

# Oregon's Home and Community Based Services (HCBS) Setting Statewide Transition Plan

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## **HCBS Regulations History**

In January 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final regulation that ensures that individuals receiving long-term services and supports through HCBS programs under the 1915(c), 1915(i), and 1915(k) Medicaid authorities have full access to benefits of community living, the opportunity to receive services in the most integrated setting appropriate to enhance the quality of HCBS and provide protections to participants. The CMS regulation became effective on March 17, 2014 and requires states to demonstrate compliance. To show compliance, states must review and evaluate settings in which HCBS are provided (residential and nonresidential settings), submit separate transition plans for each HCBS waiver and state plan option, and submit a statewide transition plan (STP).

CMS' definition of HCBS settings has evolved over the past five years, based on experience throughout the country and extensive public feedback about the best way to differentiate between institutional and home and community-based settings. While CMS has not provided a conventional definition of home and community-based settings, CMS has provided examples of "what they are not" and has pointed states to focus on the nature and quality of individuals' experiences. The home and community-based setting provisions in this final HCBS regulation established a more outcome-oriented definition of home and community-based settings, as opposed to one based solely on a setting's location, geography, or physical characteristics.

# Home and Community Based Services Settings Requirements

## **All Settings**

The CMS regulation requires that all HCBS settings meet the following qualifications:

- Integrates in and supports full access of individuals receiving Medicaid HCBS 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.
- Allows the individual to select from setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.
- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
- 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.
- Facilitates individual choice regarding services and supports, and who provides them.

## **Provider-Owned, Controlled, or Operated Residential Setting**

In a provider-owned, controlled, or operated residential setting, in addition to the above qualities, the following additional conditions must be met:

- The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the state, county, city, or other designated entity. For settings in which landlord/tenant laws do not apply, the state must ensure that a lease, residency agreement or other form of written

agreement will be in place for each participant and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant law.

- Each individual has privacy in his or her sleeping or living unit.
- Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors as needed.
- Individuals sharing units have a choice of roommates in that setting.
- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
- Individuals have the freedom and support to control their own schedules and activities and have access to food at any time.
- Individuals are able to have visitors of their choosing at any time.
- The setting is physically-accessible to the individual.
- Any modification of the above requirements must be supported by a specific assessed need and justified in the person-centered service plan.

### **CMS-Identified Disallowed Settings**

HCBS settings do not include the following:

- Nursing facilities;
- Institutions for mental diseases;
- Intermediate care facilities for individuals with intellectual disabilities;
- Hospitals; or
- Any other locations that have qualities of an institutional setting, as determined by the Secretary of the United States Department of Health & Human Services.

### **CMS-Identified Presumed Disallowed Settings**

- Any setting located in a building that is also a publicly or privately-operated facility providing inpatient institutional treatment;
- Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution; or
- Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

## **Oregon's Home and Community Based Services Programs Overview**

These types of settings will be presumed to have the qualities of an institution unless the Secretary of the United States Department of Health & Human Services determines through heightened scrutiny, based on information presented by the state or other parties, the setting does not have the qualities of an institution and the setting does have the qualities of home and community-based settings.

The Oregon Health Authority (OHA) is Oregon's single state Medicaid agency. The OHA's Health Systems Division (HSD) operates Oregon's 1915(i) Home and Community Based Services State Plan Option.

Through an intergovernmental agreement, the OHA has designated the Department of Human Services (DHS) as an organized healthcare delivery system (OHCDs) and operating agency of Oregon's six 1915(c) Home and Community Based Services Waivers and the 1915(k) Community First Choice State Plan Option (K Plan). Within DHS there are two offices administering the 1915(c) and K Plan – the Office of Developmental Disabilities Services (ODDS) and Aging and People with Disabilities (APD).

DHS, APD operates the Aged and Physically Disabled Waiver #0185 (Nursing Facility (NF) Level of Care (LOC)).

DHS, ODDS operates the following waivers:

- Children's HCBS Waiver #0117 (Intermediate Care Facility for Individuals with Intellectual and Developmental Disabilities (ICF/IDD) LOC)
- Adults' HCBS Waiver #0375 (ICF/IDD LOC)
- Medically Fragile Hospital Model #40193 (Hospital LOC)
- Behavioral (ICF/IDD) Model Waiver #40194 (ICF/IDD LOC)
- Medically Involved Children's Waiver #0565 (NF LOC)

The K Plan is operated by APD and ODDS, which are both programs under DHS.

**1915(i) Home and Community Based State Plan Option** — serves Medicaid-eligible individuals aged 21 and older with Chronic Mental Illness who meet needs-based eligibility criteria (assistance with 2 instrumental activities of daily living). The 1915(i) is operated by the OHA, HSD. Individuals receiving services through the 1915(i) reside in their own or family homes or in provider owned, controlled, or operated settings.

