Department of Health Care Services
State of California—Health and Human Services Agency

Statewide Transition Plan for Compliance with Home and Community Based Settings Rules

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FOR ACHIEVING AND MAINTAINING COMPLIANCE WITH THE FEDERAL
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Background

1915(c) Waivers

The federal government authorized the "Medicaid 1915(c) Home and Community-Based Services (HCBS) Waiver program" under Section 2176 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). It is codified in section 1915(c) of the Social Security Act. The original legislative intent of the HCBS Waiver program was to slow the growth of Medicaid (Medi-Cal in California) spending by providing services in less expensive settings. In order to contain costs, the federal legislation limited waiver services to individuals who would be institutionalized if the services were not provided. However, the costs of those waiver services cannot be higher than what they would cost in an institutional setting.

The law permitted states to waive certain Medicaid program requirements and in doing so, deviate from Medicaid requirements, such as providing services only in certain geographic areas ("waive statewideness"). The HCBS Waiver program also allowed states flexibility to offer different types of services to individuals with chronic disabilities. Prior to this, with the origin of Medicaid in 1965, beneficiaries could only receive comprehensive long-term care in institutional settings.

The initial waiver application is approved by the Centers for Medicare & Medicaid Services (CMS) for three years with additional renewal applications needing to be approved every five years. The waiver can be designed for a variety of targeted diagnosis-based groups including individuals who are elderly, and those who have physical, developmental, or mental health disabilities, or other chronic conditions such as Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS). The waiver can be designed to offer a variety of services including case management, personal attendant services, adult day health care services, habilitation services, day treatment services, psychosocial rehabilitation services, mental health services, and other services specifically requested by the state. 1915(c) HCBS waivers have subsequently become mechanisms for many states, including California, to provide Medicaid-funded community-based, long-term care services and supports to eligible beneficiaries.

1915(i) State Plan Program

Starting January 1, 2007, the Deficit Reduction Act of 2005 (DRA) gave states a new option to provide HCBS through their State Plans. Once approved by CMS, State Plans do not need to be renewed nor are they subject to some of the same requirements of waivers. Under this option, states set their own eligibility or needs-based criteria for providing HCBS. States are allowed to establish functional criteria in relation to certain services. The DRA provision eliminated the skilled need requirement and allowed states to cover Medicaid beneficiaries who have incomes no greater than 150 percent of the federal poverty level and who satisfy the needs-based criteria. The Patient Protection and Affordable Care Act of 2010 created several amendments

including elimination of enrollment ceilings, a requirement that services must be provided statewide, and other enrollment changes.

1915(k) Community First Choice (CFC) State Plan Program

CFC services are provided in consumer-controlled homes. The provision of community-based services and supports are the most integrated setting appropriate to the individuals' needs without regard to age, type or nature of disability, severity of disability or the form of home and community-based services and supports that the individual requires in order to lead an independent life.

By being in the community and self-directing care, the individual is able to control their environment to the maximum extent consistent with their capabilities and needs. 1915(k) consumers have the ability to be active in their community and are able to seek employment by utilizing any available resources. These resources could be their CFC provider or their local community that they reside in.

CFC consumers select their residential setting of a home or abode of their own choosing. The CFC consumer chooses who their provider will be and that the services will be provided in the home of the individual or a residential setting, such as an apartment where the individual pays rent through a landlord / occupant agreement, or if the individual is living in a home owned by their family.

Community-Based Adult Services (CBAS) 1115 Waiver

See **Attachment I** – Community-Based Adult Services Transition Plan

New Home and Community-Based Setting Requirements

In January 2014, CMS announced it had finalized important rules that affect HCBS waiver programs and 1915(i) State Plan programs provided through Medicaid/Medi-Cal, and subsequently published regulations in the Federal Register on January 16, 2014. The rules became effective 60 days from publication, or March 17, 2014. These final regulations are CMS 2249-F and CMS 2296-F.

Prior to the final rule, home and community based (HCB) setting requirements were based on location, geography, or physical characteristics. The final rules define HCB settings as more process and outcome-oriented, guided by the consumer's person-centered service plan by:

1. Being integrated in and supporting full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
2. Giving individuals the right to select from among various setting options, including non-disability specific settings and an option for a private unit in a residential setting.
3. Ensuring individuals' rights of privacy, dignity and respect, and freedom from coercion and restraint.
4. Optimizing autonomy and independence in making life choices, including daily activities, physical environment and with whom to interact.
5. Facilitating choice regarding services and supports, and who provides them.

For Medicaid/Medi-Cal provider-owned or controlled HCB residential settings, the provider must offer:

6. A legally enforceable agreement between the provider and the consumer that allows the consumer to own, rent or occupy the residence and provides protection against eviction.
7. Privacy in units including lockable doors, choice of roommates and freedom to furnish and decorate units.
8. Options for individuals to control their own schedules including access to food at any time.
9. Individual's freedom to have visitors at any time.
10. A physically accessible setting.

Any modification(s) of the new requirements can only be made on an individual basis, supported by a specific and individually assessed need and justified in the person-centered service plan. Documentation of all of the following is required:

- Identification of a specific and individualized assessed need.
- The positive interventions and supports used prior to any modification(s) to the person-centered plan.
- Less intrusive methods of meeting the need that have been tried but did not work.
- A clear description of the condition(s) that is directly proportionate to the specific assessed need.
- Review of regulations and data to measure the ongoing effectiveness of the modification(s).
- Established time limits for periodic reviews to determine if the modification(s) is still necessary or can be terminated.
- Informed consent of the individual.
- An assurance that interventions and supports will cause no harm to the individual.

HCBS Programs in California Affected by the Final Rules

Program Responsibilities

California's HCBS programs, which are the focus of this Statewide Transition Plan (STP) are either directly administered or overseen by the Department of Health Care Services (DHCS) as the single state agency for Medicaid/Medi-Cal. However, several of the HCBS waivers and the 1915(i) State Plan program are administered jointly by DHCS and the State or local entity with program responsibility. Administrative teams comprised of employees from the State department/entity with program responsibility exist at DHCS, the California Department of Public Health (CDPH), the Department of Developmental Services (DDS), the California Department of Aging (CDA), and the San Francisco Department of Public Health (SFDPH). The SFDPH administers a HCBS Waiver program in accordance with terms of an Agreement with DHCS.

Existing HCBS Waivers and the corresponding State department/entity with program responsibility are as follows:

1. MSSP Waiver (0141), CDA, Long Term Care & Aging Services
2. HIV/AIDS Waiver (0183), CDPH, Office of AIDS
3. DD Waiver (0336), DDS, Community Services
4. ALW (0431), DHCS, Long-Term Care Division
5. NF/AH Waiver (0139), DHCS, Long-Term Care Division
6. IHO Waiver (0457), DHCS, Long-Term Care Division
7. SFCLSB Waiver (0855), SFDPH
8. PPC Waiver (0486), DHCS, Systems of Care Division

The existing 1915(i) SPA is administered by DDS.

California's HCBS 1915(c), 1915(k), 1115 Waiver – CBAS Program, and 1915(i) State Plan Program

California currently has an approved 1915(i) State Plan program that allows the State to access federal financial participation for services provided to individuals with developmental disabilities who do not meet the institutional level-of-care criteria required for participation in the DD Waiver, which is described in greater detail below.

California currently administers the following eight 1915(c) HCBS Waivers:

- *Multipurpose Senior Services Program (MSSP) Waiver.* The objective of this program is to provide opportunities for frail seniors age 65 or older to maintain their independence and dignity in community settings by preventing or delaying avoidable nursing facility placement. Care management is the cornerstone of this waiver and involves beneficiary assessment; person-centered care planning; service arrangement, delivery and monitoring; as well as coordinating the use of existing community resources. The 39 MSSP sites maintain wait lists independently; average wait in days statewide is 91 (during October 1, 2012 through December 31, 2012). The waiver was approved on July 1, 2014.

  MSSP Waiver provider types include all of the following:

  - Adult Day Program (Adult Day Care Center; Adult Day Support Center)
  - Building Contractor or Handyman/Private Nonprofit or Proprietary Agency
  - Congregate Meals Setting
  - Home Health Agency
  - Licensed/Certified Professionals
  - Private Nonprofit or Proprietary Agency
  - Registered Nurse
  - Social, Legal, and Health Specialists
  - Social Worker Care Manager
  - Title III (Older Americans Act)
  - Translators/Interpreters
  - Transportation Providers

- *HIV/AIDS Waiver.* The purpose of this waiver is to allow persons of all ages with mid- to late-stage HIV/AIDS to remain in their homes through a continuum of care designed to stabilize and maintain an optimal level of health, improve quality of life, and provide an alternative to institutional care in hospitals or nursing facilities. Services include, but are not limited to, enhanced care management, homemaker and attendant care services, nutritional counseling and supplements, psychotherapy, and non-emergency medical transportation. The current waiver was approved on January 1, 2012.

  HIV/AIDS Waiver provider types include all of the following:

  - Building Contractor or Handyman
  - Clinical Psychologist
  - Specialized Medical Supplies
  - Non-Emergency Transportation
  - Foster Parent
  - Home Health Agency
  - Home Health Aide
  - Homemaker
  - Licensed Clinical Social Worker
  - Licensed Vocational Nurse
  - Local Pharmacy or Vendor
  - Marriage and Family Therapist

- Master's Degree Nurse; Psychiatric and Mental Health Clinical Nurse Specialist or Psychiatric and Mental Health Nurse Practitioner
- Private Nonprofit or Proprietary Agency
- Registered Dietician
- Registered Nurse
- Social Work Case Manager
- Waiver Agency with Exception Approved by CDPH/Office of Aids

- *HCBS Waiver for Persons with Developmental Disabilities (DD Waiver).* The purpose of this waiver is to serve beneficiaries of all ages in their own homes and community settings as an alternative to placement in hospitals, nursing facilities or intermediate care facilities for persons with developmental disabilities (ICF/DD). Community-based services for individuals with developmental disabilities are provided through a statewide system of 21 private non-profit corporations known as Regional Centers. Regional Centers provide fixed points of contact in the community for persons with developmental disabilities and their families. The DD Waiver has been in operation since 1982 to assist in funding services for individuals who live in the community and who meet the ICF/DD level-of-care requirement. DD Waiver beneficiaries live in the setting of their choice, such as with their families, in their own homes or apartments, or in licensed settings. There is no wait list for eligible beneficiaries. The current waiver was approved on March 29, 2012.

