

# Oregon’s Home and Community Based Services Setting Transition Plan

---

## **Contents**

<a href="#"><u>Transition Plan Overview</u></a> .....	2
<a href="#"><u>Transition Plan Preparation</u></a> .....	2
<a href="#"><u>Oregon Transition Plan</u></a> .....	4
<a href="#"><u>Phase I. Initial Regulatory Assessment (June- 2014 – April 2015)</u></a> .....	4
<a href="#"><u>Phase II. Statewide Training and Education Efforts (July- 2014 – March 2019)</u></a> .....	9
<a href="#"><u>Provider, Individual and Delivery System Education</u></a> .....	9
<a href="#"><u>Individual and Family Education (July 2014 – March 2019)</u></a> .....	9
<a href="#"><u>Provider information meetings and trainings (July 2014 – September 2018)</u></a> .....	10
<a href="#"><u>Delivery System Education (November 2014 – March 2019)</u></a> .....	11
<a href="#"><u>Phase III. Provider Self-Assessment and Individual Experience Assessment (July 2015 – September 2018)</u></a> .....	11
<a href="#"><u>Provider Self-Assessment Tool (July 2015 – November 2015)</u></a> .....	11
<a href="#"><u>Individual Experience Assessment (July 2015 – November 2015)</u></a> .....	12
<a href="#"><u>Validation of Providers’ Self-Assessment (November 2015 – February 2016)</u></a> .....	13
<a href="#"><u>Phase IV. Heightened Scrutiny Process (October 2014 – November 2016)</u></a> .....	15
<a href="#"><u>Phase V. Initial Remediation Activities (May 2015 – September 2018)</u></a> .....	16
<a href="#"><u>Phase VI. Ongoing Compliance and Oversight (May 2015 – Ongoing)</u></a> .....	18
<a href="#"><u><b>Appendix A: Key Action Item Timeline</b></u></a> .....	21
<a href="#"><u><b>Appendix B: Global Scorecard</b></u></a> .....	217
<a href="#"><u><b>Appendix C: Inventory of Oregon Administrative Rules</b></u></a> .....	38
<a href="#"><u><b>Appendix D: Settings and Program Types with Medicaid Authority</b></u></a> .....	40

# Oregon's Home and Community Based Services Setting Global Transition Plan

---

The Oregon Department of Human Services (DHS) and the Oregon Health Authority (OHA) submits this Global Transition Plan (Transition Plan) in accordance with requirements set forth in the Centers for Medicare and Medicaid Services Home and Community Based Services (HCBS) Setting and Person Centered Planning Rule released on January 16, 2014. This Transition Plan includes programs and settings in which individuals receive Medicaid HCBS outside of their own or family home.

## **Transition Plan Overview**

Oregon's HCBS Transition Plan is broken down into phases. Each phase builds on previous phases and is intended to provide additional information and guidance on the next phase. As an example, the development of the global scorecard described below, provided DHS, OHA and its Stakeholders an overview of the current regulatory status of DHS's and OHA's HCBS system. The next phase, through the Provider Self-Assessment and the Individual Experience Assessment, will define specific provider issues and will meet DHS's and OHA's requirements to assess specific settings. The phases in the plan are:

- Phase I – Initial Regulatory Assessment
- Phase II – Statewide Training and Education Efforts
- Phase III – Provider Self-Assessment and Individual Experience Assessment
- Phase IV – Heightened Scrutiny Process
- Phase V – Remediation Activities
- Phase VI – Ongoing Compliance and Oversight

## **Transition Plan Preparation**

In preparation for development of Oregon's HCBS Transition Plan, DHS and OHA have worked across agencies and assembled a HCBS Transition Stakeholder Group (Stakeholders) comprised of individuals receiving services, family members, advocates, providers and service delivery system representatives to assess the current status of the HCBS settings' compliance with the new Code of Federal Regulations (CFRs). Three meetings of this group occurred prior to the submission of the original Transition Plan on October 13, 2014. DHS and OHA have continued

meeting with Stakeholders throughout the transition period. DHS and OHA know that this ongoing engagement has improved the Transition Plan and continues to inform the implementation process.

## **Oregon Transition Plan**

### **Phase I. Initial Regulatory Assessment (June- 2014 – March 2015)**

DHS and OHA have completed an initial assessment of Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), policies and contracts to determine regulatory compliance with the new Code of Federal Regulations across three service delivery systems; OHA's Health Systems Division, formerly known as and referred to in this Transition Plan as Addictions and Mental Health (AMH), Aging and People with Disabilities (APD), and Office of Developmental Disability Services (ODDS). In general, DHS's and OHA's initial assessment has led to the conclusion that ORSs, OARs, policies, and contracts are in compliance with the HCBS regulations. Areas that need to be addressed are identified below. However, key activities in the Transition Plan will further assess compliance and remediate any remaining areas of concern.

The initial assessment of ORSs, OARs, policies, and contracts specific to provider-owned, controlled, or operated residential HCBS settings was completed on August 4, 2014. The three service delivery systems reviewed ORSs 409, 410, 413, 427, 430, and 443, OARs (see Appendix C), policies, and contracts.

This assessment led to the creation of a "global scorecard". The scorecard (Appendix B) evaluates rules and regulations related to provider-owned, controlled, or operated settings licensed/certified by APD, AMH and by DHS's Office of Licensing and Regulatory Oversight (OLRO) on behalf of APD and ODDS programs. These setting types include residential settings listed below and identified in Oregon's approved Medicaid State Plan Options and Waivers (see Appendix D).

An individual's own or family home is presumed to meet the qualities of a home and community-based setting per CMS guidance and are not provider-owned, controlled, or operated residential settings. Oregon provides services to individuals residing in their own or family homes through the 1915(k) Community First Choice State Plan Option, the 1915(i) HCBS State Plan Option, and 1915(c) HCBS Waivers administered by APD and ODDS. Additionally, children enrolled in ODDS Medically Fragile Children's Waiver #40193, Behavioral Model Waiver #40194, and Medically Involved Children's Waiver #0565 receive services in their own or family home and have full access to the community. These individuals do not reside in provider-owned, controlled or operated residential settings.

Upon release of CMS's guidance for non-residential settings, DHS and OHA completed the same initial regulatory assessment for certified and unlicensed settings, such as employment and adult day programs, providing HCBS to determine if the statutes, rules, policies and contracts for these settings are in compliance with the new regulations. The three service delivery systems reviewed pertinent ORSs, OARs (see Appendix A), policies, and contracts. The scorecard was updated with the results of this initial regulatory assessment of non-residential settings. The initial non-residential settings assessment was completed on January 22, 2015. The rules, policies, and contracts regulating services in non-residential employment and day service settings are in substantial compliance. Some changes will need to be made to rules regarding facility-based prevocational service settings in order to achieve full compliance.

The scorecard is not intended to be the final determination of current individual site compliance or identification of any necessary changes, but it provides an initial snapshot of the status of Oregon's HCBS system. Through this initial assessment, DHS and OHA have found that no immediate changes were necessary to its Oregon Revised Statutes (ORS). However, since submitting the initial Global Transition Plan on October 13, 2014, Oregon determined that changes are needed to OARs, not because of inherent areas of non-compliance, but to ensure clarity and facilitate initial and ongoing provider compliance.