The following services are provided through the 1915(i):

- Home Based Habilitation
- HCBS Behavioral Habilitation
- HCBS Psychosocial Rehabilitation

**1915(k) Community First Choice State Plan Option (K Plan)** — serves State Plan eligible groups as described in Section 2.2-A of the State Plan. These individuals are eligible for medical assistance under the State Plan and are in an eligibility group that includes Nursing Facility services or are below 150% of federal poverty level if they are in an eligibility group that doesn't include Nursing Facility services. Individuals require the level of care provided in a hospital, a nursing facility, an intermediate care facility for Individuals with Intellectual Disabilities (ICF/IDD), an institution providing psychiatric services for individuals under age 21, or an institution for mental diseases for individuals age 65 or over. The K Plan is operated by DHS through its APD and ODDS programs. Individuals receiving services through the K Plan reside in their own or family homes or in provider owned, controlled, or operated settings.

The following services are provided through the K Plan:

- ADL, IADL and other health-related tasks (HRT)
- Chore Services
- Long-Term Care Community Nursing
- Acquisition, maintenance and enhancement of skills - ADL/IADL/HRT skills training, coaching and prompting
- Electronic Back-up Systems - Emergency Response Systems, Electronic Devices, Assistive Technology
- Relief Care

- Behavioral Support Services
- Voluntary training to select, manage, dismiss attendants
- Environmental Modifications
- Assistive Devices - DME, mechanical apparatus, electrical appliance or instrument of technology used to increase independence relating to any ADL
- Community Transportation
- Home Delivered Meals
- Transition Costs

**1915(c) Aged and Physically Disabled (APD) Waiver #0185** – is operated by DHS, APD and serves Medicaid-eligible adults who are aged (65 and over) and adults who have physical disabilities (age 18 and over) and require the level of care provided in a Nursing Facility. Individuals receiving services through this waiver reside in their own or family homes or in provider owned, controlled, or operated settings.

The following services are provided through the APD Waiver:

- Waiver Case Management
- Community Transition Services

**1915(c) ICF/IDD Children's HCBS #0117 (Effective 07-01-2018)** – is operated by DHS, ODDS and serves Medicaid-eligible children up to age 18 who require the level of care provided in an ICF/IDD. Children receiving services through this waiver reside in their own or family homes or in provider owned, controlled, or operated settings.

The following services are provided through the Children's HCBS Waiver:

- Waiver Case Management
- Employment Path Services
- Supported Employment, Individual Employment Support
- Supported Employment, Small Group Employment Support
- Discovery/Career Exploration

- Specialized Medical Supplies
- Vehicle Modifications
- Environmental Safety Modifications
- Family Training

**1915(c) ICF/IDD Adults' HCBS Waiver #0375 (Effective 07-01-2018)** - is operated by DHS, ODDS and serves Medicaid-eligible individuals aged 18 years and older who require the level of care provided in an ICF/IDD. Individuals receiving services through this waiver reside in their own or family homes or in provider owned, controlled, or operated settings.

The following are services provided through the Adults' HCBS Waiver:

- Waiver Case Management
- Employment Path Services
- Supported Employment, Individual Employment Support
- Supported Employment, Small Group Employment Support
- Discovery/Career Exploration
- Specialized Medical Supplies
- Vehicle Modifications
- Environmental Safety Modifications
- Family Training
- Direct Nursing Services

**1915(c) Medically Fragile Hospital Model #40193** – serves Medicaid-eligible children from birth to age 18 who have significant medical needs, require the level of care provided in a hospital and meet a specific score on the Medically Fragile Children's Clinical Criteria. Children enrolled in this waiver reside in their family home.

The following are services provided through the Medically Fragile Hospital Model Waiver:

- Waiver Case Management
- Family Training
- Specialized Medical Supplies



- Special Diets
- Individual Directed Goods and Services
- Environmental Safety Modifications
- Vehicle Modifications

**1915(c) Behavioral (ICF/IDD) Model Waiver #40194** - serves Medicaid-eligible children from birth to age 18 who have significant behaviors, require the level of care provided in an ICF/IDD and meet a specific score on the Behavioral Conditions Criteria. Children enrolled in this waiver reside in their family home.

The following are services provided through the Behavioral ICF/IDD Model Waiver:

- Waiver Case Management
- Family Training
- Specialized Medical Supplies
- Special Diets
- Individual Directed Goods and Services
- Environmental Safety Modifications
- Vehicle Modification

**1915(c) Medically Involved Children's Waiver (MICW) #0565** - serves Medicaid-eligible children from birth to age 18 who have significant medical needs, require the level of care provided in a NF, and meet a specific score on the MICW Criteria Instrument. Children enrolled in this waiver reside in their family home.