  DD Waiver provider types include all of the following:

  - Adaptive Skills Trainer
  - Adult Residential Facility
  - Adult Residential Facility for Persons with Special Health Care Needs
  - Associate Behavior Analyst
  - Behavior Analyst
  - Behavior Management Consultant
  - Behavioral Technician/Para-professional
  - Building Contractor or Handyman
  - Camping Services
  - Certified Family Home; Foster Family Home
  - Child Day Care Facility; Child Day Care Center; Family Child Care Home
  - Client/Parent Support Behavior Intervention Training
  - Clinical Psychologist
  - Contractor
  - Creative Arts Program
  - Crisis Intervention Facility
  - Crisis Team – Evaluation and Behavioral Intervention
  - Day-Type Services (Activity Center, Adult Day Care Facility, Adult Development Center, Behavior Management Program, Community-Based Training Provider, Socialization Training Program; Community Integration Training Program; Community Activities Support Service)
  - Dentist
  - Dental Hygienist
  - Dietitian; Nutritionist

- Dispensing Optician
- Driver Trainer
- Durable Medical Equipment Provider
- Facilitators
- Family Home Agency: Adult Family Home/Family Teaching Home
- Financial Management Services Provider
- Group Home
- Hearing and Audiology Facilities
- Home Health Agency
- Home Health Aide
- Independent Living Program
- Independent Living Specialist
- Individual (Landlord, Property Management)
- Individual or Family Training Provider
- In-Home Day Program
- Licensed Clinical Social Worker
- Licensed Psychiatric Technician
- Licensed Vocational Nurse
- Marriage Family Therapist
- Occupational Therapist
- Occupational Therapy Assistant
- Optometrist
- Orthotic Technician
- Parenting Support Services Provider
- Personal Assistant
- Personal Emergency Response Systems Provider
- Physical Therapist
- Physical Therapy Assistant
- Physician/Surgeon
- Psychiatrist
- Psychologist
- Public Transit Authority
- Public Utility Agency, Retail and Merchandise Company, Health and Safety Agency, Moving Company
- Registered Nurse
- Residential Care Facility for the Elderly
- Residential Facility – Out of State
- Respite Agency
- Small Family Home
- Social Recreation Program
- Special Olympics Trainer
- Speech Pathologist
- Sports Club, e.g., YMCA, Community Parks and Recreation Program; Community-Based Recreation Program
- Supported Employment
- Supported Living Provider
- Translator/Interpreter
- Transportation Provider
- Vehicle Modification and Adaptations
- Work Activity Program

- *Assisted Living Waiver (ALW).* This waiver offers eligible seniors and persons with disabilities age 21 and over the choice of residing in either a licensed Residential Care Facility for the Elderly or an independent publicly subsidized housing with Home Health Agency services as alternatives to long-term institutional placement. The goal of the ALW is to facilitate nursing facility transition back into community settings or prevent skilled nursing admissions for beneficiaries with an

imminent need for nursing facility placement. Eight care coordinator agencies serving seven counties independently maintain wait lists. The current waiver was approved on March 1, 2009.

ALW provider types include the following:

- Care Coordination Agency
- Home Health Agency in Public Subsidized Housing
- Residential Care Facility for the Elderly

- *Nursing Facility/Acute Hospital (NF/AH) – Transition and Diversion Waiver.* This waiver offers services in the home to Medi-Cal beneficiaries with long-term medical conditions, who meet the acute hospital, adult subacute, pediatric subacute, intermediate care facility for the developmentally disabled – continuous nursing care and Nursing Facility A/B levels of care with the option of returning and/or remaining in their home or home-like setting in the community in lieu of institutionalization. The current NF/AH Waiver was approved on January 1, 2012.

  NF/AH Waiver provider types include all of the following:

  - Behavioral Therapist
  - Durable Medical Equipment Provider
  - Employment Agency
  - Home and Community-Based Continuous Care Facility
  - Home Health Agency
  - Home Health Aide
  - In-Home Support Services Public Authority
  - Intermediate Care Facility for the Developmentally Disabled – Continuous Nursing Care
  - Licensed Clinical Social Worker
  - Licensed Psychologist
  - Licensed Vocational Nurse
  - Marriage Family Therapist
  - Non-Profit or Proprietary Agency
  - Personal Care Agency
  - Private Nonprofit or Proprietary Agency
  - Professional Corporation
  - Registered Nurse
  - Waiver Personal Care Services Provide

  - *In-Home Operations (IHO) Waiver.* This Waiver was originally developed for those individuals who had been continuously enrolled in a DHCS administered waiver prior to January 1, 2002 and who primarily receive direct-care services rendered by a licensed nurse. This waiver offers services in the home to Medi-Cal beneficiaries with

long-term medical conditions in their home or home-like setting in the community in lieu of institutionalization. The current waiver was approved on January 1, 2015.

IHO Waiver provider types include all of the following:

- Associate Clinical Social Worker (ACSW)
- Durable Medical Equipment Provider
- Employment Agency
- Home and Community-Based Continuous Care Facility
- Home Health Agency
- Home Health Aide
- In-Home Support Services Public Authority
- Licensed Clinical Social Worker
- Licensed Psychologist
- Licensed Vocational Nurse
- Marriage Family Therapist
- Personal Care Agency
- Private Nonprofit or Proprietary Agency
- Professional Corporation
- Registered Nurse
- Waiver Personal Care Services Provider

- *San Francisco Community Living Support Benefit (SFCLSB) Waiver.* This waiver utilizes certified public expenditures for provision of waiver services to persons with disabilities age 21 and over who reside in the City and County of San Francisco and who are either homeless, residing in a nursing facility, or are at imminent risk of entering a nursing facility. Eligible individuals can move into licensed Community Care Facilities (CCFs) or Direct Access to Housing (DAH) sites (e.g., private homes). Services consist of care coordination, community living support benefits, and behavior assessment and planning in both CCFs and DAHs; and home delivered meals and environmental accessibility adaptions in DAH sites.

  SFCLSB Waiver provider types include all of the following:

  - Adult Residential Facility
  - Clinical Psychologist
  - Durable Medical Equipment Provider, Building Contractor or Handyman Private Nonprofit or Proprietary Agency
  - Home Delivered Meal/Meal Preparation Vendor
  - Home Health Agency
  - Licensed Clinical Social Worker
  - Marriage Family Therapist
  - Not-For-Profit Case Management Agency
  - Private Nonprofit or Proprietary Agency
  - Residential Care Facility for the Elderly
  - Therapist (Various Specializations)

- *Pediatric Palliative Care (PPC) Waiver.* This waiver offers children with life limiting conditions a range of home-based hospice-like services while they maintain the option of receiving curative treatment. According to diagnosed need and an approved plan of care, services include: care coordination, expressive therapies, family training, individual and family caregiver counseling/bereavement services, pain and symptom management, personal care and respite care.

  PPC Waiver provider types include all of the following:

  - Agency Certified Nursing Assistant
  - Art Therapist
  - Associate Clinical Social Worker
  - Child Life Specialist
  - Congregate Living Health Facility
  - Home Health Agency
  - Home Health Aide
  - Hospice Agency
  - Licensed Clinical Social Worker
  - Licensed Psychologist
  - Licensed Vocational Nurse
  - Masters Level Social Worker
  - Massage Therapist
  - Music Therapist
  - Registered Nurse

1915(k) Community First Choice – In-Home Supportive Services. The goal of the IHSS program is to allow you to live safely in your own home and avoid the need for out of home care. Services are typically provided in the consumers' own home. This could be a house, apartment, or the home of a relative.

1915(k) CFC services include:

- Personal care services like dressing, bathing, feeding, toileting
- Paramedical services like helping with injections, wound care, colostomy and catheter care under the direction of a licensed medical professional
- House cleaning
- Cooking
- Shopping
- Laundry
- Accompaniment to and from medical appointments

Community-Based Adult Services Program (CBAS). See **Attachment I** of the STP for details.

California's Statewide Transition Plan

This STP identifies the framework and strategy for achieving and maintaining compliance with the federal requirements for HCB settings in California.

California's HCBS waiver and 1915(i) State Plan program differ significantly in the populations they serve, their size and complexities, and their statutory and regulatory structures, among other differences. The largest and most complex is the DD Waiver and the 1915(i) State Plan program, where the programs serve approximately 130,000 consumers in the provision of a vast array of residential and nonresidential services that are separately licensed and/or regulated. Participation in the DD Waiver is not required to access the State's full array of available developmental services. Providers are not separately identified for DD Waiver or 1915(i) State Plan program purposes; therefore, all providers potentially utilized for HCBS must be in compliance with the HCB setting requirements. For the DD Waiver, the entire system, serving over 270,000 consumers, is potentially affected by the new requirements.

In contrast, the SFCLSB Waiver, with 17 beneficiaries, represents the smallest 1915(c) waiver in California. Eligibility is open only to San Francisco residents who meet level of care eligibility and require at least one of six available services.

This STP identifies at a high level the commitments and requirements that each of the eight HCBS waivers and 1915(i) State Plan program will meet. The specific approach and details of each program's transition process will reflect the input and guidance of the particular program's stakeholders, and the unique structure and organization of the program itself. The complexity of each task will vary significantly across programs.

Resources to address and implement the many changes necessary to be in compliance with the regulations are and will continue to be limited. When resources are needed, they must be raised and vetted through the annual legislative budget process, which only allows for new resources prospectively, typically in the upcoming state budget year. Therefore, careful thought and analysis must go into every aspect of implementation in an effort to achieve compliance as cost effectively as possible. Since program systems and processes have long been established in California, standard processes will be considered for modification to bring about and ensure ongoing compliance, such as revising existing monitoring and oversight protocols to incorporate the regulatory requirements, utilizing available data, such as the National Core Indicator (NCI) and expanding existing complaint and appeal processes to allow for consumer and/or provider due process when disputes arise.

Stakeholder Input

To achieve compliance, California will strongly emphasize inclusive stakeholder processes that analyze and guide implementation. Essential involvement will come from participants. Their input concerning how they experience community inclusion and freedom of choice will be critical for system changes and implementation strategies. Also essential is provider input. Providers are the backbone of the system, so that services and choices are available to consumers. How the regulations are implemented may affect the viability of providers as sustainable businesses. Stakeholder processes will also include entities and experts who are impacted by or are knowledgeable about the various topics, including, in particular, the California Department of Social Services as the licensing agency (Community Care Licensing [CCL]) for many of the HCB settings.