Oregon is in the process of finalizing through its formal rule making process, including rule advisory committees and public hearings, an over-arching Oregon Administrative Rule that will govern HCBS setting requirements across the three delivery systems. That rule will be effective January 1, 2016 as identified in the Global Transition Plan timeline. Each delivery system will amend specific program rules for full compliance with the over-arching OAR for all HCBS settings requirements and federal HCBS settings regulations with effective dates of January 1, 2016.

Specific changes in policies, practices and contracts, and changes found necessary to 1915(c) waivers, and 1915(i) and 1915(k) State Plan Amendments will occur after the provider self-assessment and individual's experience assessment phase.

The scorecard was separately shared with the Stakeholders at a meeting on August 5, 2014, updated, and posted on Oregon's HCBS website (HCBS website) on March 9, 2015. The global scorecard has been updated to include non-residential service settings.

Oregon's HCBS website address is <http://www.oregon.gov/dhs/seniors-disabilities/HCBS/Pages/index.aspx>. The scorecard is also a component of the Transition Plan. As updates to the Transition Plan and scorecard occur, the HCBS website is updated with current materials and information. This allows Stakeholders and the broader public the chance to provide feedback on the scorecard as well as the Transition Plan. Individuals may obtain non-electronic copies of the Global Scorecard and Global Transition Plan by contacting their assigned person-centered service plan coordinator, local field office, or DHS and OHA Central Office staff. Additionally, information is provided regarding how to obtain non-electronic copies of the Global Transition Plan and Global Scorecard at community forums held by the State and training/technical assistance presentations provided by the State. Public insight and input, based on their individual experience, into the actual level of compliance is vital as DHS and OHA move towards full compliance.

Based on the initial regulatory assessment, OHA and DHS have determined that Oregon's regulations for its HCBS setting types currently fall into two of the HCBS regulations compliance categories as identified below:

**Fully comply with the federal requirements:**

- APD Adult Day Programs;
- APD Assisted Living Facilities;
- APD Residential Care Facilities;
- APD Specialized Living Programs;
- ODDS Licensed/Certified Day Support Activities;
- ODDS Licensed/Certified Employment Services (Community-Based Job Coaching, Job Development, Discovery, Small Group, and Employment Path Community); and
- ODDS Supportive Living.

**Do not fully comply with the federal requirements and will require modifications:**

- AMH Adult Foster Homes;
- AMH Non-Licensed Housing;

- AMH Residential Treatment Homes;
- AMH Residential Treatment Facilities;
- APD Adult Foster Homes;
- APD Memory Care Facilities;
- ODDS Adult Foster Homes;
- ODDS Children's Foster Homes;
- ODDS Group Care Homes; and
- ODDS Licensed/Certified Employment Services (Facility-Based Employment Path Services)

Per the initial regulatory assessments, DHS and OHA have determined that Oregon's regulations meet the following components of the HCBS requirements:

- The setting is selected by the individual, or their representative, from among all available options, including services and supports in the individual's home, unless there are legal impediments that prohibit the individual from being served in a particular setting.
- The setting choice is identified and documented in the person-centered service plan and are based on the individual's needs, and preferences.
- The delivery system facilitates individual choice regarding services and supports, and who provides them.

Through the assessment of statutes, rules, policies and contracts, DHS and OHA have determined that regulations for most residential setting types meet the following components of the HCBS requirements:

- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
  - In limited circumstances, some individuals may need appropriate supports that include personal protective interventions. This is limited to individuals who are a danger to themselves or others and need emergency interventions to be protected.
- Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.
- The unit or dwelling can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the

individual has, at a minimum, substantially similar responsibilities and protections from eviction.

- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
- The setting is physically accessible to the individual.

During Phase II and III, DHS and OHA will work to assure that each residential site meets the following requirements:

- Each individual has privacy in their sleeping or living unit.
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.
- Individuals sharing units have a choice of roommates in that setting.
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
- Individuals receiving services in residential setting are able to have visitors of their choosing at any time.

Also, some non-residential sites may need to adapt and change to comply with the HCBS setting requirements.

Facility-based prevocational settings that occur in a provider-controlled setting must, at minimum, provide interaction with the general public. Oregon currently has facility-based prevocational service settings that do not comply with federal requirements and will require transformation.

Facility-based non-residential day services that occur in a provider-controlled setting must, at minimum, facilitate going out into the broader community. Oregon anticipates programs are in substantial compliance with this requirement. Additional information is needed in order to ascertain where additional changes may be needed to ensure full compliance with both federal and state requirements for home and community-based day service settings.

Settings that cannot be modified will require removal from the HCBS program. Providers will have until September 30, 2018 to make all necessary changes. This allows sufficient time for DHS and OHA to assist individuals in transitioning to other settings that meet the HCBS requirements before March 2019.

Additionally, individuals must have an option to use employment and day services in a non-disability specific setting and that setting option must be documented.



Oregon believes it is in substantial compliance with this requirement. However, additional work is required to ensure full compliance.

DHS is actively pursuing Oregon's Employment First policy. Executive Order 15-01 (which supersedes and replaces Executive Order 13-04 (issued in April 2013)) directs state agencies to take numerous steps that will advance the State's Employment First policy. In 2014, the Oregon Legislature provided significant additional funding to carry out the measures required by the Order. Oregon Administrative Rules (407-025) have been adopted to carry out the Executive Order, a wide array of stakeholders and advocacy groups are engaged in this initiative, and efforts to fully implement the Order are well under way. As part of the Employment First initiative, providers are also given concrete instructions and technical assistance to transformation and change in order to simultaneously come into compliance with the new requirements regarding Home and Community-Based Services and achieve the objectives outlined in Executive Order 15-01.

## **Phase II. Statewide Training and Education Efforts (July- 2014 – March 2019)**

### **Provider, Individual and Delivery System Education**

DHS and OHA have developed a variety of ways to educate Stakeholders and the broader public. These methods include the use of electronic media and community meetings. DHS and OHA have developed a website designed to provide information and provider training materials in order to keep the broader community informed about the transition progress. Training and technical assistance materials include fact sheets and Frequently Asked Questions that are updated on a regular basis. The HCBS website also allows the broader community to have continuous input into the transition process.

### ***Individual and Family Education (July 2014 – March 2019)***

In collaboration with Stakeholders, and based upon the results of compliance activities conducted by the agencies and their service delivery systems, DHS and OHA have developed and will continue to develop educational materials for consumers/individuals, guardian, representatives and families. These materials are posted on the HCBS website and provided in State-conducted regional information forums. The initial information explains the new requirements and

how they must be included in the assessment and transition process. The educational information also explains the impact of the new CFRs and how programs and services are to be integrated in the community and that individuals' have the right to access the broader community in which they live. The information is routinely updated and posted on the HCBS website. DHS and OHA have recommended that providers hold resident and family meetings.