The following are services provided through the Medically Involved Children's Waiver:

- Waiver Case Management
- Family Training
- Specialized Medical Supplies
- Special Diets
- Individual Directed Goods and Services
- Environmental Safety Modifications
- Vehicle Modification

The settings in which these various services are provided are described in [Appendix D](#) of this document.

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

The Oregon Department of Human Services (DHS) and the Oregon Health Authority (OHA) submit this amended Statewide 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 Regulation released on January 16, 2014. This Statewide Transition Plan (STP) includes programs and settings in which individuals receive Medicaid HCBS outside of their own or family home.

This STP includes results and analysis of data gathered from provider self-assessment survey responses, individual experience assessment results, site visits conducted by licensing and service delivery system staff, and additional public comments received, as well as changes made in response to those comments.

A summary of public comments received for the STP and DHS and OHA joint responses are attached in [Appendix F](#).

### Statewide Transition Plan Overview

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

- [Phase I](#) – Initial Systemic Regulatory Assessment
- [Phase II](#) – Statewide Training and Education Efforts
- [Phase III](#) – Provider Self-Assessment, Individual Experience Assessment, and Validation Activities
- [Phase IV](#) – Heightened Scrutiny Process – Initial and Ongoing

- [Phase V](#) – Initial Transition Period Review and Remediation Activities
- [Phase VI](#) – Ongoing Compliance and Oversight

## **Statewide Transition Plan Preparation**

In preparation for development of Oregon's HCBS Statewide Transition Plan, DHS and OHA 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 continuing status of the State's HCBS settings' compliance with the HCBS regulation. Three meetings of this group occurred prior to the State's first submission of the Transition Plan on October 13, 2014. DHS and OHA continue to meet with Stakeholders throughout the transition period. This ongoing engagement continues to improve and inform Oregon's implementation process.

## *Oregon's Statewide Transition Plan*

### *Phase I. Initial Systemic Regulatory Assessment (June- 2014 – January 2016)*

Prior to the first submission of the Transition Plan, DHS and OHA completed an initial systemic assessment of Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), policies and contracts across three service delivery systems to determine regulatory compliance with the HCBS regulations; the delivery systems are OHA's Health Systems Division (HSD), formerly known as Addictions and Mental Health, DHS' Aging and People with Disabilities (APD), and DHS' Office of Developmental Disabilities Services (ODDS). In general, DHS' and OHA's initial systemic assessment led to the conclusion that ORSs, OARs, policies, and contracts aligned/complied with or were silent on the HCBS regulations. Areas that needed to be addressed are detailed below. However, key activities in the Transition Plan will further assess site specific compliance and remediate any remaining areas of concern.

The initial systemic 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 an initial "global scorecard." The scorecard ([Appendix B](#)) evaluated rules and regulations related to provider-owned, controlled, or operated settings licensed/certified by APD, HSD and ODDS programs' licensing staff. These setting types include HCBS settings listed below and identified in Oregon's approved Medicaid State Plan Options and Waivers (see [Appendix D](#)).

The initial global scorecard was separately shared with the Stakeholder Committee at a meeting on August 5, 2014, then updated, and posted on Oregon's HCBS website (HCBS website) on March 9, 2015.

An individual's own or family home is presumed to meet the qualities of a home and community-based setting per CMS guidance and is not a provider-owned, controlled, or operated residential setting. Oregon provides HCBS to individuals

residing in their own or family homes through the 1915(k) Community First Choice State Plan Option and 1915(c) HCBS Waivers operated by DHS, APD and ODDS and the 1915(i) HCBS State Plan Option operated by OHA, HSD. Individuals receiving HCBS through these authorities who do not reside in their own or family home reside in provider owned, controlled or operated residential settings. Per ORS, unrelated caregivers who provide services in the caregiver's private residence are required to be licensed or certified as Foster Homes. As such, these settings must comply with HCBS requirements for provider-owned, controlled, or operated settings.

The state has a robust in-home services program that is offered to all individuals during the person-centered service planning process. As a result, over 50% of individuals receiving HCBS choose to receive their services in their own or a family member's home. Oregon's Governor and Legislature are focusing on investing in low-income housing to make in-home options more accessible. Having in-home services as an option meets the CMS expectation of a choice of a non-disability specific residential setting.

Additionally, children enrolled in ODDS' 1915(c) HCBS 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 children 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 systemic regulatory assessment for certified and unlicensed settings, such as employment and adult day programs, in which individuals receive HCBS to determine if the ORSs, OARs, policies and contracts for these settings were in compliance with the HCBS regulations. Settings where individualized services are provided in a typical community setting are presumed to comport with the HCBS requirements. DHS, APD Central Office staff conducted on-site visits to each Adult Day program to ensure full compliance with HCBS requirements.