As the State continues this process, stakeholder input will evolve over time as implementation phases progress, as described below. With the stakeholder input, specificity will be added and/or modifications will be made to the various components identified in the STP.

Following are summaries of California's efforts to elicit stakeholder input and subsequent comments received to date on the STP.

DHCS posted the first STP draft to the DHCS website on September 19, 2014, followed by a 30-day stakeholder input period. DHCS posted the second STP draft on November 7, 2014, followed by another 30-day stakeholder input period. In addition, DHCS posted general public interest notices about impending public comment periods and meetings regarding development of the STP in the California Regulatory Notice Register on March 3, 2014 and April 25, 2014. The Register is available in print at public libraries as well as other public places. DHCS also hosted two stakeholder conference calls on October 21, 2014, and December 2, 2014. Other notices were sent by the individual departments with responsibility for specific waivers; e.g., CDPH communicated directly with HIV/AIDS Waiver stakeholders; CDA with MSSP sites; and DDS with Regional Centers.

More than 250 beneficiaries, providers, advocates, and other stakeholders participated in the stakeholder calls combined. DHCS established a dedicated email box to receive stakeholder input. DHCS received over 230 emails of stakeholder input, and five mailed letters. Approximately 65% of stakeholder input was received directly from beneficiaries and their families, 20% was received from providers, and 15% from advocates. DHCS received valuable feedback during this extensive stakeholder input process and have summarized these comments in **Appendix A**.

DHCS posted general public interest notices about impending public comment periods and meetings regarding further development of the STP in the California Regulatory Notice Register. The State conducted a public comment period from May 22, 2015 through June 30, 2015 to allow stakeholders to comment on the On-Site Assessment Tools and Provider Self-Survey Tools, discussed in subsequent sections of the STP. A summary of these comments can be found in **Appendix A**. Stakeholders were notified on June 26, 2015, through the California Public Register, of the Revised STP available for public comment. DHCS also posted a general public interest notice to inform stakeholders of a conference call on July 13, 2015, to discuss the revisions made to the STP, as well as to discuss comments received on the On-Site Assessment Tools and Provider Self-Survey Tools. Other notices were sent by the individual departments with responsibility for specific waivers; e.g., CDPH communicated directly with HIV/AIDS Waiver stakeholders; CDA with MSSP sites; DDS with Regional Centers.

On July 2, 2015, DHCS posted a revised STP Draft for a 30-day stakeholder input period ending July 31, 2015. DHCS received 39 comments through standard mail and email. Approximately 82% of stakeholder input was received directly from beneficiaries and their families, 1% was received from providers, and 15% was received from advocates. We have summarized these comments in **Appendix A**.

Implementation of the HCB Setting Requirements

Following is a description of the various phases of implementation that California will undertake to achieve compliance with the HCB setting requirements. California will move forward concurrently with many of the components listed below. As described previously, the details of implementation will vary significantly across the HCBS Waiver and 1915(i) SPA program and be integrally guided by stakeholders. As remedial strategies are solidified, actions and timelines will be identified to track progress against objectives based on resources available.

Consistent with the above, additional State resources must be requested via the State legislative and budget processes. To ensure awareness of these needs, staff from the California Department of Finance and State Legislature is invited to attend ongoing stakeholder meetings.

<u>Education and Outreach</u>
As an important early step, information and education on the requirements of the HCB setting requirements and the regulations generally will be provided to State departments/entities, consumers and families, Regional Centers, providers, advocacy groups and other interested stakeholders throughout the State on a continuous and ongoing basis. Additionally,

beneficiaries will be informed of the ongoing methods for providing input, being involved and staying informed as implementation progresses. Ongoing communication methods will be developed with stakeholder input.

Systemic Assessment of Statutes, Regulations, Policies and Other Requirements

The statutes, regulations, policies and other requirements for residential and nonresidential HCB settings have been reviewed and analyzed jointly by DHCS and the State departments/entities responsible for operating each HCBS Waiver or 1915(i) State Plan program to determine the extent to which the State's written program standards comply with federal regulations Stakeholders participated in and provided input to most aspects of the systemic assessment process. The draft systemic assessment process was completed July 1, 2015, with anticipated modifications and after public input was incorporated; the systemic assessment was finalized August 6, 2015. A summary of results of the systemic assessment can be found in **Appendix B**.

The systemic assessment of program standards was completed according to each new HCB federal requirement and its relationship to the specific HCB setting being assessed. The standards and policies governing each setting will be assessed to determine whether each standard is in compliance, out of compliance or whether the standard is silent on the federal requirement. Please note that the systemic assessment is an indication of compliance, but does not preclude settings from further compliance determination processes, such as provider self-surveys, beneficiary self-surveys, and on-site assessments.

Compliance Determination Process for HCB Settings

The State departments/entities will be responsible for ensuring appropriate provision of HCBS by all providers that serve, or may serve Medi-Cal beneficiaries.

An initial sample of on-site assessments will be completed as a part of existing monitoring and oversight processes and further on-site assessments will be conducted based on provider/beneficiary self-surveys. All presumed non-HCB settings will be assessed through the CMS Heightened Scrutiny Process. The final number of settings receiving on-site assessments will be based off a statistically valid sampling.

The final list of settings to have an on-site assessment will be completed and reported with timeframes for completion of the on-site assessments and a plan for bringing sites into compliance as needed. In addition, input from stakeholders, including consumers, providers, family members, advocacy and stakeholder group representatives, will be sought before finalizing timeframes for completing on-site assessments, the process and tools to be utilized for on-site assessments and plans for bringing sites into compliance. Information will be provided publicly on how the assessments are to be conducted, including

licensing reviews, provider qualifications reviews, provider self-survey and on-site assessment tools and support coordination visit reports.

Following is an initial listing of HCB settings that have been assessed [see page numbers below] through the systemic assessment process for inclusion in and compliance with the federal requirements via the compliance determination process:

- Adult Day Program (Adult Day Care Center, Adult Day Support Center) [Pg. 27]
- Adult Family Home/Family Teaching Home [Pg. 29]
- Adult Residential Facility (Includes Adult Residential Facility for Persons with Special Health Care Needs) [Pg. 31]
- Certified Family Home; Foster Family Home [Pg. 35]
- Child Day Care Facility; Child Day Care Center; Family Child Care Home [Pg. 37]
- Community-Based Adult Services [See **Attachment I** - Community-Based Adult Services Program Transition Plan – Appendix V]
- Congregate Living Health Facility [Pg. 38]
- Congregate Meal Site [Pg. 42]
- Day-Type Services (Activity Center, Adult Day Care Facility, Adult Development Center, Behavior Management Program, Community-Based Training Provider, Socialization Training Program; Community Integration Training Program; Community Activities Support Service) [Pg. 45]
- Group Home [Pg. 46]
- Residential Care Facility for the Elderly [Pg. 48]
- Small Family Home [Pg. 54]
- Work Activity Program [Pg. 56]

The compliance determination process includes all of the following:

- For settings presumed not to be HCB settings, pursuant to CMS regulations, evidence will be provided to CMS for application of the heightened scrutiny process. Such settings will be identified through the review of state laws and regulations, provider and beneficiary self-surveys, existing monitoring and oversight processes and stakeholder input throughout the transition process.

- For all other settings, a sample of on-site assessments will be conducted. The sample results will be used to inform the stakeholder process as changes are made to the system to ensure monitoring and ongoing compliance through standard processes, such as licensing and/or certification. The sample results will also be used to guide the process of

bringing HCB settings into compliance. The State has conducted initial On-Site Assessments on a sample of HCB settings. The results are summarized in **Appendix C**.

- DHCS and State departments have developed an agency-wide core On-Site Assessment Tool, for use in the on-site assessments of HCB settings. The Residential and non-Residential On-Site Assessment Tools are found in **Attachment II and III**, respectively. The core assessment tool includes questions that relate to each new federal requirement that will be used to determine if the HCB setting meets or does not meet the required federal rule. The core assessment tool may be modified to address specific provider types, including guidance and instructions, and will become the assessment tools utilized by the appropriate State departments/entities administering the program. The Tools were developed with public input and a summary of these comments can be found in **Appendix A**.

- DHCS and State departments have also developed an agency-wide core Provider Self-Survey Tool, which will be forwarded to all HCB settings for completion. The Residential and non-Residential Provider Self-Survey Tools are found in **Attachment IV and V**, respectively. The core survey tool may be modified, including guidance and instructions, to address specific provider types and programs. The results of these provider self-surveys will be reviewed by the appropriate State department/entity administering the program, and may trigger on-site assessments when indicators of non-compliance are identified. The Tools were developed with public input and a summary of these comments can be found in **Appendix A**.

- In addition to the core On-Site Assessment Tools and Provider Self-Survey Tools, DHCS and State departments, in collaboration with advocacy organizations, are developing core Beneficiary Self-Survey Tools, which will be distributed by the appropriate State department/entity administering the program to beneficiaries throughout the State. DHCS is seeking advocate and stakeholder input on the core Beneficiary Self-Survey Tools, which will be available in the fall of 2015 for public comment.

- Using the data collected from completed self-surveys, a sample of the HCB settings will be selected for on-site assessments. The on-site assessments will be conducted by a survey team that includes representation from at least two of the following: State personnel, case managers or other representatives of case management entities, and licensing entities. Finalization of the on-site assessment process will not occur without stakeholder input, including, but not limited to, consumer advocacy organizations, beneficiaries, providers, family members and/or other stakeholders.

The responsibility for ensuring completion of these on-site assessments rests with the State department/entity responsible for the program as specified under "HCBS Programs in California Affected by the Final Rules" section of this document. As on-site assessments are completed for a sample of settings by provider type category, if a pattern of non-compliance is identified this may trigger a full review of all settings comprising the provider type category. The on-site assessments will be ongoing until remedial strategies are identified and implemented. On-site assessments will be incorporated into ongoing monitoring protocols as a part of existing processes.

The written results of each on-site assessment will be forwarded back to the HCB setting with specific information regarding improvements that will be required in order for the setting to come into compliance with the federal requirements and a timeline for completion. Follow up of the compliance issues will be the responsibility of the administering State department/entity.

Completed assessments, including documentation of any required follow-up actions as a result of the on-site assessments, will be maintained in the appropriate State file for each HCBS Waiver or 1915(i) State Plan program. A timeline for completion of the compliance determination process will be established and finalized with stakeholder input.