***Provider information meetings and trainings (July 2014 – September 2018)***

DHS and OHA began meeting with providers and provider associations in July 2014 to inform them of the new regulations, Oregon's conceptual Transition Plan, and to give providers the opportunities to ask questions and provide initial process input. DHS and OHA has continued and will continue to meet with providers and their associations throughout the transition time period.

DHS and OHA have developed strategic technical assistance by drafting and issuing fact sheets, frequently asked questions (FAQs), and responding to questions from providers. DHS and OHA post updated and new materials on the HCBS website and provide it at statewide trainings.

Beginning in September 2015, DHS and OHA have hosted regional forums throughout the state. Training activities and materials have focused on the new requirements and information regarding the Provider Self-Assessment Tool and the Individual Experience Assessment. At the advice of the Stakeholders, DHS and OHA invited providers, consumers, family members and delivery system staff members to the same training to ensure that the information is shared consistently to everyone. Trainings are held during the day and in evenings to facilitate attendance. Response to the trainings has been favorable and, to date, approximately 300 people have attended. Attendees have consisted of individuals, family-members, advocates and providers across the three service delivery systems.

DHS and OHA have posted the training materials on the HCBS website. Additional training is being developed and disseminated regarding individual's rights, protections, community inclusion and how individual "Modifications to the Conditions" during the person-centered planning process will be implemented. DHS and OHA continue to engage Stakeholders to develop educational materials on how to work with high risk and vulnerable individuals within the new requirements. Additionally, as these are the homes of the individuals we serve, DHS and OHA have provided clarity on the requirement that all provider-owned,

operated, or controlled residential settings maintain a “home-like” quality. The information is routinely updated and posted on the HCBS website.

***Delivery System Education (November 2014 – March 2019)***

DHS and OHA are ensuring that service delivery system staff members (case managers, personal agents, service coordinators, licensing staff and protective service staff) are receiving additional training on Person-Centered Planning philosophy and practice, including the empowerment of the individual to fully understand the full range of options available to them, and their rights in making individual choices. The trainings stress that individuals have the right to select where they live and receive services from the full array of available options in Oregon, including services and supports in their own or family homes. The training includes curricula on supporting informed choice, identifies areas that providers must address and supports implementation of the Transition Plan. It also includes individuals’ rights, protections, person-centered thinking, and community inclusion.

**Phase III. Provider Self-Assessment and Individual Experience Assessment (July 2015 – September 2018)**

***Provider Self-Assessment Tool (July 2015 – November 2015)***

In Phase I. of the Transition Plan, DHS and OHA described how they assessed regulatory compliance with the settings requirements for each type of provider-owned, controlled, or operated HCBS setting authorized and funded under 1915(c) waivers, and 1915(i) and 1915(k) State Plan Options. Phase III of the Transition Plan details how DHS and OHA will determine compliance with the settings requirements for individual sites within each type of provider-owned, controlled, or operated HCBS setting (e.g. Foster Homes, ALFs, RTFs, non-residential, etc.)

In consultation with Stakeholders and partners, DHS and OHA developed a Provider Self-Assessment Tool (PSAT) for providers of provider-owned, controlled, or operated residential and non-residential settings. DHS and OHA are utilizing an existing contract held by OHA to conduct the Provider Self-Assessment Tool (PSAT) surveys. The contracted entity has contacted every provider or provider agency that provides HCBS in a provider-owned, controlled or operated residential setting. The provider of each site received a web link to the PSAT with

instructions and required timelines for completion. HCBS providers are encouraged to complete the PSAT online. If the provider is unable to complete the PSAT online, paper PSATs are available upon the provider's request. Every provider or provider agency of HCBS in provider-owned, controlled, or operated settings is required to complete a PSAT for each individual HCBS site they operate or control. Providers are encouraged to include the individuals receiving services, their family members/representatives, advocates and others in their assessment process. DHS and OHA continues to provide guidance to providers on how to accomplish this activity. Some of the guidance includes fact sheets, instructions, and FAQs.

Providers must complete and return the PSAT to DHS and OHA within 60 calendar days of receipt. The contracted entity is conducting follow-up calls to providers and provider agencies to ensure completion of the PSAT. While there will not be a financial penalty levied against a provider for failing to complete a PSAT, failure to complete a survey will require more costly and intrusive efforts by DHS and OHA to gather the same information.

***Individual Experience Assessment (July 2015 – November 2015)***

DHS and OHA do not assume any of the individual HCBS sites meet the new regulations. To validate both DHS's and OHA's initial regulatory assessment and the provider self-assessment results, DHS and OHA are actively engaging with individuals receiving Medicaid-funded HCBS as specified in this plan, their families and their advocacy organizations to gather their opinion and insight on how providers are complying with the HCBS requirements.

In consultation with Stakeholders, DHS and OHA have developed an Individual Experience Assessment (IEA) for individuals receiving Medicaid-funded HCBS services in provider-owned, controlled, or operated residential settings and non-residential settings. In addition to questions about residential settings, the IEA contains questions specifically related to employment and day services. The IEA focuses primarily on whether the individual feels his or her service experiences align with what is required in the settings requirements. The questions asked in the IEA are very similar to those asked in the PSAT, but worded more simply. The IEA and PSAT are being conducted simultaneously so the results are comparable in time.

DHS and OHA are utilizing an existing contract held by OHA to conduct the IEA and the Provider Self-Assessment Tool as described above. The contracted entity

sent the IEA to every individual receiving Medicaid-funded HCBS in a provider-owned, controlled or operated residential setting. Individuals have the choice of completing the IEA online or via paper.

Individuals are not required to complete the IEA but, with advice and feedback from Stakeholders and the contracted entity, DHS and OHA have determined ways to maximize individual participation in the IEA process. In the event the individual has not responded to the initial survey, the contracted entity will contact individuals via mail up to three additional times to encourage participation and offer technical assistance. A toll-free phone line has also been established for individuals to call if they require assistance in completing the IEA. Information regarding the IEA is also presented at each regional forum conducted by DHS and OHA.

The results of the IEAs will allow DHS and OHA to gain vital insight about how individuals receiving services perceive their experiences both with the service delivery system and their service provider. Additionally, the IEA asks if the individual felt that they were able to select their services from all available service options and all available providers. Responses to critical questions related to the additional requirements for provider-owned, controlled, or operated settings will provide DHS and OHA with understanding of actual on-the-ground compliance specific to each site. As described below, each IEA will be connected to the PSAT for the specific program or provider from which the individual receives services.

The IEA indicates if it was completed by the individual, the family, the individual's guardian, or others.

DHS and OHA will provide feedback to the provider, based on their analysis and evaluation of the IEA, and require them to address the findings in their final adaptation plan.

***Validation of Providers' Self-Assessment (September 2015 – February 2016)***

DHS and OHA are using a variety of ways to validate the PSAT. The first step is the IEA. The IEA and the PSAT contain a unique identifier that allows the contracted entity to match the IEA response with the relevant PSAT for comparison. The unique number does not contain any identifiable protected health or personal information. DHS, OHA and the contracted entity are making every effort to obtain responses from at least one individual residing at each provider site. As mentioned above, the IEA response will validate or contradict the provider's self-

assessment. If there is not a substantial number of IEA responses, DHS and OHA will review and validate the PSAT response during the service delivery system and licensing site-review process.