ODDS, specifically, has engaged in extensive efforts with communities and agencies to develop capacity for individuals in the field of employment-related services, including the support for capacity building with Employment First

efforts, [innovation grants](#), training and technical assistance contractors, and [transformation grants](#).

Staff from the three service delivery systems reviewed pertinent ORSs, OARs (see [Appendix A](#)), policies, and contracts. The initial global scorecard was updated with the results of this initial systemic regulatory assessment of non-residential settings, which was completed on January 22, 2015. The OARs, policies, and contracts regulating services in non-residential employment and day service settings aligned/complied with or were silent on the HCBS regulation.

The initial global scorecard was not intended to be the final determination of individual site compliance or identification of any necessary site-specific changes, but it provided an initial snapshot of the regulatory status of Oregon's HCBS system during Phase I. Through the initial systemic assessment, DHS and OHA found that no immediate changes were necessary to its ORSs. However, since submitting the initial Statewide Transition Plan on October 13, 2014, with the initial global scorecard, Oregon determined that changes were needed to OARs to remove any areas of ambiguity, better align with the HCBS regulations, and facilitate initial and ongoing provider compliance by establishing timelines for completion of activities in accordance with the Transition Plan.

Through the initial systemic regulatory assessment of ORSs, OARs, policies and contracts, DHS and OHA determined that all of Oregon's regulations met the following components of the HCBS regulation:

- The setting is selected by the individual, or their representative, from among all available options, including non-disability specific settings, unless there are court-mandated restrictions that prohibit the individual from being served in a particular setting, which would be articulated in the individual's person-centered service plan.
- The setting choice is identified and documented in the person-centered service plan and is based on the individual's needs and preferences.
- The service delivery system facilitates individual choice regarding services and supports, and who provides them.

At the same time, DHS and OHA determined that service-delivery system regulations for most residential setting types met 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 restraints. Restraints must meet all requirements set forth in the CMS-approved HCBS Medicaid authorities, as applicable, ORS, and OARs.
- 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.

Based on the initial regulatory assessment, Oregon, with stakeholder and public input, drafted and finalized a set of over-arching Oregon Administrative Rules that govern HCBS setting requirements across the three delivery systems. Oregon Administrative Rule Chapter 411, Division 004 ([http://arcweb.sos.state.or.us/pages/rules/oars\\_400/oar\\_411/411\\_004.html](http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_411/411_004.html)) became effective on January 1, 2016, as identified in the Statewide Transition Plan timeline.

Additionally, each service delivery system has amended specific program rules for full alignment/compliance with the over-arching OARs for all HCBS settings and federal HCBS settings regulations.

With the implementation of OAR Chapter 411, Division 004 and revised program-specific rules, DHS and OHA have determined that Oregon's regulations align/comply with the HCBS regulations.

**Regulations governing the following settings fully comply with the federal requirements (see [Appendix D](#) for funding authority detail):**

- APD Certified Adult Day Services;
- APD Assisted Living Facilities (includes endorsed Memory Care Facilities);



- APD Residential Care Facilities (includes endorsed Memory Care Facilities);
- APD Specialized Living Programs;
- APD Adult Foster Homes;
- HSD Adult Foster Homes;
- HSD Residential Treatment Homes;
- HSD Residential Treatment Facilities;
- ODDS Licensed/Certified Community Living Supports – Facility-based;
- ODDS Licensed/Certified Employment Services (Community-Based Job Coaching, Job Development, Discovery, Small Group, Employment Path Community, and Facility-Based Employment Path);
- ODDS Supported Living;
- ODDS Adult Foster Homes;
- ODDS Children's Foster Homes; and
- ODDS Group Care Homes.

Specific changes found to be necessary for 1915(c) waivers, and 1915(i) and 1915(k) State Plan Amendments will occur after the State completes the site-specific assessment phase.

To demonstrate Oregon's current level of regulatory compliance with the HCBS regulation, OHA and DHS have created a crosswalk that clearly outlines:

- How each section of the regulations aligns with the HCBS regulation;
- The title, code, and sub-code for each policy identified; a general description of each policy and its relevance to the HCBS regulation; and
- Key aspects of the HCBS regulation that should be taken into consideration when reviewing the specific policy.

The crosswalk replaces the initial global scorecard as Oregon's final determination of systemic regulatory compliance. The crosswalk can be found in [Appendix E](#).