- The assessment results will be used to inform the stakeholder process as strategies are developed, evolve and changes are made to ensure monitoring and ongoing compliance with the federal regulations.

- The outcome of the on-site assessments will be reported by each requirement and each HCB site where an on-site assessment was conducted. Remedial actions will be developed to include timelines, milestones and a description of the monitoring process to ensure timelines and milestones are met.

- The final report of the compliance determination process will detail the number of HCB settings that are fully compliant with the requirements, partially compliant with the requirements and will require modifications, cannot meet the requirements and require removal from the program with/without relocation of individuals, and the number of settings that are presumptively non-HCB, but for which justification will be provided that these settings may not have the characteristics of an institution and do have the qualities of a HCB setting. Once completed, this report will be available on the DHCS Statewide Transition Plan website.

The State will develop remedial actions to bring settings into compliance with the new requirements, including relocation of beneficiaries, at the discretion of the beneficiary, their legal guardian or representative and if no other viable remedial actions are possible. At this time, California does not anticipate that relocation of beneficiaries will be necessary, unless identified on an individual basis through the person-centered planning process. However, should it become necessary, relocation of beneficiaries will include reasonable notice and other due processes to beneficiaries and providers. The State will notify stakeholders of relocation plans and processes as well as finalize a description of the timeline for relocation, and the number of beneficiaries impacted. The transition process must assure that beneficiaries, or their parental or legal guardian, through the person-centered planning process, are given the opportunity, the information, and supports to make an informed choice of an alternate HCB setting that aligns, or will align, with the HCB settings requirements, beneficiary assessed needs and that critical services/supports are in place in advance of the individual's transition.

Role of Person-Centered Planning

Even though implementation of the new federal regulations affecting the person-centered planning process is not technically part of this STP, person-centered planning is inextricably linked to the HCB setting requirements. The State department/entity responsible for program administration will use a stakeholder process to evaluate the role of person-centered planning as it relates to determining compliance with the federal regulations, assessing consumer satisfaction with the setting options, and other possible community integration issues. Strategies may be developed to utilize information from the person-centered planning process to improve service delivery under the federal regulations.

Public comment supports the idea of the State's understanding regarding home-like and community integration within a persons' individual plan of care and basic civil right. DHCS believes community is not the mere physical presence of other buildings and people. It includes a safe and purposeful environment where individuals have needed support and safety, and the greatest freedom to live productive, connected lives according to their own desires.

The person-centered plan documents the consumer's choice of settings and services based on the needs and preferences of the consumer. The State will take into account the options provided and choice of the consumer or their parent or legal guardian when determining HCB settings compliance, thus keeping the end goal of optimizing autonomy, independence, and consumer choice in mind.

Appeal Processes

With stakeholder input, appeal and complaint processes will be identified or developed which will allow the HCB setting and/or the consumer(s) to raise or dispute compliance-related issues. The State will begin researching existing appeals

processes and determine the feasibility of incorporating the HCB setting appeal and complaint process into current structures. An appeal and complaint process will be identified and operational prior to any issuance of non-compliance.

Compliance Monitoring

Each HCBS Waiver and 1915(i) State Plan program, in consultation with stakeholders, will use the self-surveys, on-site assessments and/or other data collection methods, to develop remedial strategies and monitor progress toward compliance with the federal regulations. All State-level and individual-setting level remedial actions will be completed no later than March 17, 2019.

The State will ensure that HCB settings remain in compliance with the new requirements by utilizing current ongoing licensing and/or certification processes for both residential and non-residential settings, as well as weaving compliance reviews into current monitoring and oversight processes.

Plan Updates and CMS Reporting

During the implementation period, progress on this STP will be continuously monitored and reported to CMS, as needed.

Appendix A – Stakeholder Input

(Bold text indicates frequently received comments)

Stakeholder Input on Draft STP Submitted December 19, 2014

As an overview of comments received, beneficiaries and their family members were most concerned with the choice of homes and programs, including congregate housing and sheltered workshops. Advocates indicated that congregate housing and sheltered workshops tend to isolate beneficiaries, and believe residents and participants in these settings will need to be relocated. Further, advocates have asserted that beneficiaries must be a part of the assessment team and actively involved in all aspects of the STP process. Providers have commented that assessing a category of settings may not be adequate as there is diversity among settings within a category. In addition, providers have raised concerns about funding and resources should modifications be necessary to come into compliance

State Response Reference Key:
(1) No action to be taken; outside of STP purview.
(2) Comment logged for continuous consideration through transition process.
(3) Language in the Statewide Transition Plan has been added or modified due to stakeholder input.
(4) Compliance determination will be made once the Provider Self-Survey, Beneficiary Self-Survey, and On-Site Assessment have been completed.
(5) The State will continue its education and outreach to meet the needs of agencies, stakeholders, and beneficiaries as the Statewide Transition Plan is implemented.

Consumers and Family:

(1) California HCBS Requirements must not become stricter than federal regulations.
(1) HCBS requirements are not uniform across the state, i.e. 4 beds vs 6 beds limitations in residential facilities. There is not enough supply of residential facilities and imposing new regulations could shrink this number further.
(1) Difficult to find appropriate/stimulating day programs and housing.
(1) DDS should take a more active role ensuring Regional Centers are providing services in a uniform manner.

(1) IPPs should include a description of services that were requested but were not delivered due to insufficient supply.
(1) More jobs available to consumers, including full-time, $9/hr. positions.
(3) Add language relative to parental or guardian choice of services/settings for children. STP does not specify Plan for children under 18 years; therefore, the STP assumes children's needs are the same as adults.
(4) DD Consumers should be allowed to live with different level types, i.e. Level 2 living with Level 4a or 4b.
(4) Please permit Group Homes, Farmsteads, Gated Communities, Disability-Specific Housing, Intentional Communities, and Clustered Group Settings.
(4) Day Programs, Work Programs, and Sheltered Work Programs must remain an appropriate setting.
(4) There are 73,000 Californians with severe forms of autism. We need to maximize autism housing options including those congregate in nature.
(4) Ensure that community inclusion requirements do not exclude rural HCBS housing options

Advocates:

(1) The ALW should be available statewide
(2) State should use pre-existing tools, such as the National Core Indicator (NCI), for assessing settings, and to narrow down the services and sites requiring assessment.
(2) Request extension for further STP review and public comment.
(2) Invest in the infrastructure to support self-direction and community living including: the CART Model; Supported Health Care Decision Making Services; technology infrastructure; increased Regional Center funding; improved access to dispersed housing; incentives and support for real jobs for real wages.
(3) Ensure that a consumer is part of all on-site evaluation survey teams. In addition, a family member and/or consumer advocate, and one provider should also be included.
(3) Conduct an adequate number of on-site evaluations. If the State plans to submit any setting to the heightened scrutiny process, it should perform an on-site assessment.
(3) Compliance may be determined using self-assessments, provider assessments, and consumer/family input through the person-centered planning process.
(3) While assessing settings by category will be useful, on-site evaluations must be conducted.
(3) Settings that "cluster" people with disabilities will have to undergo major architectural changes to comport to the new rules. The STP must include a plan for transferring these participants to more integral settings.
(3) DHCS must develop a plan to expand investment of state funds in order to implement the rules properly.
(3) If self-assessments raise concerns, the state must do an on-site evaluation.

(3) To comply with the Federal Rules, additional investments in health care infrastructure for adults with developmental disabilities will be required.
(3) (4) STP states California does not anticipate relocation of consumers, but gated communities and ICF-DDs are presumed not to have the qualities of HCBS. California must take steps to increase availability of services in integrated settings and have these options available if/when consumers are transitioned.
(3) (4) (5) Stakeholder input process must be made accessible to people with sensory impairments. DHCS should develop a communication plan for education and outreach. A consumer must be part of all assessment teams, and consumer self-assessments should be required to self-assess their living arrangements in day programs.
(3) (4) (5) On-site evaluations must include each provider category listed in the plan in every county in the state; and consumers/families should be consulted during on-site reviews for greater accuracy.
(3) (5) Take steps to obtain robust and candid stakeholder input. Convene focus groups for the sharing of personal experiences. Allow stakeholder input through multiple channels: mail, website, dedicated telephone and fax numbers. More robust education and outreach.
(3) (5) Provide transparency in Transition Plan Activities: accurate assessments of providers; publish a list of providers and an initial assessment of HCB setting compliance.
(3) (5) Provide specifics in assessments, so as to allow for more meaningful responses. Federal Rules tend to be vague; comments suggest specific assessment questions to be used to determine HCB setting compliance.
(4) Sheltered workshops are not integrated as all workers have developmental disabilities, and these workers do not integrate with non-disabled workers. California should ensure that individuals have access to supported employment services that help people find real jobs that pay real wages, and that workers with disabilities work alongside non-disabled workers.
(4) California should reject new applications for clustered and congregate projects, gated communities, and Intermediate Care Facilities, and should stop placing consumers in these settings.
(4) Sheltered workshops are not considered by many with disabilities as a community-based service. The STP should include a plan to transition people out of sheltered workshops into individual support employment.
(4) The state does not positively state which current services are already meeting the settings requirements, which do not, and which require further review.
(5) What is the deadline for HCB setting and/or consumers receiving the assessment questionnaire?
(5) DHCS must develop guidance for every state department involved in the HCB setting implementation process so that state departments know how they must conduct the transition/implementation process.
(5) Consumers must be involved in the stakeholder and implementation process.
(5) A list of HCB settings that are NOT being scrutinized should be prepared for stakeholders.
(5) STP should more specifically identify the state's intention to form work groups and/or use existing committees to look at implications specific to populations served.

(5) No information or direction is found on Regional Center websites RE: the STP.
(5) Education and Outreach section of STP does not define who will provide training to stakeholders.
(5) Follow consistent principles, across state departments, in implementation of the Federal Rules.