Through ongoing education, technical assistance efforts, and public input, DHS and OHA will be able to corroborate information provided by providers and individuals receiving HCBS. DHS and OHA will continue to provide and publicize ongoing opportunities for the public to submit feedback on providers' compliance and/or progress. As a key component, DHS and OHA have asked advocacy organizations, such as the Oregon Long Term Care Ombudsman, to inform DHS and OHA if the Ombudsmen or other advocates have concerns about providers' attestations.

DHS and OHA are leveraging existing organizational partners such as the Governor's Advocacy Office, adult protective service staff, licensing staff and person-centered service plan coordinators to assist in validation of assessment results and ongoing provider compliance. Staff from these entities will report concerns or areas of inconsistency. The reports from these staff members will allow the centralized HCBS team to compare complaints, issues and allegations against providers.

DHS and OHA anticipate that it will have the completed PSATs and IEAs returned by 11/30/2015. DHS and OHA expect to analyze approximately 3,500 completed PSATs. IEAs will be sent to approximately 25,000 individuals receiving services in provider-owned, controlled, or operated residential settings and non-residential settings funded by 1915(c), 1915(i), and/or 1915(k). Dependent upon the rate of return of IEAs, DHS and OHA anticipate that it will take approximately 3 months to compile, analyze and compare the results of the PSATs and IEAs.

After results are compiled, analyzed, and compared, DHS and OHA will sort settings into the following categories:

- Settings that are compliant;
- Settings which will be compliant with remediation;
- Setting is presumptively non-HCBS and will require heightened scrutiny;
- Setting cannot meet the federal requirements and must be removed from HCBS program;
- Setting is institutional (SNF, IMD, Hospital (Oregon does not operate ICF/ID)).

After sorting, DHS and OHA will amend the Transition Plan to include assessment results, analysis, plan for remediation activities, and identification of those sites for which DHS and OHA will be requesting CMS' heightened scrutiny. The amended plan will also include the aggregated number of sites that are sorted into the categories listed above. Oregon anticipates submitting its amended Transition Plan by September 30, 2016.

Prior to submission to CMS of the amended Transition Plan and sites identified for heightened scrutiny, DHS and OHA will commence a 30 calendar day public notice and comment period. The public notice will include information about how individuals can request a printed copy of the amended transition plan and provide input on those sites identified as requiring heightened scrutiny.

## **Phase IV. Heightened Scrutiny Process (October 2014 – November 2016)**

### ***State's Review and Process for Heightened Scrutiny Submission to CMS (October 2014 – November 2016)***

Throughout Phase III of the Global Transition Plan, DHS and OHA will assess each site to determine if it meets the HCBS settings requirements or requires CMS's Heightened Scrutiny. Heightened scrutiny assessment activities include:

- Conducting an initial review of licensing and service delivery system records to determine if the site is in the building of, on the grounds of, or adjacent to an institution. (October 2014)
- Working with stakeholders to create specific criteria and site characteristics for identifying which sites will require Heightened Scrutiny (October 2014 - June 2015).
- Using the provider assessment, IEA responses, and additional criteria to determine and propose if a site meets the definition of an HCBS site. (October 2014 - March 2016)
- Notification to affected providers of State's determination that provider's site(s) will have to go through the Heightened Scrutiny process in order to comply. (March 2016)
- Requiring providers of sites that appear to require heightened scrutiny to submit evidence to the State rebutting that presumption. (April 2016)

- Conducting on-site review of sites determined to require heightened scrutiny. (April 2016 – May 2016)
- Determining, based on evidence provided and results of onsite review, if sufficient evidence was provided to seek heightened scrutiny from CMS or if the site does not meet HCBS requirements. (June 2016)
- Compiling a report of the aggregated settings presumed to require heightened scrutiny. (June 2016)
- Providing opportunity for providers to request an Administrative Review of DHS's and OHA's determination that a site does not meet HCBS requirements and will not go through CMS's heightened scrutiny process. (July 2016 )
- Commencing public notice and comment period including posting information on each service site that has been determined to require CMS' Heightened Scrutiny. Information will be posted both on Oregon's HCBS website and will be made available in non-electronic format to those requesting. (August 2016)
- Revising Transition Plan to address public input, if necessary. (August 2016)
- Submitting amended Transition Plan to CMS including evidence and justification of individual sites that appear presumptively non-HCBS for CMS' Heightened Scrutiny. (September 2016)
- 
- Expected receipt of CMS response. (November 2016)
- Determining and implementing ongoing remediation strategies and next steps (July 2016 – September 2018)

### **Phase V. Initial Remediation Activities (April 2015 – September 2018)**

Prior to December 2015, DHS and OHA will create an advisory panel, comprised of Stakeholders, to develop evaluation criteria for the Adaptation Plans. The advisory panel will also evaluate the Provider Adaptation Plans, using the developed criteria, and provide recommendations to DHS and OHA to ensure the plans meet HCBS regulations. This advisory panel will provide critical insight as DHS and OHA determine if providers have submitted satisfactory Adaptation Plans. Plans that do not meet the requirements will be returned to the providers/programs for necessary changes as described below.



After the Provider Self-Assessment Tool results for all providers and Individual Experience Assessment results are analyzed, for those providers whose settings will be compliant with the HCBS regulations with remediation, DHS and OHA shall supply each provider an initial response detailing findings and the areas that they must change to come into compliance with the regulations. The initial response will be sent no later than February 2016. The initial response will include required information, developed with input from Stakeholders, for providers to include in its Provider-Specific Adaptation Plan. Upon receipt of the initial response, each provider will have 30 calendar days to provide DHS and OHA additional information rebutting the findings, if they choose. This submission will trigger a review process through which an administrative review committee (ARC) will make a final determination on the areas that must be remediated. The ARC will make a final determination within 30 calendar days. DHS and OHA will then send the provider a final response detailing the ARC's determination and identify changes that must be addressed in the provider's Adaptation Plan. DHS and OHA require that all providers submit their FINAL Adaptation Plan no later than December 31, 2016.

Approved Adaptation Plans will be posted on the HCBS website. DHS and OHA will redact any individually identifiable or confidential information before posting.

For providers needing assistance to come into compliance DHS and OHA shall:

- Facilitate regional focus groups of providers who can talk through provider specific issues and problem-solve how to achieve compliance together. Participation will be voluntary and can include individuals and family members who may aid in the problem solving process.
- Provide direct technical assistance at the request of the provider.
- Provide information on the HCBS website to guide providers in making the necessary changes.

DHS and OHA will ensure that sites are making progress towards compliance through licensing and service delivery system staff visits. A reporting mechanism will be created by DHS and OHA to allow these staff to report individual providers' progress. For sites that are not licensed, contract compliance staff will review providers annually to ensure that these provider types are meeting the requirements.

