waivers and the state agency that oversees their day-to-day operation.

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

EOEA, MRC and DDS each submitted a draft addendum to their transition plan related to non-residential settings specific to their waiver(s), which has been reviewed, discussed by the statewide transition plan workgroup, and each of which is included as an attachment 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 non-residential settings.

## V. Overview of agency-specific draft Transition Plans for non-residential settings

### 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, including the:

- 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 DDS non-residential transition plan addendum, addressing all waivers for which DDS has operational responsibility, is the most extensive in keeping with the broad populations and the numbers of MassHealth members served through these waivers in non-residential settings. The DDS transition plan addendum addressing non-residential service settings 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 three HCBS waivers, including the:

- Traumatic Brain Injury (TBI) Waiver,
- Acquired Brain Injury Non-Residential Waiver, and
- MFP Community Living (MFP-CL) Waiver.

The TBI Waiver includes non-residential services and the attached transition plan addresses these settings. The MFP-CL and ABI-N Waivers also provide non-residential services. Therefore, MRC has identified limited impact of the HCBS non-residential setting requirements related to certain day services and employment settings, and has addressed these settings in its plan. The transition plan addendum addressing non-residential service settings 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 Frail Elder Waiver provides waiver services to elders in their own homes and apartments. EOEA has identified minimal impact of the HCBS non-residential setting requirements related to this waiver and the participants it serves. The transition plan addendum addressing non-residential service settings for the Frail Elder waiver is included here in Attachment C.