Providers:

(1) HCPS providers have had their pay rates frozen for 15 years. Wage disparity between HCB settings and institutions limits HCB providers' ability to recruit and retain staff.
(2) Add home health agencies and case management companies to the list of settings for compliance determination.
(3) Suggest language to be added to the background sections of the HIV/AIDS Waiver, DD Waiver, ALW, NF/AH Waiver, IHO Waiver, SFCLSB Waiver, PPC.
(3) Ensure consumers are given adequate choice of service/setting.
(3) Departments should be able to use an assessment tool that applies to their programs, not a generic tool used across all programs. Further, survey teams need to be trained on the tool and the definition and meaning of HCB Setting rules. Assessment Template must be reliable and valid.
(3) Development of assessment tools, evaluation of settings, program modifications, and supporting individuals through service transition will require resources, which must be included in the state's budget for community-based developmental services.
(3) (5) Establish a standing stakeholder monitoring and advisory committee for issues related to people eligible for DD Services.
(3) (5) Changes that must be made to bring a setting into compliance will likely require funding so the STP should be clear about this. The STP should recognize that if changes are necessary, adequate funding must be made available to affect them.
(4) Adult Development Center is available statewide. Contra Costa County has 7 different settings, some of which are 100% in the community with no facility involved; others are 50% on the site and 50% in the community. Assessments must be made of individual settings, not to the category as a whole.
(5) Consumers transitioning from school to adult services have not been properly informed of new federal rules. STP contains no suggestion of how issues RE: child to adult services will be addressed; no information on the Department of Education website.
(5) DSS-CCL has authority to grant or revoke licenses for residential and non-residential settings; therefore, the state must establish timelines for making necessary modifications to the statutes and regulations for these programs.

Stakeholder Input on Draft STP Posted July 1, 2015.

Many comments are responded to using the response reference key below. Other comments received from stakeholders regarding the draft STP are addressed with a "Response" following each comment. Please note, bold text indicates frequently received comments.

State Response Reference Key:

(1) No action to be taken; outside of STP purview.
(2) Comment logged for continuous consideration through transition process.
(3) Language in the Statewide Transition Plan has been added or modified due to stakeholder input.
(4) Compliance determination will be made once the Provider Self-Survey, Beneficiary Self-Survey, and On-Site Assessment have been completed.
(5) The State will continue its education and outreach to meet the needs of agencies, stakeholders, and beneficiaries as the Statewide Transition Plan is implemented.

(2) The STP webpage should be linked on the DHCS homepage
(3) (4) HCB Setting requirements are based on principle of "least restrictive environment (LRE)." LRE mandates that all DD individuals shall be able to exercise freedom of choice and self-determination as to housing arrangements based on their unique needs as do others without disabilities. However, DHCS' interpretation of the HCB Setting requirements will restrict freedom of choice and self-determination. HCB Setting rules are being distorted to limit housing choices for DD participants.
(3) (4) Those who choose to live or work in a campus or farm based setting should not be forced to change or limit their desired time to be supported in that setting. A least restrictive environment for one person may not be the least restrictive environment for another with different support needs.
(3) (4) "Please permit Group Homes, Farmsteads, Gated Communities, Disability-Specific Housing, Intentional Communities and Clustered Group Settings."
(3) (4) Criteria and assessments should NOT be based on physical characteristics, such as density of waiver recipients or proximity to other services or employment opportunities. Home and community settings should be individually assessed for quality based on waiver recipient feedback. Setting size or physical characteristics are not indicators of institutional attitudes or abuse, thus should not be used.
(3) (4) Please allow our sons and daughters to continue to be able to choose from all appropriate options, include rural, farm and ranch options, where many people with autism/DD feel very comfortable and at home.

(3) (4) Because the need for housing and supportive services is so overwhelming, I urge you to please ensure that people with developmental disabilities, and those who love and care for them, do not face even more limits on already scarce and under-funded living options.
(3) (4) CMS claims its new rules are intended to prevent isolation, but a choice to live with one's peers is often the least isolating option of all. We all want for our children, a safe, nurturing, stable, fulfilling life. We do not want our children's choices of living environment or daytime activities to be limited or restricted to settings that will isolate our children and put them at risk of abuse, neglect, or loneliness. It means securing some degree of continuing oversight by many involved families, not by just a for-profit owner of a small home, so that in the absence, by illness, aging or death, of any one of us parents, there are others helping to supervise all the residents.
(3) (4) People with DD must be given the choice of living in a supportive setting that meets their needs when such a setting is a community of others with DD integrated into a larger community. For some people, an intentional community can provide essential support much better than individual or small group housing. It is a serious error to regard all such setting as prohibited "institutions."
(3) (4) Please do not make sweeping restrictions that rule out options for many whom would be well served by them. Decisions about what is community-based should be made based on what actually happens in an environment and how well that fits with the needs of the residents, not based on some description of the housing and its address.
(3) (4) Any implementation of the HCBS waiver program should include the following:

• Maximum ability for the disabled person to be supported in the setting of his/her choice and, if unable to make such a choice, the choice loved ones determine is best.

• A range of options must be included so that we are not trying to create a "one size fits all" environment where outsiders are judging where a disabled individual belongs.

• A high quality of life is essential to each individual and should be the criteria for assessment of a setting, not where housing is located, nor the size of a particular setting, nor who the disabled person wants to live with, nor proximity to any particular amenities.

• People with developmental disabilities, or those who love them, should not have to be afraid of losing critical support services for choosing or developing their desired home, work and community opportunities.

• A least restrictive environment for one person may not be the least restrictive environment for another with different support needs, social needs, or interests. This difference should be respected and supported.

• California must not limit desired support services, employment, or housing choices for people with developmental disabilities, but should instead be helping to expand and fund creative solutions to address this enormous need.

• No two people with developmental disabilities are exactly alike and therefore no single setting or preference should receive priority for HCBS funding over another.

Please do not use the HCBS Waiver Program as a means of limiting our children's choices for living the lives they want, in an environment of their choosing, and creating a meaningful future for themselves. Please do not limit their rights.

(3) (5) Must maximize public outreach and public comments. Outreach must be unified across departments.
(3) (5) The STP should identify steps toward compliance; what specific policy (state laws/regulations) needs to be added or changed; and what funding and other resources will be available (or not) for such transition to compliance.

Advocates:

(2) State must establish firm timelines for modifications to statutes and regulations.
(3) Modifications to settings will require funding. State must include funding in budget.
(3) Proposed revisions to page 5, "For Medicaid/Medi-Cal provider-owned or controlled HCB residential settings, the provider must offer.
(3) Proposed revisions to page 15, ~~Eligibility is invisible to those consumers, serving strictly as an identifier in the documentation and federal billing processes; however, participation~~ **Participation** in the DD Waiver is not required to access the State's full array of available developmental services.
Proposed Revisions to page 5. "the purpose of this waiver is to serve beneficiaries of all ages in their own homes and community settings as an alternative to placement in hospitals, nursing facilities, or intermediate care facilities with persons with developmental disabilities (ICF-DD).
(3) STP needs State commitment for inter-departmental collaboration.
(3) Proposed revisions to page 19, The on-site evaluations will be ongoing until remedial strategies, **which may include necessary funding augmentations,** are identified that will incorporate ongoing monitoring protocols into existing processes.
(3) Provide mechanisms to ensure ongoing compliance**.**
(3) Need to amend and improve licensing standards to ensure continuing compliance with HCB regulations

(3) (4) If a person without a disability chooses to live on a farm, a ranch, or in a congregate setting (as millions of non-disabled people chose to do), then people with disabilities must be able to avail themselves of the same options, without risking loss of basic, essential support services. Respecting the choices of those with disabilities must trump any paternalistic mandate for particular types of setting.
(3) (4) Some services (settings) will likely not comply with federal standards before 2019 deadline. Separate policy decisions must be made whether the State will continue to fund these services/settings.
(3) (4) Need to identify and address presumed institutional settings.
(3) (4) Of necessity, the STP must identify programs and services that are out of compliance with HCB setting requirements and how the State intends to bring them into compliance.
(3) (4) Identify settings that fail to comply with HCB requirements.
(3) (5) The STP should describe steps the State will take to ensure these settings and services thrive, how they will connect to each other, and how the State will ensure that consumers across the state have access to these settings and services.
(3) (5) Assess whether the State's standards comply with the federal HCBS regulations.

a. Estimate the number of settings that
b. Fully comply with the HCBS regulations;
c. Do not comply with the HCBS regulations;
d. Cannot meet the HCBS regulations and, as a result, will be removed from the HCBS program; or
e. Are presumptively non-HCBS but, based on information submitted by the state, nonetheless should be considered to have HCBS qualities.
f. Describe the remedial actions the State will use to assure full compliance with the HCBS regulations.
g. Describe the state's monitoring processes for assuring full and ongoing compliance with the HCBS regulations.

(4) Require settings to improve their procedures and/or physical layout.
(5) Need to develop and commit to timelines and benchmarks to implement the STP.

CMS instructions for STP indicate initial assessments of settings should be made; a delay in assessments will cost valuable time.

- **Response:** The State will be making these assessments using the Provider and Beneficiary Self-Survey Tools, and the On-Site Assessment Tools. A systemic assessment was also completed per CMS instruction.

- **Response:** The intent of the DD Waiver is to service eligible consumers who meet ICF LOC and higher.

- Proposed revisions to page 17: The standards governing each setting will be assessed to allow determination whether each standard is in compliance, out of compliance or whether the standard is silent on the federal requirement. **In some instances, a standard may be found to be in partial compliance or to be partially silent. In cases of less than total compliance, remedial measures will be taken to clarify or enhance the statute or regulation to achieve full compliance.**

- **Response:** The State believes the intent of this comment is achieved in the current STP language. Systemic assessments do not preclude settings from further compliance determination processes described in the STP.

Settings that are common to two or more waivers must be considered separately for each waiver. Greater attention is needed to the specific details related to each setting in order to definitively identify areas of compliance or non-compliance. In several instances, the remedial strategy identified is to address the incongruence between state and federal standards at the time of next waiver renewal. This delay is not acceptable.

- **Response:** Stakeholders and legal experts have vetted the Systemic assessment and these assessments do not preclude settings from further compliance determination processes described in the STP.

Problems with systemic assessment summary.

- **Response:** Stakeholders and legal experts have vetted the Systemic assessment and these assessments do not preclude settings from further compliance determination processes described in the STP.

July 1 Draft STP does not include setting types from previous STP draft: Crisis Intervention Facility, In-Home Day Program, ICFDD-Continuous Nursing Care, Residential Facility (Out-of-State), and Supported employment.

- **Response:** After further consideration, the State removed these "setting" types for the following reasons:

  -- Crisis Intervention Facility: This provider type is listed under Behavioral Intervention Services under the DD Waiver. Most often, it is a team of Crisis specialists that will tend to a participant during an episode, often in the participant's home setting. It is a short term service, not a setting.
  -- In-home Day Program – this is a service, not a setting.