**LICENSED/CERTIFIED HCBS SETTINGS SUBJECT TO REGULATORY  
ASSESSMENT: NUMBER OF SITES AND TOTAL STATEWIDE CAPACITY  
PER SETTING TYPE**

**APD Licensed/Certified Sites and Capacity**

|                          | <b>Adult<br/>Foster<br/>Homes</b> | <b>Assisted<br/>Living<br/>Facilities<br/>(ALF)</b> | <b><u>ALF with<br/>endorsed<br/>Memory<br/>Care<br/>Facility</u></b> | <b>Residential<br/>Care<br/>Facilities<br/>(RCF)</b> | <b><u>RCF with<br/>endorsed<br/>Memory<br/>Care<br/>Facility</u></b> | <b>Adult<br/>Day<br/>Services</b> | <b><u>Specialized<br/>Living</u></b> |
|--------------------------|-----------------------------------|---|--|--|--|-----------------------------------|--------------------------------------|
| # of Sites               | 1692                              | 220   | 4  | 116  | 176  | 15                                | 14                                   |
| Capacity<br>(Beds/Slots) | 7502*                             | 14847*  | 114*   | 4910*  | 6315*  | 181                               | 188                                  |

\*Includes Non-Medicaid/Private Pay capacity

**HSD Licensed Sites and Capacity**

|                    | <b>Adult Foster<br/>Homes</b> | <b>Residential<br/>Treatment<br/>Homes</b> | <b>Residential<br/>Treatment<br/>Facilities</b> |
|--------------------|-------------------------------|--|---|
| # of Sites         | 110                           | 57   | 45  |
| Capacity<br>(Beds) | 528                           | 270  | 484   |

**ODDS Licensed/Certified Residential Sites and Capacity**

|                    | <b><u>Adult<br/>Foster<br/>Homes</u></b> | <b><u>Children's<br/>Foster<br/>Homes</u></b> | <b><u>Group<br/>Care<br/>Homes<br/>for<br/>Adults</u></b> | <b><u>Group<br/>Care<br/>Homes<br/>for<br/>Children</u></b> |
|--------------------|--|---|---|---|
| # of<br>Sites      | 988                                      | 260   | 858   | 40  |
| Capacity<br>(Beds) | 3360                                     | 632   | 4118  | 174   |

### **ODDS Licensed/Certified Supported Living Residential Providers (POCO) and Participants**

|                                       |                                |
|---------------------------------------|--------------------------------|
|                                       | <b><u>Supported Living</u></b> |
| <b><u># of Providers</u></b>          | <u>105</u>                     |
| <b><u># of individuals served</u></b> | <u>174</u>                     |

### **ODDS Licensed/Certified Non-Residential Sites and Capacity**

|                   | <b>Non-Residential Community Living Supports</b>                           | <b>Employment Services: Community-Based Job Coaching, Job Development, Discovery</b>  | <b>Employment Services: Small Group</b>        | <b>Employment Services: Employment Path</b>  | <b>Employment Services: Facility-Based Employment Path (Non-Sheltered Work)</b> | <b>Employment Services: Facility-Based Employment Path (Sheltered Work)</b> |
|-------------------|--|---|--|--|---|---|
| <b># of Sites</b> | 109 sites, as well as an undeterminable number of general community sites. | At an undeterminable number of general community employer sites.<br><br>Must be provided 1:1 in the community and not at a provider site.<br><br>The state presumes that any setting where individualized services are being provided | More than 90 general community employer sites. | 108 sites as well as an undeterminable number of general community employer sites. | 31  | 48  |

|                     | <b>Non-Residential Community Living Supports</b> | <b>Employment Services: Community-Based Job Coaching, Job Development, Discovery</b> | <b>Employment Services: Small Group</b> | <b>Employment Services: Employment Path</b> | <b>Employment Services: Facility-Based Employment Path (Non-Sheltered Work)</b> | <b>Employment Services: Facility-Based Employment Path (Sheltered Work)</b> |
|---------------------|--|--|---|---|---|---|
|                     |  | in typical community settings comports with the rule.                                |   |   |   |   |
| <b>Participants</b> | 2,164 Community / 1,898 Facility and Community   | 2,038  | 885                                     | 2,275                                       | 693   | 1,405   |

Though Oregon's regulations fully align/comply with the HCBS regulation, during the site-specific assessment and remediation phases, (Phases II through IV), DHS and OHA will work to assure that each provider-owned, controlled or operated residential site meets the following additional 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 settings are able to have visitors of their choosing at any time.

Certain non-residential sites may need to adapt and change to comply with the HCBS regulations.