DHS and OHA will also develop a scorecard of provider's progress towards implementing the new requirements and post it on the HCBS website. This

scorecard will allow the public to view the provider's assessment of their status. The scorecard will include information and findings from the PSAT, adaptation plans, and service delivery system and licensing reviews. The scorecard will highlight HCBS requirements and provide a scoring system so that the public can easily understand the State's evaluation of the provider's progress towards full compliance. The information will be sufficient for the public to assess providers' compliance and provide feedback to DHS and OHA about their individual experience with and knowledge of providers. The public may provide ongoing feedback through the State's designated HCBS e-mailbox or via written correspondence with DHS and OHA.

### **Phase VI. Ongoing Compliance and Oversight (May 2015 – Ongoing)**

Oregon will assess providers' progress towards compliance through reports, interviews and on-site inspections that include information from providers and individuals receiving services.

Licensing and service delivery system staff will be critical to ensuring compliance and assuring providers' progress on their adaptation plans. DHS and OHA will ensure that these staff members are appropriately trained on the new regulations and expectations. Additionally, ongoing surveys of individuals will ensure that providers reach compliance.

With the Stakeholders, DHS and OHA will develop processes, data elements and other aspects to measure the impact of the changes on individuals receiving services. DHS and OHA will report out the compiled data on a regular basis and post information on the HCBS website.

Once overall compliance is achieved, strategies to ensure ongoing compliance will include:

- Conducting the Individual Experience Assessment biennially;
- Building questions from the individual's experience assessment into annual service planning processes;
- Ongoing licensing inspections by licensing staff; and

- Oregon's existing quality assurance system will include ongoing HCBS setting compliance monitoring to ensure that settings continue to comply with the HCBS Setting Rule.

Throughout the Transition Plan, DHS and OHA will work closely with the Stakeholders to ensure that DHS and OHA have a robust view on the progress towards successful implementation of the Transition Plan and the changes necessary to reach lasting compliance. DHS and OHA will engage Stakeholders and other avenues to evaluate progress, identify areas of concern, and propose solutions. This transition process will be transparent to Stakeholders and the broader public.

Providers must be in full compliance with the regulations by September 30, 2018. The timeline between September 30, 2018 and February 28, 2019 assures that DHS and OHA have adequate time to assist individuals, using a person-centered planning process, to choose alternative services and settings options if their individual provider is unable to meet full compliance. If, by September 30, 2018, the provider is not in full compliance, DHS and OHA will begin working with individuals and their family members or representatives to transition to a site that is in compliance. This will allow the service delivery system staff more than 5 full months to provide notification to the individuals of the requirement to relocate to a compliant setting, give individuals the information, opportunity and supports necessary to make an informed choice about alternate settings and supports, and transition individuals by CMS's final compliance deadline. Individuals must be transitioned to compliant sites, with all critical services and supports in place, by February 28, 2019. Medicaid contracts for providers who are not willing or able to come into compliance with the regulations will be terminated no later than March 17, 2019.

DHS and OHA will notify individuals in writing by October 15, 2018 if their current provider is not in compliance with the HCBS regulations. The notification will explain the individual's rights. It will also define options, process and timeline, including the final deadline of February 28, 2019, to help the individual make an informed choice of another site that is in compliance. Individuals will be able to select from all services and available compliant settings for which they are eligible. Beginning in October 2018, using person-centered planning processes, service delivery system staff will assist and support individuals and their representatives in identifying alternate settings, services and options and will ensure that all critical services and supports are in place prior to the individual

transitioning to the chosen alternate site. Individuals may contact their service delivery system staff at any time during the transition period to discuss options, alternate settings, and other services and supports.

Providers who are unable to come into compliance will no longer be able to contract with DHS and OHA effective March 1, 2019. Providers who are not able to achieve full compliance by September 30, 2018 will be required to assist DHS and OHA in transitioning individuals by February 28, 2019 to other sites that are in compliance. At this time, DHS and OHA cannot estimate the number of individual service recipients who will be required to transition to other programs. From interaction and communications with providers, DHS and OHA anticipate the majority of providers will be in compliance prior to the final deadline. DHS and OHA will be able to provide more detailed estimates when the amended Transition Plan is submitted in September 2016.

## Appendix A

### Key Action Item Timeline

This timeline is intended to provide an overview of the timing involved in reaching full compliance. Some activities may start earlier and have a more rapid implementation process.

Key Action Items	Approx. Start Date (first day of month)	Approx. End Date (last day of month)
<b><i>Pre Plan Activities</i></b>		
Meetings with provider associations	Jul- 14	Sep- 14
Convene a HCBS Transition Stakeholder Group	Aug- 14	Apr – 19
HCBS Transition Stakeholder Kick-off meeting	Aug- 14	Aug- 14
<b><i>Phase I- Initial Regulatory Assessment</i></b>		
Complete an initial assessment of Oregon's residential and non-residential settings' regulatory compliance with the CFRs	Jun- 14	Jan - 15
Share scorecard with stakeholders	Aug- 14	Aug- 14 and Mar - 15
Post scorecard on Oregon HCBS Website	Aug- 14	Sep- 14 and Mar- 15
<b><i>Oregon Transition Plan Development and Submission</i></b>		
Write draft Transition Plan	Aug- 14	Aug- 14
Stakeholder review of draft Transition Plan	Aug- 14	Aug- 14
Public Comment Period: <i>September 5, 2014</i>	Sep- 14	Oct- 14
End of Public Comment Period: (October 5, 2014)	Oct- 14	Oct- 14
Transition Plan Submitted to CMS	Oct- 14	Oct- 14
Expected response from CMS	Jan- 15	Jan- 15
Response to CMS's Request for Additional Information	Jan- 15	Apr- 15
Response Received from CMS		Aug - 15
State's Response to CMS's request for additional information		Oct - 15
<b><i>Phase II- Statewide Training and Education Efforts</i></b>		

Oregon's Home and Community Based (HCB) Setting Transition Plan

<b>Key Action Items</b>	<b>Approx. Start Date (first day of month)</b>	<b>Approx. End Date (last day of month)</b>
Meet with providers and associations	Jul- 14	Mar - 2019
Develop educational materials for individuals, providers, and Case Managers including FAQs and Fact Sheets	Oct- 14	Mar - 2019
Develop and disseminate additional training regarding rights, protections, community inclusion and modifications to conditions.	Oct – 14	Mar - 2019
Share materials with stakeholders throughout transition period	Oct - 14	Mar - 2019
Post materials on website throughout transition period	Oct- 15	Mar - 2019
Delivery System Education Efforts	Nov – 14	Mar - 2019
Host regional training and information meetings for individuals, providers, and case managers.	Sep – 15	Oct - 15
<b><i>Phase III- Provider Self-Assessment and Individual Experience Assessment</i></b>		
<b><i>Provider Self-Assessment</i></b>		
Develop Provider Self-Assessment Tool (PSAT) (residential and non-residential providers)	Oct- 14	Jul- 15
Share PSAT with Transition Stakeholder Group	Oct - 14	Jul - 15
Develop online survey tool	Jul- 15	Aug- 15
Send provider self-assessment to residential and non-residential providers	Sep- 15	Sep- 15
Provider Self-Assessments completed and returned to State	Sep- 15	Nov - 15
<b><i>Individual Experience Assessment</i></b>		
Develop a survey for individuals receiving services	Oct- 14	Jul- 15
Share survey with Transition Stakeholder Group	Oct – 14	Jul - 15
Develop online survey tool	Jul- 15	Aug - 15
Send Individual Experience Assessments to individuals receiving HCBS	Sep- 15	Oct- 15
State and partners to conduct individual assessments, as necessary ( <i>in-person, phone</i> )	Sep - 15	Nov- 15