-- ICFDD-Continuous Nursing Care - the State expects that by the time of the NF/AH waiver renewal, ICFDDs will be considered a State Plan health facility, not under the purview of the STP.
-- Residential Facility (Out-of-State) – the State uses the same standards as in-state residential facilities so was removed from the list.
-- Supported Employment - this is a service, not a setting

Providers:

(3) (4) We are Developing two proprieties in Livermore and Pleasanton that could accommodate up to 40 individuals in a community setting. It's a residential option being chosen by families and members, due to the unique needs and desires of the special needs individual. Under the narrow interpretation of the HCB Settings rules, the development could be viewed as 'institutional.'

Stakeholder input on Provider Self-Survey Tools and On-Site Assessment Tools

The Provider Self-Survey and On-Site Assessment Tools have undergone major revisions to address the comments and suggestions of stakeholders provided during the public comment period. The final Tools, which may be modified by individual Programs for greater specificity, are incorporated in **Attachment II, III, IV, and V**. The following summary is primarily derived from general comments provided by stakeholders on the public input templates. The comments made to specific Tool questions have been considered and incorporated into the final Tools. Comments regarding specific Tool questions may be provided upon request.

State Response Reference Key:
(1) No action taken to amend Tool; does not relate to the Tools specifically
(2) Language in the Tools has been added or modified due to stakeholder input
(3) Program specific Tools and guidance will be developed using the published core Tools as a reference.
(4) Compliance determination will be made once the Provider Self-Survey, Beneficiary Self-Survey, and On-Site Assessment have been completed.
(5) Comment is addressed in Statewide Transition Plan

(1) (4) The ratio of bathrooms to residents in HCB settings should be taken into account because access to bathrooms is an important component of privacy, dignity, and overall access to private accommodations.
(1) (4) (5) Need to identify and develop a plan for settings that are presumed institutional.

(1) (5) The connection between on-site evaluations and provider self- assessments must be clarified.
(2) The on-site review should not simply be a reiteration of the questions in the provider self-assessment.
(2) Add: "to the extent that other non-disability workers can."
(2) Having access to a private phone, email and such is not an indication that a consumer is free from coercion and restraint
(2) Work settings have work rules and dress codes.
(2) The emphasis needs to be on informing the residents of the array of options available (as in food/menus and outings) and helping them make choices and encouraging them to engage in the decisions that affect their daily lives in the living arrangement.
(2) Reasonable curfews and reasonable time restrictions on visitations should be allowable as late night or middle of the night movement in and out of the HCB setting can potentially disturb other residents and compromise their privacy rights and desires, particularly in smaller HCB settings.
(2) We emphasize that the on-site assessment tool must emphasize a more in-depth series of questions designed to get at the settings' underlying policies, procedures and practices, and whether those practices, policies and procedures support what is asserted in the providers' self-assessment tool and what beneficiaries describe in their surveys.
(2) Reword [residential Tool]. The HCB setting is their home.
(2) Regularly is a very subjective term. Is "Regularly" as defined in program policies sufficient regardless of space between occurrences?
(2) The new HCBS requirements do not seem to apply because our participants are already living in the community
(2) Some of the questions on this tool do not relate to a day time setting and/or do not take into account the needs of specific populations (i.e. individuals with Alzheimer's disease or a related dementia).
(2) Many questions are still residential care driven and this is the non-res assessment tool. These questions need to be modified.
(2) Generally, each question on the provider self-assessment should be phrased to ensure that it applies to "each" or "all" participants, and cannot be interpreted to apply to just a subset of participants.
(2) Is support staff able to provide verbal and non-verbal information in a way that is easily understood by consumers?
(2) Many of the questions have an area titled "Comments (optional). I think that you may wish to change it to 'please explain' and leave off the optional piece.
(2) We suggest rearranging some of the questions by topic. For example, the questions on internal doors for fire and on curfews both relate to restriction on movement and would be usefully placed next to each other.
(2) (3) Question seems more about the Regional Center referral process than the site setting?
(2) (3) Should include whatever kind of communication device the resident needs, including telephone and email but also TTY, internet-based relay, other technologies.
(2) (3) A "Not applicable" option is recommended for assessment to allow compliance within a non-residential HCB setting.

(2) (3) For many of the Federal Requirement Categories, I imagined someone with severe medical/behavioral issues using the services, and so looked for accommodation for such issues/needs in the questions.
(2) (3) Since this assessment will apply to all those programs outside of residential, some questions should have the addition of "as much as other non-waiver participants" or as much as "non-disabled employees"- if a work center.
(2) (3) These seem to have been hastily adapted from residential settings. It seems there are several questions that speak to eating in the participant's rooms and other such references that imply some sort of residential setting. There also seem to be several questions that have more to do with the Regional Center planning and referral process than the site itself.
(2) (3) Work settings should I think be reflective of the non-waiver work settings. Day Programs are also different than residential. These questions demonstrate the difficulty of trying to insure and take care of a vulnerable population while at the same time maximizing their independence.
(2) (3) The standards set forth in measuring compliance with the new federal requirements is too broad in that it attempts to cover all people with disabilities regardless of age, severity of disability, or the actual service setting. This comes across as a "one size fits all" approach to compliance reviews.
(2) (3) Is there a way this tool could be made more disability and HCBS setting specific? I realize this would require a significant amount of work, but it would provide a more accurate reflection of compliance with the new federal requirements and better serve consumers, their service provider, regional centers and the responsible state agencies.
(2) (3) It is difficult to know how "non-residential" was being defined for the purposes of this tool.
(2) (3) Improve the questions with more specific information for adult day programs.
(2) (3) (4) There are a number of items in this tool that would have to be answered differently regarding a licensed residential facility because of the Community Care Licensing regulations and or Health and Safety Regulations in compared to someone's own home. Having yes/no questions does not fairly judge the quality of a residential home in comparison to supported living.
(2) (3) (4) The assessment tool does not really get to the heart of matter. It does not define in a way everyone understands, engagement in community life, it does not define "community", does not define isolation, it does not define what supports are necessary to be a meaningful part of community life.
(2) (3) (5) First and foremost, the state should center its assessment on beneficiary experience, not on provider self-assessments.
(2) (3) (5) All assessment surveys should include specific questions designed to elicit participants' actual experiences in their settings, rather than their overall satisfaction, which might be colored by low expectations.
(3) If this assessment is going to be done by Regional Center staff, what is going to ensure that the each standard will be assessed consistently throughout the state?
(3) My concern is that using the same tool for several programs does not allow for program design differences.
(3) Replace HCB setting with actual setting name.

(3) The provider self-assessment instrument is difficult to "fit" into the existing structure of the delivery of services to persons with ID/DD in California.
(3) So many of these questions will have very subjective answers. Unless the state provides detailed guidelines in the form of an assessment manual, there will be no consistency in the assessment process and thus fail to meet the objectives of the assessment.
(3) Define the HCB Settings in this tool, like RCFs, FHAs, SLS, etc.
(3) (4) (5) Additional information should be requested if the facility does NOT appear to be following policy.
(3) (5) The survey must include clear instructions about who should (and who may not) help if the person needs assistance and have a box to indicate the name/position of the individual who provides assistance.
(4) Sheltered workshops should be phased out.
(5) The tools themselves are difficult to evaluate without a clear statement of the methodological approach for how the tools will be administered and to whom.
(5) The state plan describes no action plan if validation reveals the provider self-assessment data to be systematically flawed or biased.
(5) The beneficiary survey tool should evaluate a significant and randomly-selected representative sample of individuals receiving HCBS in the state.
(5) The sampling methodology should be written clearly and posted to the state's website.
(5) The provider self-assessment should be directly coupled to the beneficiary assessment to allow for validation.
(5) The provider self-assessment must be compulsory for sampled providers.
(5) The state should screen questions with beneficiary focus groups, pilot surveys and solicit feedback from other stakeholders and the general public prior to wide distribution of the final tool.

Appendix B - Systemic Assessment Summary

The following is an assessment summary, by setting type, of the statutes, regulations, policies and other requirements for all HCB settings listed in the "Compliance Determination Process for HCB Settings" section. The complete assessment of findings is available upon request. Please note that the systemic assessment is an indication of compliance, but does not preclude settings from further compliance determination processes, such as provider self-surveys, beneficiary self-surveys, and on-site assessments. For reference, the HBC Setting Requirement numbers in the tables below correspond to the following:

1. Being integrated in and supporting full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
2. Giving individuals the right to select from among various setting options, including non-disability specific settings and an option for a private unit in a residential setting.
3. Ensuring individuals' rights of privacy, dignity and respect, and freedom from coercion and restraint.
4. Optimizing autonomy and independence in making life choices, including daily activities, physical environment and with whom to interact.
5. Facilitating choice regarding services and supports, and who provides them.

For Medicaid/Medi-Cal provider-owned or controlled HCB residential settings, the provider must offer:

6. A legally enforceable agreement between the provider and the consumer that allows the consumer to own, rent or occupy the residence and provides protection against eviction.
7. Privacy in units including lockable doors, choice of roommates and freedom to furnish and decorate units.
8. Options for individuals to control their own schedules including access to food at any time.
9. Individuals the freedom to have visitors at any time.
10. A physically accessible setting.

Provider Setting Type - Adult Day Program*

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** 22 CCR Section 82022 22 CCR Section 82025 22 CCR Section 82026 22 CCR Section 82068 22 CCR Section 82072 22 CCR Section 82079 22 CCR Section 82087.3 22 CCR Section 82088	None	Not Applicable
2	**Silent**	Client has choice of adult day program during person-centered planning.	Not Applicable
3	**Met** 22 CCR Section 82072 22 CCR Section 82075 22 CCR Section 82077.2 22 CCR Section 82077.4 22 CCR Section 82088 22 CCR Section 82092.4 22 CCR Section 82092.5 22 CCR Section 82092.6	None	Not Applicable
4	**Met** 22 CCR Section 82068.2 22 CCR Section 82072 22 CCR Section 82077.2 22 CCR Section 82079 22 CCR Section 82088	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
5	**Met** 22 CCR Section 82072 22 CCR Section 82079	None	Not Applicable
6	**Met** 22 CCR Section 82068 22 CCR Section 82068.3 22 CCR Section 82068.5	None	Not Applicable
7	**Met** 22 CCR Section 82068 22 CCR Section 82072 22 CCR Section 82088	None	Not Applicable
8	**Met** 22 CCR Section 82072 22 CCR Section 82076	None.	Not Applicable
9	**Met** 22 CCR Section 82072	None	Not Applicable
10	**Met** 22 CCR Section 82087 22 CCR Section 82088	None	Not Applicable

*Adult Day Program includes Adult Day Support Center and Adult Day Care Center.