ODDS currently has Facility-based Employment Path Service settings that do not comply with federal requirements and will require transformation. During this transition period, these providers and settings must transform into services, provided in HCBS-compliant settings, which support the primary objective of exploring, obtaining, maintaining, or advancing in an individual job in a competitive integrated employment setting in the general workforce. Facility-based Employment Path Services that occur in a fixed-site, provider-controlled setting where the individual has few or no opportunities to interact with people who do not have a disability except for paid staff were expected to complete implementation of transformation plans by September 1, 2018. ODDS employment service providers that did not complete implementation of their transformation plans, but made substantial progress towards transformation prior to September 1, 2018, consistent with a provider HCBS transformation plan, were allowed to apply for a rule variance if it could be shown how full compliance will be reached within a reasonable period of time after September 1, 2018, and additional time is needed. All providers must achieve full compliance by July 1, 2021, and any variances granted may not extend past that date.

Oregon Administrative Rule 411-450-0060(5)(b)(B) requires that facility-based non-residential community living supports that occur in a provider-controlled setting “must, at minimum, provide ongoing opportunities and encouragement to individuals to go out into the broader community.” While Oregon’s regulations align/comply with the HCBS regulation, site specific and service provider program specific assessments are necessary and will be conducted as identified in this Transition Plan to ensure full compliance with both federal and state requirements for home and community-based non-residential service settings. Providers of facility-based non-residential community living supports are expected to be in compliance. However, some changes may be necessary to reach full compliance or assure continued compliance. Providers are also encouraged to further their HCBS-related goals. Providers of facility-based community living supports were expected to implement improvement plans to ensure full compliance by September 1, 2018. Providers that did not complete implementation of their improvement plans prior to September 1, 2018, but that made substantial progress towards full compliance, were allowed to apply for a rule variance if it could be shown how full compliance will be reached within a reasonable period of time after September 1, 2018, and additional time is needed. All providers must achieve full compliance by July 1, 2021, and any

variances granted may not extend past that date. Specific sites or service provider programs that cannot or will not reach full compliance will be removed from the HCBS program.

Additionally, OAR 411-004-0020(1)(b)(D) requires that individuals must have an option to use employment and day services in a non-disability specific setting and that setting option must be documented in the individual's person-centered service plan.

DHS, ODDS 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 (Chapter 407, Division 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 transform 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 2022)*

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

#### **Overview**

Throughout this section of the Plan, the term “Stakeholders” is used. As stated above in the “Statewide Transition Plan Preparation” section, membership of the HCBS Transition Stakeholder Group (Stakeholders) includes individuals receiving services, family members, advocates, providers, contractors, and service delivery system representatives.

In addition to the stakeholders specifically designated to address HCBS implementation, DHS and OHA programs have a multitude of stakeholder groups which are convened to address policy and operational components of the service delivery programs. HCBS concepts and compliance components overlap into these stakeholder efforts which allows for additional opportunities for education and engagement with the Oregon community, including individuals, advocates, and family members of persons receiving services.

DHS and OHA have developed and implemented a variety of ways to educate Stakeholders and the broader public. These methods include, but are not limited to, the use of electronic media and community meetings. DHS and OHA developed a website designed to provide information and training materials for each program area to educate and keep Stakeholders and the broader community informed about the HCBS regulation and the State’s progress towards achieving full compliance in its HCBS programs. Oregon’s HCBS website address <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/index.aspx>. Training and technical assistance materials found on the HCBS website include fact sheets and Frequently Asked Questions. Additionally, each program area continually adds training materials, provider status reports, policy documents, Stakeholder information, and templates.

The HCBS website allows the broader community to have continuous input into the transition process and progress of the State and its HCBS settings. Individuals and community members may subscribe to the HCBS website which results in alerts when the site is updated, or new information is posted. It also can allow for

submission of confidential feedback using the HCBS Feedback Form on the Oregon-Specific HCBS resources site (<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Resources-Oregon.aspx>).

As updates to the STP, systemic compliance, and site-specific compliance occurs, the HCBS website is updated with current materials and information. Stakeholders, interested parties, and the broader public can provide feedback on the Transition Plan as well as the State's and providers' progress toward full compliance with the HCBS regulation.

Individuals may obtain non-electronic copies of all materials posted on the web and the Statewide Transition Plan by contacting their assigned case manager, local field office, or DHS and OHA Central Office staff. Information is also provided regarding how to obtain non-electronic copies of the Statewide Transition Plan and web materials at community meetings 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 site specific compliance is vital as DHS and OHA move towards full compliance with the HCBS regulations.

In another effort to facilitate active communication and collaboration, DHS and OHA created and publicized an email address specifically for questions and feedback relating to the HCBS regulations, Transition Plan, State processes, and state and provider progress toward for full compliance. The email box is monitored on a regular basis by designated State staff to address questions, comments, and requests that are received. The email address is [HCBS.Oregon@state.or.us](mailto:HCBS.Oregon@state.or.us). There is a link from the HCBS website to the HCBS email address so that people can easily ask questions and provide comments.