Oregon's Home and Community Based (HCB) Setting Transition Plan

Key Action Items	Approx. Start Date (first day of month)	Approx. End Date (last day of month)
Provide technical assistance to individuals	Sep - 15	Nov - 15
Individual Experience Assessments completed and returned to State	Sep - 15	Nov- 15
<b><i>Provider Self-Assessment and Individual Experience Assessment Results, Responses and Validation</i></b>		
State receives responses from PSATs and IEAs	Sep – 15	Nov - 15
State evaluates Individual Experience Assessments and Provider Self-Assessments (comparison and validation of results from both using unique identifier that connects site with individual)	Nov- 15	Feb- 16
State solicits input from advocacy organizations and existing organizational partners to assist in validation of results	Nov – 15	Feb - 16
State to sort settings into compliance categories	Nov – 15	Feb - 16
State to provide <b>initial</b> feedback and recommendations on areas of improvement to residential and non-residential providers	Nov - 15	Feb- 16
Ongoing education and technical assistance efforts, and public input	Sep - 15	Mar - 19
State review and validation of PSAT for sites where IEA response not received	Jan – 16	Sep - 18
<b><i>Submission of Amended Global Transition Plan</i></b>		
State evaluates Individual Experience Assessments and Provider Self-Assessments (comparison and validation of results from both using unique identifier that connects site with individual)	Nov - 15	Feb- 16
State identifies necessary Transition Plan changes	Nov - 15	May - 16
State identifies settings that require heightened scrutiny	Feb- 16	May - 16
State amends Global Transition Plan	Jun - 16	Jun - 16
Stakeholder review of draft Transition Plan	Jul- 16	Jul - 16
30- day Public Comment Period	Aug - 16	Aug- 16
Revisions to Global Transition Plan based on public input	Aug – 16	Sep - 16
Amended Global Transition Plan Submitted to CMS	Sep - 16	Sep - 16
Expected response from CMS	Oct- 16	Oct- 16
<b><i>Phase IV. Heightened Scrutiny Process</i></b>		

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>Key Action Items</b>	<b>Approx. Start Date</b> (first day of month)	<b>Approx. End Date</b> (last day of month)
Conduct an initial review of licensing and service delivery system records to determine if the site is in the building of, on the grounds of, or adjacent to an institution	Oct – 14	Oct – 14
Working with stakeholders to create specific criteria and site characteristics for identifying which sites will require Heightened Scrutiny	Oct – 14	Jun – 15
Using the provider assessment, IEA responses, and additional criteria to determine and propose if a site meets the definition of an HCBS site	Oct- 14	Mar - 16
State notifies sites that require CMS' Heightened Scrutiny	Mar – 16	Mar – 16
Providers requiring Heightened Scrutiny submit evidence to the State rebutting presumption of non-HCBS	Apr – 16	Apr – 16
State conducts on-site reviews of settings identified to require heightened scrutiny per CMS's regulations	Apr - 16	May - 16
Determining, based on evidence provided and results of onsite review, if sufficient evidence was provided to seek heightened scrutiny from CMS or if the site does not meet HCBS requirements	Jun – 16	Jun – 16
State compiles aggregated report of sites requiring heightened scrutiny	Jun – 16	Jun – 16
Provide opportunity for sites determined not to be HCBS to request an administrative review by DHS and OHA	July -16	Jul – 16
State commences public notice and comment period for amended Transition Plan including each service site that has been determined to requiring CMS' heightened scrutiny	Aug – 16	Aug - 16
State determines and implements ongoing remediation strategies and next steps	Jul – 16	Sep - 18
State addresses public input/comment and revises Transition Plan if necessary	Aug – 16	Sep – 16
State submits amended Transition Plan and evidence to CMS for each setting that is presumed to be non-HCB but State is requesting CMS' heightened scrutiny	Sep- 16	Sep- 16
Expected receipt of CMS' response	Nov – 16	Nov – 16



Oregon's Home and Community Based (HCB) Setting Transition Plan

Key Action Items	Approx. Start Date (first day of month)	Approx. End Date (last day of month)
<b>Phase V- Initial Remediation Activities</b>		
After PSAT and IEA results are analyzed, initial notification sent by February 2016 to those providers requiring adaptations for compliance (not heightened scrutiny).	Sep – 15	Feb – 16
Update website to guide providers in making the necessary changes.	May- 15	Sep – 18
Develop with Stakeholders an advisory panel and Adaptation Plan review criteria	May- 15	Dec- 15
Develop policies and procedures for Quality Assurance and Licensing staff to check progress on their adaptation plans.	May- 15	Jan- 16
Finalization of Over-arching HCBS OAR and Program-Specific OARs	Jan – 16	Jan – 16
Service Delivery Systems and OLRO conduct onsite reviews	Jan – 16	Mar – 19
Providers submit Adaptation Plans addressing State's findings	Apr – 16	Jun- 16
State and advisory panel review providers' Adaptation Plan and provides approval or denial of Plan	Jul- 16	Aug- 16
Providers may appeal the State's denial	Sep- 16	Sep- 16
Providers submit FINAL Adaptation Plan addressing State's findings	Nov- 16	Dec- 16
Develop a comprehensive scorecard of provider's compliance activities and outcomes	Jan- 17	Feb- 17
Post scorecard on website	Mar- 17	Mar- 17
Gather public input on provider's scorecard	Apr- 17	May - 17
State will review and address, as appropriate, public input on provider's scorecard.	May – 17	June - 17
State will update provider's scorecard with progress toward compliance	June – 17	Sep – 18
Gather ongoing public input on provider's progress toward compliance.	May – 17	Sep – 18
<b>OAR, 1915(c) waivers, and 1915(i) and 1915(k) State Plan Amendment (SPA) Changes</b>		
Assess OARs, waivers, and SPAs for needed changes	Oct- 14	Mar – 16