Provider Setting Type – Adult Family Home; Family Teaching Home

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** W&I Code Section 4501, 4502, 4646, 4689.1(a)(8)(B-E) **Silent** Consumers' control of personal resources	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
2	**Met** W&I Code Section 4501, 4502.1, 4512(b), 4646, 4741, 4689.1(e)(8)(B)&(C)&(F)	None	Not Applicable
3	**Met** W&I Code Section 4502(b)(2), 4502.1, 4646, 4689.1(e)(8)(B)	None	Not Applicable
4	**Met** W&I Code Section 4501, 4502(b)(2), 4646, 4689.1(e)(8)(B)&(C)	None	Not Applicable
5	**Met** W&I Code Section 4512(b), 4646, 4689.1(e)(8)(B)&(C) T17 Section 56084(a)(2)	None	Not Applicable
6	**Met** T17 Section 56076, 56090(e), 56094 **Silent** Protection from eviction similar to landlord/tenant law	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
7	**Met** W&I Code Section 4502.1, 4646, 4689.1(8)(F) **Silent** Privacy in living unit	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
	Lockable doors Choice of roommates Furnish sleeping units		
8	**Met** W&I Code Section 4502(b)(10), 4602.1, 4689.1(e)(8)(B-E)	None	Not Applicable
9	**Met** W&I Code Section 4602.1, 4689.1(e)(8)(B-E) **Silent** Visitors any time	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
10	**Met** W&I Code Section 4502.1, 4646, 4689.1(a-c) T17 Section 56087(C)	None	Not Applicable

Provider Setting Type - Adult Residential Facility - Assisted Living Waiver

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** 22 CCR Section 85079 Waiver Language: As subcontracted waiver providers, participating DHCS-approved ARFs will demonstrate, by inclusion in the CCP that they optimize participant independence and community integration, promote initiative and choice in daily living, and facilitate full access to community services.	None	Not Applicable
2	**Met** 22 CCR Section 85072 22 CCR Section 85072 Waiver Language: As part of the Freedom of Choice process, applicants are provided with information regarding all HCBS waivers and programs	None	Not Applicable
3	**Met** 22 CCR Section 85088 Waiver Language: The DHCS-approved ARFs must offer a residential setting that permits each resident: Freedom to come and go from the residence at will	None	Not Applicable
4	**Met** 22 CCR Section 85072	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
5	**Met** 22 CCR Section 85068.1 Waiver Language: The DHCS-approved ARFs must offer a residential setting that permits each resident to: Freedom to elect whether or not to participate in any communal activities.	None.	Not Applicable
6	**Met** 22 CCR Section 80068 22 CCR Section 85068.1 Waiver Language: DHCS-approved ARFs must provide each resident with a lease that specifies the resident's rights to use and occupy the property, the time period the lease is in effect, the rights of termination of the lease by the resident and by the property owner and the provision for termination, the services that will be provided, and an affirmative statement that the residential setting meets all Federal and State Fair Housing Law requirements.	None	Not Applicable
7	**Met** 22 CCR Section 85087 22 CCR Section 85088 Waiver Language: The DHCS-approved ARFs must offer a residential setting that permits each resident to: Control access and egress to his/her living area, this includes the ability to secure their rooms, based on their CCP	None.	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
8	**Met** 22 CCR Section 85079 22 CCR Section 86176 Waiver Language: The DHCS-approved ARFs must offer a residential setting that permits each resident to: Have free choice of meals including choice among any meals offered to all residents (family style dining) or choice of an individual meal	None	Not Applicable
9	**Met** 22 CCR Section 85072 Waiver Language: The DHCS-approved ARFs must offer a residential setting that permits each resident to: Control their daily routine, including having visitors of their choosing at any time.	None	Not Applicable
10	**Met** 22 CCR Section 85087.2 The DHCS-approved ARFs must offer a residential setting that permits each resident to: Freedom to come and go from the residence at will.	None	Not Applicable

Provider Setting Type - <u>Adult Residential Facility, Adult Residential Facility for Persons with Special Health Care Needs, Residential Care Facility for the Elderly, Group Home and Small Family Home – HCBS Waiver for Californians with Developmental Disabilities and 1915(i) State Plan</u>

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** W&I Code Section 4501, 4502 22 CCR Section 85072(b)(7)	None	Not Applicable
2	**Met** W&I Code Section 4502 **Silent:** Option for private unit Documentation of identified setting options not selected by consumer	The State will discuss the impacts of this characteristic during the Waiver renewal process	March 2017
3	**Met** W&I Code Section 4502(b)(2)&(8), 4741 22 CCR Section 80072(a)(3)	None	Not Applicable
4	**Met** W&I Code Section 4501, 4502	None	Not Applicable
5	**Met** W&I Code Section 4512(b), 4688.21 **Silent** Consumers'' choice of provider of services	The State will discuss the impacts of this characteristic during the Waiver renewal process	March 2017

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
6	**Met** W&I Code Section 4741 SPA 09-023A, Services, 1.A)7.i) DD Waiver: Appendix C-2, Facility Specifications	None	Not Applicable
7	**Met** W&I Code Section 4502(b)(2) T17 §50510(a)(2) **Conflicting** Lockable entrance doors for individuals that are bedridden **Silent:** Privacy in sleeping or living unit Lockable entrance doors Freedom to furnish and decorate sleeping or living units	The State will discuss the impacts of this characteristic during the Waiver renewal process	March 2017
8	**Met** W&I Code Section 4502(b)(10) 22 CCR Section 80072, 80076(4) **Silent** Access to food at any time	The State will discuss the impacts of this characteristic during the Waiver renewal process	March 2017
9	**Met** W&I Code Section 4503(c) **Silent** Visitors each day, any time	The State will discuss the impacts of this characteristic during the Waiver renewal process	March 2017

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
10	**Met** 22 CCR Section 80087, 80088 **Silent** Full access	The State will discuss the impacts of this characteristic during the Waiver renewal process	March 2017e

Provider Setting Type – Certified Family Home; Foster Family Home

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** W&I Code Section 4501, 4502, 4646 T22 Section 89372	None	Not Applicable
2	**Met** W&I Code 4501, 4502, 4502.1, 4512(b), 4646, T22 Section 89372 **Silent** Option for private unit Documentation of identified setting options not selected by consumer	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
3	**Met** W&I Code 4502, 4646 T22 Section 89372	None	Not Applicable
4	**Met** W&I Code Section 4501, 4502, 4646 T22 Section 89372	None	Not Applicable
5	**Met** W&I Code Section 4512(b), 4646	None	Not Applicable
6	**Met** 1915(c)–Appendix C-2: Facility Specifications 1915(i)–Services, 1.A)7.i)	None	Not Applicable
7	**Met** W&I Code Section 4502, 4502.1, 4646 T22 Section 89372	The State will discuss the impacts of this characteristic	March 2017

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
	Silent Privacy in living unit Lockable doors Choice of roommates Furnish sleeping units	during the Waiver renewal process.	
8	**Met** W&I Code Section 4501, 4502, 4502.1, 4646 22 CCR Section 89376	None	Not Applicable
9	**Met** W&I Code Section 4501, 4502, 4502.1, 4646 22 CCR Section 89372	None	Not Applicable
10	**Met** W&I Code Section 4502, 4646 22 CCR Section 80087, 80088	None	Not Applicable

Provider Setting Type – Child Day Care Facility; Child Day Care Center; Family Child Care Home

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** W&I Code Section 4501, 4502, 4646	None	Not Applicable
2	**Met** W&I Code Section 4502, 4512(b), 4646 **Silent** Documentation of identified setting options not selected by consumer.	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
3	**Met** W&I Code Section 4502, 4646 T22 Section 101223, 102423	None	Not Applicable
4	**Met** W&I Code Section 4501, 4502, 4646	None	Not Applicable
5	**Met** W&I Code Section 4512(b), 4646	None	Not Applicable

Provider Setting Type - Congregate Living Health Facility

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** H & S Section 1250 Waiver Language: In addition to the skilled nursing services and pursuant to H&S code sections 1250(i) and 1267.13, a CLHF will provide or arrange for the following basic services to be provided to individuals enrolled in the Waiver, as part of the per diem rate paid to CLHF Waiver providers: • Medical supervision • Case Management • Pharmacy consultation • Dietary consultation • Social Services • Recreational Services • Transportation to and from medical appointments • Housekeeping and laundry services • Cooking and shopping	None	Not Applicable
2	**Met** H & S Section 1267.13 22 CCR Section 51344 Waiver Language: Common areas in addition to the space allotted for the resident's sleeping quarters, shall be provided in sufficient quantity to promote the socialization and recreational activities of the residents in a homelike and communal manner	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
3	**Met** H & S Section 1265.7 Waiver Language: Bathrooms of sufficient space and quality shall be provided to allow for the hygiene needs of each resident and the ability of the staff to render care without spatial limitations or compromise. No bathroom shall be accessed only through a resident's bedroom. **Partially Met** H & S Section 1267.13. (j)	DHCS will modify Waiver language to include the requirement that consumer to bathroom ratios promote the right to privacy, dignity and respect.	January 2017
4	**Met** H & S Section 1250 (i) (5) H & S Section 1267.13. (d) Waiver Language Common areas in addition to the space allotted for the resident's sleeping quarters, shall be provided in sufficient quantity to promote the socialization and recreational activities of the residents in a homelike and communal manner.	None.	Not Applicable
5	**Met** 22 CCR Section 51343.2 Waiver Language: As a Waiver service provider, each NF/AH Waiver enrolled individual will be assessed for needed or required services as identified by the individual, their legal representative/legally responsible adult(s), primary care physician, family, caregivers, and/or other individuals at the request of the individual. The	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
	CLHF will establish a POT to address how these services will be provided, the frequency of the services and identify the provider for those services that are not included in the CLHF's per diem rate under this Waiver. The CLHF will be responsible for arranging for the following services, which may include but are not limited to: • Counseling services provided by a Licensed Clinical Social Worker; • Occupational therapy provided by an Occupational Therapist • Physical therapy provided by a Physical Therapist • Speech therapy provided by a Speech Therapist • Education and training of the Waiver participant to self-direct his/her care needs and/or the education and training of their identified caregivers (who are not CLHF employees) on their care needs • Assessment for and repair of Durable Medical Equipment and • State Plan Personal Care Services or WPCS as described in the approved Waiver when off site from the CLHF if such care is not duplicative of care required to be provided to the waiver participant by the CLHF (i.e., not for care to and from medical appointments). State Plan or WPCS providers will not be paid for care that is duplicative of the care being provided by the CLHF.		
6	All CLHF residents sign a legally enforceable lease agreement with the residential setting provider, however Health and Safety Code is silent on this protocol.	DHCS will modify Waiver language to include a legally enforceable lease agreement exists between provider and consumer	January 2017