Each program makes dedicated efforts to engage with its program-specific stakeholder community. This includes director's messages from specific service delivery systems. These messages are electronic communications broadcast through email to individuals, family members, advocates, providers, community partners, and service delivery system representatives. This direct communication provides updates, education, information, and links to resources. In stakeholder



efforts, individuals and advocates have a vocal role in providing perspective and insight into strategies being developed to further support outreach efforts.

DHS and OHA have also concentrated outreach and education efforts to service delivery system staff who have direct engagement with service recipients and their families. Outreach and education efforts include providing foundational education and technical assistance using materials developed by DHS, OHA and Stakeholders, serving as a platform so that case managers and providers can offer education and support to individuals receiving services in the most effective, person-centered, and meaningful manner possible. Due to the diverse nature and complexity of individual supports, DHS and OHA are working diligently in providing training and support to the service delivery system so that case managers and providers have the resources to effectively provide education and outreach in the most appropriate manner possible.

### **Combined Individual, Family, and Provider Education Provided Jointly by DHS and OHA (January 2014 – March 2022)**

DHS and OHA, with input from the HCBS Transition Stakeholder Group, develop and issue robust educational and technical assistance materials including fact sheets, frequently asked questions (FAQs), and responses to questions from stakeholders and the broader public. These materials are published on Oregon's HCBS website. All materials posted on the HCBS website are updated regularly and provided at trainings. The website address is <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/index.aspx>.

Beginning in September 2015, DHS and OHA hosted regional information forums throughout the state. Training activities and materials focused on the HCBS regulation 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 service delivery system staff members to the same training to ensure that the information was shared consistently to everyone. Trainings were held during the day and evenings to facilitate attendance. Announcements regarding the forums were made through DHS and OHA press releases, on Facebook and Twitter, via DHS, and APD and ODDS Director's Messages, and Licensing Provider Alerts. Provider advocacy

organizations also notified their membership of training opportunities. Response to the trainings was favorable. Attendees consisted of individuals, family-members, advocates and providers across the three service delivery systems.

DHS and OHA regional information forum locations and attendance are described in [Appendix H](#). To maximize provider participation, DHS and OHA allowed the provider's attendance to apply toward annual Continued Learning Education (CLE) requirements. Providers were given credits toward CLE for attending a forum.

All Medicaid-eligible individuals residing in provider-owned, controlled, or operated residential settings (over 20,000) from each program were sent letters signed by the Program Directors. The letters provided basic background regarding the new HCBS regulations, Oregon's HCBS website link, and an invitation to complete the Individual Experience Assessment survey. The 35% of individuals who responded to the survey had the opportunity to provide input into the major areas of HCBS focus. The letters and surveys had the dual purpose of providing education as well as validating the provider self-assessment surveys. Those who chose not to complete a survey received the basic information as well as information on how to learn more about the rights afforded through the HCBS regulations. From individual survey responses, the State learned about individuals' personal experiences in areas not specifically related to the HCBS regulations that resulted in additional attention, training and/or technical assistance being given to providers.

In collaboration with Stakeholders, additional training for individuals, family members, guardians/representatives and providers is continuously being developed and disseminated based on the results of various compliance activities conducted by the State and the service delivery systems. Educational materials explain the HCBS regulation and how the requirements must be addressed throughout the State's transition period and ongoing. Educational materials also explain the impact of the HCBS regulation 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.

Targeted training and education materials regarding individual's rights, protections, community inclusion, individual modifications to the conditions,

called “Individually Based Limitations to the Rules” in Oregon, are also being provided. Materials specific to individual’s rights, freedoms and protections are provided and explained as being a required part of an individual’s person-centered service plan and the planning process. DHS and OHA continue to engage Stakeholders to develop educational materials on how to safely meet the needs and rights of all individuals receiving services within the new requirements. Trainings are delivered to interested groups throughout the state when education or technical assistance requests are made.

Further outreach occurred when DHS and OHA hosted three rule advisory committees (RAC) meetings during promulgation of and amendments to the State’s overarching HCBS OARs. RAC invitations were sent to the statewide HCBS stakeholder committee, individuals/consumers, family members, providers, advocates, self-advocates, DHS and OHA service delivery systems, the Service Employees International Union, the State’s protection and advocacy agency, and the Long-Term Care Ombudsman.

During the rulemaking public comment period, the parties noted above, and the general public were notified of the public comment period through news releases posted to FlashNews.net and News releases and documents sent to all service delivery systems local field offices for posting. Information was also posted in the Oregon Bulletin, on the State’s HCBS website, and DHS’ and OHA’s service delivery systems’ Facebook and Twitter accounts.