Oregon's Home and Community Based (HCB) Setting Transition Plan

Key Action Items	Approx. Start Date (first day of month)	Approx. End Date (last day of month)
Work with stakeholders to identify and address necessary OAR, waivers, and SPA changes	Apr- 15	Oct- 15
Conduct formal rule making process	Jun- 15	Jan- 16
Finalization of Over-arching HCBS OAR and Program-Specific OARs	Jan – 16	Jan – 16
Public Notice and Submission of any necessary waiver amendments and SPAs.	Mar- 16	Dec- 16
<b><i>Modifications to Conditions</i></b>		
Develop policies and procedures on implementation of modifications to conditions contained in individual service plan.	Jan-15	Dec-15
Create expectations and a method for collecting data on an ongoing basis to measure the effectiveness of the individually based modification to conditions	Jan- 15	Jul- 15
Develop timeframes for review of the data and effectiveness of the modification to ensure it continues to be appropriate.	Jan- 15	Dec- 15
Develop policies and procedures for Quality Assurance and Licensing staff to check progress on their adaptation plans.	May- 15	Jan- 16
<b><i>Phase VI- Ongoing Compliance and Oversight</i></b>		
Develop ongoing monitoring and quality assurance processes within existing structure	May- 15	Ongoing
Notify Medicaid providers of non-compliance with intent to move individuals and terminate contract and license	Sept-18	Sept-18
Notify individuals of their need to transition to alternative settings	Oct-18	Oct-18
Assist individuals in finding, selecting and transitioning to alternative settings	Oct - 18	Feb- 19
Terminate Medicaid contracts with non-compliant providers (unable or unwilling to meet regulations)	Mar– 19	Mar – 19
2 <sup>nd</sup> Individual Experience Assessment	Jul- 17	Dec- 17
3 <sup>rd</sup> Individual Experience Assessment	Jul- 19	Dec- 19

## Appendix B: - Global Scorecard

OAR & Policy Review	APD AFH	APD RCF / ALF	APD Contracted / Specialized Living Program	APD Certified Adult Day Services
14. Is the setting located in a building:				
a. That is also a facility that provides inpatient institutional treatment?	No	No	No	No
b. On the grounds of or immediately adjacent to a public or private institution?	Possibly adjacent	In some situations	No	No
c. On the grounds of or immediately adjacent to any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community?	Possibly adjacent	In some situations	No	No
<b>System Questions</b>				
15. Is the setting selected by the individual from among all available alternatives and is identified in the person-centered service plan?	Yes	Yes	Yes	Yes
16. Is the individual choice regarding services and supports, and who provides them, facilitated?	Yes	Yes	Yes	Yes

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>APD AFH</b>	<b>APD RCF / ALF</b>	<b>APD Contracted / Specialized Living Program</b>	<b>APD Certified Adult Day Services</b>
1. Is the setting integrated into the greater community?	Yes	Yes	Yes	Yes
2. Does the setting facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities, including:	Yes	Yes	Yes	Yes
a. Opportunities to seek employment and work in competitive integrated settings,	Yes	Yes	Yes	Yes
b. Engage in community life,	Yes	Yes	Yes	Yes
c. Control personal resources, and	Yes	Yes	Yes	Yes
d. Receive services in the community?	Yes		Yes	Yes
3. Are the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint protected?	Yes	Yes	Yes	Yes
4. Are the individual's 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?	Yes	Yes	Yes	Yes

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>APD AFH</b>	<b>APD RCF / ALF</b>	<b>APD Contracted / Specialized Living Program</b>	<b>APD Certified Adult Day Services</b>
5. Is the unit or room a specific physical place that can be owned, rented or occupied under a legally enforceable agreement that provides the individual, at a minimum, the same responsibilities and protections from eviction that tenants have under the State's landlord tenant laws?	No	Yes	Yes	N/A
6. Do individuals have privacy in their sleeping or living unit?	Yes**	Yes	Yes	N/A
7. Do units have lockable entrance doors, with appropriate staff having keys to doors?	No	Yes	Yes	N/A
8. If individuals share rooms, do they do so only at their choice?	Yes	Yes	Yes	N/A
9. Do individuals have the freedom to furnish and decorate their sleeping or living units?	Yes	Yes	Yes	N/A
10. Do individuals have the freedom and support to control their own schedules and activities?	Yes	Yes	Yes	N/A
11. Do individuals have access to food at any time?	Yes	ALF - Yes RCF - not always	Yes	N/A
12. Are individuals able to have visitors of their choosing at any time?	Yes***	Not defined in OAR	Yes	N/A
13. Is the setting is physically accessible to the individual?	Yes	Yes	Yes	Yes

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>AMH AFH</b>	<b>AMH Non-Licensed Housing</b>	<b>AMH RTH / RTF</b>	<b>ODDS AFH</b>	<b>ODDS Group Homes</b>
1. Is the setting integrated into the greater community?	Yes	Yes	Yes	Yes	Yes
2. Does the setting facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities, including:	Yes	Yes	Yes	Yes	Yes
a. Opportunities to seek employment and work in competitive integrated settings,	Yes	Unknown	Yes	Yes	Yes
b. Engage in community life,	Yes	Yes	Yes	Yes	Yes
c. Control personal resources, and	Yes	Yes	Yes	Yes	Yes
d. Receive services in the community?	Yes	Yes	Yes	Yes	Yes
3. Are the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint protected?	Yes	No regulations providing these protections, Compliance is likely	Yes	Yes	Yes
4. Are the individual's 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?	No	Yes	No	Yes	Yes

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>AMH AFH</b>	<b>AMH Non-Licensed Housing</b>	<b>AMH RTH / RTF</b>	<b>ODDS AFH</b>	<b>ODDS Group Homes</b>
5. Is the unit or room a specific physical place that can be owned, rented or occupied under a legally enforceable agreement that provides the individual, at a minimum, the same responsibilities and protections from eviction that tenants have under the State's landlord tenant laws?	Yes	Yes	No	Yes*	Yes*
6. Do individuals have privacy in their sleeping or living unit?	Yes	Yes	Yes	Yes	Yes
7. Do units have lockable entrance doors, with appropriate staff having keys to doors?	No	Yes	No	No	No
8. If individuals share rooms, do they do so only at their choice?	No	Yes	No	Yes	Yes
9. Do individuals have the freedom to furnish and decorate their sleeping or living units?	Yes	Yes	Yes	Yes	Yes
10. Do individuals have the freedom and support to control their own schedules and activities?	Yes	Yes	No	Yes	Yes
11. Do individuals have access to food at any time?	Yes	Yes	Yes	Not defined in OAR	Not defined in OAR
12. Are individuals able to have visitors of their choosing at any time?	Yes	Yes	No	Not defined in OAR	Not defined in OAR
13. Is the setting is physically accessible to the individual?	Yes	Yes, compliant with building code	No	Yes****	Yes****

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>AMH AFH</b>	<b>AMH Non-Licensed Housing</b>	<b>AMH RTH / RTF</b>	<b>ODDS AFH</b>	<b>ODDS Group Homes</b>
5. Is the unit or room a specific physical place that can be owned, rented or occupied under a legally enforceable agreement that provides the individual, at a minimum, the same responsibilities and protections from eviction that tenants have under the State's landlord tenant laws?	Yes	Yes	No	Yes*	Yes*
14. Is the setting located in a building:					
a. That is also a facility that provides inpatient institutional treatment?	No	No	No	No	No
b. On the grounds of or immediately adjacent to a public or private institution?	No	Possibly adjacent	Yes	No	No
c. On the grounds of or immediately adjacent to any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community?	No	Possibly adjacent	Yes	No	No
<b>System Questions</b>					
15. Is the setting selected by the individual from among all available alternatives and is identified in the person-centered service plan?	Yes	Yes	Yes	Yes	Yes
16. Is the individual choice regarding services and supports, and who provides them, facilitated?	Yes	Yes	Yes	Yes	Yes