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
7	**Met** H & S Section 1267.13 The facility shall be in a homelike, residential setting. The facility shall provide sufficient space to allow for the comfort and privacy of each resident and adequate space for the staff to complete their tasks. The residents' individual sleeping quarters will allow sufficient space for safe storage of their property, possessions, and furnishings and still permit access for the staff to complete their necessary health care functions. Not more than two residents shall share a bedroom.	None	Not Applicable
8	**Silent**	DHCS will modify Waiver language to include the requirement that consumer may control their own schedules including access to food.	January 2017
9	**Met** H & S Section 1267.13	None	Not Applicable
10	**Met** H & S Section 1267.13	None	Not Applicable

Provider Setting Type - Congregate Meal Site

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** 45 CFR 1321.53(b)(3) CDA Terms and Conditions Exhibit A. Article1.(7) OAA 315(b)(4)	None	Not Applicable
2	**Met** Older Americans Act (OAA) Section 339.(2)(E) MSSP Waiver Section 6 Additional Requirements, Section E. In accordance with 42 CFR §431.151, a participant may select any willing and qualified provider to furnish waiver services. MSSP Waiver Appendix D-1, d. Service Development Process- The waiver participant is involved in the development of the care plan and has a choice in service selection.	None	Not Applicable
3	**Met** WIC9103.1(a) 22 CCR Section 7636.7(d) 22 CCR Section 7500 (b) OAA §315 (b)(1) 22 CCR Section 7636.1(b)(9)	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
4	**Met** 45 CFR Section 1321.53(b)(3) 22 CCR Section 7638.5 (d) Waiver Language: In accordance with 42 CFR §431.151, a participant may select any willing and qualified provider to furnish waiver services included in the service plan unless the State has received approval to limit the number of providers under the provisions of §1915(b) or another provision of the Act . Waiver Language: The waiver participant is involved in the development of the care plan and has a choice in service selection.	None.	Not Applicable
5	**Met** 22 CCR Section 7638.5 (d) 22 CCR Section 7636.9(a)(4)	None	Not Applicable
6	Not Applicable	None	Not Applicable
7	Not Applicable	None	Not Applicable
8	Not Applicable	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
9	**Met** 22 CCR Section 7638.7 (a) 22 CCR Section 7638.9(c)	None.	Not Applicable
10	**Met** 22 CCR Section 7638 (b)(3) ADA [42U.S.C. Section 12101 et seq.] CDA Terms and Conditions Exhibit D. Article II. (C)(3)	None	Not Applicable

Provider Setting Type – Day-Type Services*

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** W&I Code Section 4501, 4502(a), 4512(b), 4688.21 **Silent** Consumer's control of personal resources Integrated in and supports full access…to the greater community	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
2	**Met** W&I Code Section 4512(b) **Silent** Documentation of identified setting options not selected by consumer.	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
3	**Met** W&I Code Section 4502(b)(2)&(8) 22 CCR Section 82072(a)(1-4)	None	Not Applicable
4	**Met** W&I Code Section 4501, 4502(b)(1)&(6)&(7), 4688.21 **Silent** Optimizes, but does not regiment	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
5	**Met** W&I Code Section 4512(b), 4688.21	None	Not Applicable

* Day-Type Services in the HCBS Waiver for Californians with Developmental Disabilities and 1915(i) State Plan include Activity Center, Adult Day Care Facility, Adult Development Center, Behavior Management Program, Community-Based Training Provider, Socialization Training Program; Community Integration Training Program; Community Activities Support Service.

Provider Setting Type - Residential Care Facility for the Elderly – Assisted Living Waiver

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** H&S Code Section 1569.269 22 CCR Section 87464 22 CCR Section 87467 22 CCR Section 87468 Waiver Language: The setting is integrated in, and facilitates the individual's full access to, the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, in the same manner as individuals without disabilities.	None.	Not Applicable
2	**Met** 22 CCR Section 87464 22 CCR Section 87467 22 CCR Section 87468 Waiver Language: The setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan. The participant has the right to choose the provider they prefer. This applies to the CCA, the RCF and where to the extent that options are available, the HHA in PSH. Participants are provided with information regarding the available providers in the county of interest upon request, and via	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
	the DHCS website: http://www.dhcs.ca.gov/services/ltc/Pages/ALWPP.aspx The CCA provide the participant with the choices available to them in lieu of the ALW. The participant signs the Freedom of Choice document indicating his or her choice of the ALW as the preferred option for the delivery of services. The participant has the right to decline the waiver services at any time.		
3	**Met** H&S Code Section 1569.269 22 CCR Section 87468 Waiver Language: An individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint are protected.	None.	Not Applicable
4	**Met** 22 CCR Section 87462 22 CCR Section 87464 22 CCR Section 87468 Waiver Language: Facilities participating as ALW HCBS settings are required to have the following qualities: Individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact are optimized and not regimented.	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
5	**Met** 22 CCR Section 87219 22 CCR Section 87467 Waiver Language: Individual choice regarding services and supports, and who provides them, is facilitated.	None	Not Applicable
6	**Met** 22 CCR Section 87224 Waiver Language: The unit or room is a specific physical place that can be owned, rented or occupied under another 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 State's landlord tenant law.	None	Not Applicable
7	**Met** 22 CCR Section 87307 Waiver Language: Each individual has privacy in their sleeping or living unit: (1) Units have lockable entrance doors, with appropriate staff having keys to doors; (2) Individuals share units only at the individual's choice; and (3) Individuals have the freedom to furnish and decorate their sleeping or living units. ALW RCFE Provider Manual: Section C. Program Requirements. (1) Resident Privacy (a) ALW benefits are furnished to residents who reside in private	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
	residency units. While all waiver residents must be offered a private unit, residents may ask to share a residence with a roommate of their choice. (i) Sharing a residence may not be a requirement of program participation. (ii) The ISP must reflect the choice of the resident to share a residence. (iii) Residents who wish to share a residence must initiate and submit their request to their Care Coordinator who will forward the request to the housing provider. If the resident is cognitively impaired, the request may be initiated and submitted to the Care Coordinator by the resident's responsible party. (b) All residences shall have kitchenettes and private or semi-private bathrooms not shared by more than one other resident. (c) All ALW residents have a right to privacy. Residences may be locked at the discretion of the resident, except when a physician or mental health professional has certified in writing that the resident is sufficiently cognitively impaired as to be a danger to self or others if given the opportunity to lock the door. (This requirement does not apply where it conflicts with the fire code.)		
8	**Met** 22 CCR Section 87219 22 CCR Section 87464 22 CCR Section 87555 Waiver Language: Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	None	Not Applicable

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
9	**Met** H&S Code Section 1569.269 22 CCR Section 87464 22 CCR Section 87468 Waiver Language: Individuals are able to have visitors of their choosing at any time.	None	Not Applicable
10	**Met** 22 CCR Section 87219 22 CCR Section 87307 22 CCR Section 87705	None	Not Applicable

Provider Setting Type – Work Activity Program

HCBS Setting Requirement #	Requirement Met, Partially Met, Conflicting, Silent	Remedial Strategy	Timeline for Completion
1	**Met** W&I Code Section 4501, 4502, 4512(b) **Conflicting** W&I Code Section 4851(e) **Silent** Consumers' control of personal resources	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
2	**Met** W&I Code Section 4512(b), 4646 **Silent** Documentation of identified setting options not selected by consumer	None	Not Applicable
3	**Met** W&I Code Section 4502(a)&(b)(2)&(8)	None	Not Applicable
4	**Met** W&I Code Section 4501, 4502, 4646 Conflicting W&I Code Section 4851(e)	The State will discuss the impacts of this characteristic during the Waiver renewal process.	March 2017
5	**Met** W&I Code Section 4512(b), 4646	None	Not Applicable

1915(k), 1915(c) HCBS Waivers HIV/AIDS and IHO Settings

The characteristics of home and provider settings are not addressed in State regulations, Waiver language, or applicable Waiver documentation; therefore, a Systemic assessment and remedial strategies are not necessary.

Appendix C - Initial On-Site Assessments

DHCS conducted On-Site Assessments on a sample of the State's Congregate Living Health Facilities during May, 2015. The following is a summary of findings. For reference, the HBC Setting Requirement numbers in the table below correspond to the following:

1. Being integrated in and supporting full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
2. Giving individuals the right to select from among various setting options, including non-disability specific settings and an option for a private unit in a residential setting.
3. Ensuring individuals' rights of privacy, dignity and respect, and freedom from coercion and restraint.
4. Optimizing autonomy and independence in making life choices, including daily activities, physical environment and with whom to interact.
5. Facilitating choice regarding services and supports, and who provides them.

For Medicaid/Medi-Cal provider-owned or controlled HCB settings, the provider must offer:

6. A legally enforceable agreement between the provider and the consumer that allows the consumer to own, rent or occupy the residence and provides protection against eviction.
7. Privacy in units including lockable doors, choice of roommates and freedom to furnish and decorate units.
8. Options for individuals to control their own schedules including access to food at any time.
9. Individuals the freedom to have visitors at any time.
10. A physically accessible setting.

HCB Setting Requirement (#)	Findings	Remedial Actions Required	Timeline for Completion
1	None	N/A	N/A
2	None	N/A	N/A
3	• Only one bathroom for six clients	• Build an additional bathroom for clients, or allow clients to utilize	Immediate

HCB Setting Requirement (#)	Findings	Remedial Actions Required	Timeline for Completion
	• Nursing stations risk breaches in residents privacy	the second bathroom in the facility. • Build an extra room for nurse station and case files and meds. • Ensure case files are locked in file cabinet. • Implement protocols to ensure authorized personnel access only.	
4	None	N/A	N/A
5	None	N/A	N/A
6	None	N/A	N/A
7	None	N/A	N/A
8	None	N/A	N/A
9	None	N/A	N/A
10	• Some obstructions limiting physical accessibility for clients	Will need to provide greater accessibility amongst entry ways within the house.	Immediate