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| **Ohio 1915 (c)Home and Community Based Services (HCBS)**  **Medicaid Waivers Settings Transition Plan**  **Draft 10/22/14** |
| Systems Assessment – DODD |
| This subcommittee reviewed DODD’s existing rules, waiver service definitions, provider qualifications, and rate structures to identify areas where changes were needed to ensure full compliance with the CMS HCBS regulation. This subcommittee looked at crosswalks of similar service definitions and rules across all 4 waivers to determine how revisions could best be made to enhance DODD’s adherence to the new criteria. |

| **Regulation** | **Areas of Compliance** | **Remediation Required** | **Action Steps** | **Timeline** |
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| A1. Setting is integrated in and supports full access of individual receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving Medicaid HCBS. | Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections. | Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
|  | Revise service definition of Homemaker/Personal Care under the Individual Options and Level One Waivers to include language that supports the use of this service to promote individuals’ integration in and access to the greater community | * Convene workgroup * Submit waiver amendments to CMS * Formal clearance for draft rule * Final file * Implementation |  |
|  | Modify the compliance tool utilized to conduct accreditation reviews of county boards of developmental disabilities and compliance reviews of providers of HCBS to include prompts for ensuring person-centered plans reflect and HCBS are provided in settings that comport with the regulation. | * Convene workgroup * Develop draft compliance tool * Share draft with stakeholders for feedback * Provide training on new tool |  |
| A2. The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS. | Section 5123.022 of the Revised Code requires that employment services for individuals with  developmental disabilities be directed at community employment and that  individuals with developmental disabilities are presumed capable of community employment. | Create new service definitions, provider qualifications, and rate methodologies for integrated adult day supports and employment services. | * Convene workgroup * Submit waiver amendments to CMS * Formal clearance for draft rule * Final file * Implementation |  |
| SSA rule requires path to employment to be identified in each person-centered plan. | The Transitions DD Waiver does not include a service which supports individuals in seeking and working in competitive, integrated settings. The state intends to submit a phase-out plan for this waiver which will include offering individuals the opportunity to enroll in LV1, IO, or SELF. | * Convene stakeholder group * Develop phase-out plan * Secure public input on phase-out * Submit amendment to CMS * Initiate phase-out plan, if approved * Phase-out complete |  |
| LV1, IO, SELF include services that support individuals on their path to employment, such as SE and integrated employment |  |  |  |
| A3. The setting includes opportunities to engage in community life to the same degree of access as individuals not receiving Medicaid HCBS. | Ohio Administrative Code 5123:2-1-11 requires all person-centered plans to support community connections. | Revise service definition of Homemaker/Personal Care under the Individual Options and Level One Waivers to include language that supports the use of this service to promote individuals’ integration in and access to the greater community | * Convene workgroup * Submit waiver amendments to CMS * Formal clearance for draft rule * Final file * Implementation |  |
|  | Create new service definitions, provider qualifications, and rate methodologies for integrated adult day supports and employment services. | * Convene workgroup * Submit waiver amendments to CMS * Formal clearance for draft rule * Final file * Implementation |  |
| A4. The setting includes to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.. | Section 5123.62 of the Ohio Revised Code requires that individuals have the right to control personal financial affairs, based on individual ability to do so. | Develop a new rule addressing personal funds of individuals. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
| A5. The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board. |  | Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual’s free choice of homemaker/personal care provider. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
|  | Modify the compliance tool utilized to conduct accreditation reviews of county boards of developmental disabilities and compliance reviews of providers of HCBS to include prompts for ensuring person-centered plans reflect and HCBS are provided in settings that comport with the regulation. | * Convene workgroup * Develop draft compliance tool * Share draft with stakeholders for feedback * Provide training on new tool |  |
| A6. An individual’s essential personal rights of privacy, dignity, respect, and freedom from coercion and restraint are protected. | Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. |  |  |  |
|  | Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. |  |  |  |
|  | Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. |  |  |  |
| A7. Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices. This includes, but not limited to, daily activities, physical environment, and with whom to interact. | Ohio Administrative Code 5123:2-1-11 outlines the decision-making responsibility of individuals receiving services and a requirement for person-centered plans to assist the individual with self-advocacy, if desired. |  |  |  |
| A8. Individual choice regarding services and supports, and who provides them, is facilitated. |  | Amend Ohio Administrative Code 5123:2-9-11, Free Choice of Provider, to clarify the requirement to explain how choosing a licensed setting may impact an individual’s free choice of homemaker/personal care provider. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
| A9. The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the state must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law. |  | Amend Ohio Administrative Code 5123: 2-3, DODD Licensure rules, to specify the required contents of a residency agreement or other written agreement for individuals residing in a provider-owned or controlled setting. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
|  | Develop template of sample written agreement for provider-owned or controlled settings. | * Convene workgroup * Share draft template with stakeholders * Issue guidance to impacted providers |  |
| A10. Each individual has privacy in their sleeping or living unit: Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. | Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. | Amending licensure rules | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
|  | Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. |  |  |  |
|  | Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. |  |  |  |
| A11. Individuals sharing units have a choice of roommates in that setting. |  | Amending licensure rules | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
| A12. Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement**.** | Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. | Amending licensure rules | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
|  | Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. |  |  |  |
|  | Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. |  |  |  |
| A13. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. | Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. |  |  |  |
|  | Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. |  |  |  |
|  | Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. |  |  |  |
| A14. Individuals are able to have visitors of their choosing at any time. | Section 5123.62 of the Ohio Revised Code specifies rights for individuals with developmental disabilities. |  |  |  |
|  | Annual review of the rights of individuals with developmental disabilities is required for all providers of HCBS and is provided to all individuals receiving HCBS. |  |  |  |
|  | Existing county board accreditation and provider compliance review processes ensure compliance with requirements for initial and annual training for providers of HCBS and for review of rights with individuals served. |  |  |  |
| A15. The setting is physically accessible to the individual. |  | Amending Licensure rules | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
| A16. Locations that have qualities of institutional settings, as determined by the Secretary. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution. |  | Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |
| A17. Home and community-based settings do not include the following: a nursing facility; institution for mental diseases; an intermediate care facility for individuals with intellectual disabilities; a hospital. |  | Implement new Home and Community-Based Services Administration rule that describes the characteristics required of all settings in which HCBS is provided. | * Convene workgroup * Formal clearance for draft rule * Final file * Implementation |  |