*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>ODDS Supported Living</b>	<b>ODDS Children's Foster Homes</b>	<b>Certified DD Day Services</b>	<b>ODDS Certified Employment</b>
1. Is the setting integrated into the greater community?	Yes	Yes	Yes*	Yes
2. Does the setting facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities, including:	Yes	Yes	Yes*	Yes*
a. Opportunities to seek employment and work in competitive integrated settings,	Yes	Yes	Yes*	Yes
b. Engage in community life,	Yes	Yes	Yes	Yes
c. Control personal resources, and	Yes	Yes	Yes	Yes
d. Receive services in the community?	Yes	Yes	Yes	Yes
3. Are the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint protected?	Yes	Yes	Yes	Yes
4. Are the individual's 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?	Yes	Yes	Yes	Yes

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<b>OAR &amp; Policy Review</b>	<b>ODDS Supported Living</b>	<b>ODDS Children's Foster Homes</b>	<b>Certified DD Day Services</b>	<b>ODDS Certified Employment</b>
5. Is the unit or room a specific physical place that can be owned, rented or occupied under a legally enforceable agreement that provides the individual, at a minimum, the same responsibilities and protections from eviction that tenants have under the State's landlord tenant laws?	Yes*	Yes*	N/A	N/A
6. Do individuals have privacy in their sleeping or living unit?	Yes	Yes*	N/A	N/A
7. Do units have lockable entrance doors, with appropriate staff having keys to doors?	Yes	no	N/A	N/A
8. If individuals share rooms, do they do so only at their choice?	Yes	Yes	N/A	N/A
9. Do individuals have the freedom to furnish and decorate their sleeping or living units?	Yes	Yes	N/A	N/A
10. Do individuals have the freedom and support to control their own schedules and activities?	Yes	No	N/A	N/A
11. Do individuals have access to food at any time?	Yes	Yes****	N/A	N/A
12. Are individuals able to have visitors of their choosing at any time?	Yes	Yes***	N/A	N/A
13. Is the setting is physically accessible to the individual?	Yes	Yes	Yes	Yes

<b>OAR &amp; Policy Review</b>	<b>ODDS Supported Living</b>	<b>ODDS Children's Foster Homes</b>	<b>Certified DD Day Services</b>	<b>ODDS Certified Employment</b>
14. Is the setting located in a building:				
a. That is also a facility that provides inpatient institutional treatment?	No	No	No	No
b. On the grounds of or immediately adjacent to a public or private institution?	No	No	No	No
c. On the grounds of or immediately adjacent to any setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community?	No	No	No*	No*
<b>System Questions</b>				
15. Is the setting selected by the individual from among all available alternatives and is identified in the person-centered service plan?	Yes	Yes	Yes	Yes
16. Is the individual choice regarding services and supports, and who provides them, facilitated?	Yes	Yes	Yes	Yes

***\*A facial review of Oregon Revised Statutes, Oregon Administrative Rules, as well as policy and contracts, indicates Oregon is in substantial compliance and alignment with new HCBS federal regulations. Some changes may be necessary to reach full compliance. These changes will be addressed as part of Oregon's Transition plan. For residential settings, OARS have protections re: notice of exit which serve as eviction, but there is no legal residency agreement required. Additionally, further assessment is needed to determine whether Oregon is in compliance in its implementation and practice of these laws and regulations.***

***\*\*1 or 2 individuals may share a bedroom.***

***\*\*\*Unless visiting hours are limited as disclosed in the house policies.***

**\*\*\*Could be more explicit in rule.**

**\*\*\*\*Proposed future rule making will likely result in this measure being out of compliance- language identifies facility-based services limit opportunity for integration and interaction with non-disabled persons.**

## Appendix C: Inventory of Oregon Administrative Rules Reviewed as part of HCBS Transition Plan

OAR	Title
<i>Oregon Health Authority, Addictions and Mental Health</i>	
<a href="#">309-035</a>	Residential Treatment Facilities For Mentally Or Emotionally Disturbed Persons and Residential Treatment Homes
<a href="#">309-040</a>	Adult Foster Homes
<i>Department of Human Services, Aging and People with Disabilities</i>	
<a href="#">411-015</a>	Long-Term Care Service Priorities For Individuals Served
<a href="#">411-050</a>	Adult Foster Homes
<a href="#">411-054</a>	Residential Care And Assisted Living Facilities
<a href="#">411-057</a>	Memory Care Communities
<a href="#">411-065</a>	Specialized Living Services Contracts
<a href="#">411-066</a>	Adult Day Services Programs
<a href="#">411-067</a>	Continuing Care Retirement Community
<i>Department of Human Services, Office of Developmental Disability Services</i>	
<a href="#">407-025</a>	Integrated Employment Services to Individuals with I/DD
<a href="#">411-308</a>	In-Home Support for Children with Intellectual or Developmental Disabilities (I/DD)
<a href="#">411-318</a>	Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disability Services
<a href="#">411-320</a>	Community Developmental Disability Programs
<a href="#">411-323</a>	Agency Certification and Endorsement to Provider Services to Individuals with I/DD in Community-Based Settings
<a href="#">411-325</a>	24-Hour Residential Settings for Children and Adults with I/DD
<a href="#">411-328</a>	Supported Living Settings for Individuals with I/DD
<a href="#">411-330</a>	Comprehensive In-Home Support for Adults with I/DD
<a href="#">411-340</a>	Support Services for Adults with I/DD
<a href="#">411-345</a>	Employment and Alternatives To Employment Services for Individuals with I/DD

*Oregon's Home and Community Based (HCB) Setting Transition Plan*

<a href="#">411-346</a>	Foster Homes for Children with I/DD
<a href="#">411-360</a>	Adult Foster Homes for Individuals with I/DD

## Appendix D

### Setting and Program Types with Medicaid Authority

Setting Type	Funding Authority	Rule Meets HCBS Criteria
Assisted Living Facility (ALF)	1915 (k)	Yes
Adult Foster Care (AFC)	1915 (i) 1915 (k)	Yes
Adult Day Center	1915 (k)	Yes
Specialized Living	1915(k)	
Residential Care Facilities (RCF)	1915 (k)	Yes
Residential Treatment Facility/Home for Mentally or Emotionally Disturbed Persons	1915 (i) 1915 (k)	Yes
Supported Living Providers	1915 (k)	Yes
Adult Group Home (GCH)	1915 (k)	Yes
Group Care Homes for Children (GCH)	1915 (k)	Yes
Developmental Disabilities Adult Foster Care	1915 (k)	Yes
Children's Developmental Disability Foster Care	1915 (k)	Yes
Individual's own or family home (In-home Services)	<u>1915(k)</u> <u>1915(i)</u>	Yes
Integrated Community Employment Settings (Job Coaching, Job Development, Discovery, Supported Small Group and Employment Path)	<u>1915(c)</u>	Yes
ODDS Day Support Activity Facility Settings	<u>1915(k)</u>	Yes
Employment Path Facility-Based Settings	<u>1915(c)</u>	No