### **Provider-specific information meetings and trainings (July 2014 – June 2021)**

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 have continued and will continue to meet with providers and their associations throughout the transition period. DHS and OHA have also continuously recommended that providers hold resident and family meetings to discuss the HCBS regulations and their impact.

Additionally, as these are the homes of the individuals we serve, DHS and OHA have provided regulatory guidance to providers on the requirement that all provider-owned, operated, or controlled residential settings maintain a “home-like” quality.

### **Delivery System Education (November 2014 – March 2022)**

DHS and OHA are ensuring that service delivery system staff members (case managers, 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 provided 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.

Trainings and materials provided to service delivery system staff and providers are presented with the intent and expectation that persons in these roles will use the information to educate and support individuals in understanding and exercising the HCBS freedoms and protections.

### **Program-specific Trainings and Public Engagement**

As mentioned above in Phase I. and Phase II., DHS and OHA created a statewide HCBS website for individuals, families/guardians, providers, advocates, stakeholders, service delivery system staff, and the general public. APD, ODDS and HSD also created their own program-specific webpages embedded in the statewide HCBS website. Each program-specific webpage contains provider status reports, information regarding individually-based limitations (modifications to conditions), training information and materials, heightened scrutiny information and other relevant information. Individuals visiting these sites are encouraged to provide feedback via a feedback form on the site or by sending an email to the HCBS email box.

The program specific webpages can be found here:

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/APD.aspx>

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/ODDS.aspx>

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/HSD.aspx>

A description of each specific program's training and public outreach efforts is found below.

Please see [Appendix H](#) for a list of forums and trainings conducted by DHS and OHA.

### **OHA, HSD:**

OHA, HSD has convened a program specific stakeholder group to advise and assist in the HCBS settings statewide transition process. The participating members represent a diverse array of backgrounds and roles, including individuals, community partners, advocacy and rights organizations, provider organizations, and regulatory agencies.

HSD has conducted several trainings for Residential Treatment Home, Residential Treatment Facility and Adult Foster Home providers to discuss the HCBS regulations and transition and implementation process.

HSD offered two grant funding opportunities (state general funds) to residential treatment homes, residential treatment facilities and adult foster homes who apply to finance improvements to meet HCBS requirements. Applicants were required to contribute at least 10% of the renovation costs. All improvements have been completed for the first grant opportunity and improvements are in progress for the second grant opportunity. As part of these grant opportunities and the application process, HSD conducted a training and Q & A teleconference for interested parties with eligible properties. This training occurred on August 30, 2016.

HSD provides HCBS PowerPoint presentation show trainings, located on Oregon's HCBS website, for the following topics:

- History, Current Status, and Compliance

- Provider Self-Assessment Process

HSD also utilizes county Residential Specialists to assist with trainings and public engagement. HSD works closely with Residential Specialists as they are in the communities and often go on-site to these homes and facilities to offer training and technical assistance. Residential Specialists will continually assist with the HCBS implementation processes.

HSD intends to provide additional HCBS training on a regular basis to HCBS providers and individuals receiving services for the duration of the transition period, until March 2022.

Please see [Appendix H](#) for a list of trainings conducted by HSD.

### **DHS, APD:**

DHS, APD convened focus groups for consumers to inform them of the changes resulting from the HCBS requirements and to elicit their feedback and insights. Additionally, APD convened program specific stakeholder group to advise and assist in the HCBS settings statewide transition process. Stakeholders include advocacy groups such as the Long-Term Care Ombudsman, Disability Rights Oregon, Alzheimer's Association, AARP, Brain Injury Alliance of Oregon, and provider groups such as the Oregon Health Care Association, LeadingAge Oregon, Oregon Rehabilitation Assoc, and the Independent Adult Care Home Association. Training and collaboration have been provided during the transition period with both consumer and provider advocacy organizations and State/County regulatory groups. The goal is to engage all interested parties in assisting APD in reaching full compliance with HCBS and in identifying areas of concern and gaps in current services.

Additionally, APD has been providing ongoing HCBS training and technical assistance at regularly scheduled APD Case Manager and Managers' meetings. APD will continue to provide additional HCBS training on a regular basis to HCBS providers, advocacy groups, regulatory groups and Case Managers for the duration of the transition period.

Please see [Appendix H](#) for a list of trainings conducted by APD.

## **DHS, ODDS:**

### **Non-Residential Settings:**

Due to the Lane v. Brown litigation and Settlement Agreement as well as the HCBS requirements, Oregon has already assessed and completed site visits for all settings determined to be Sheltered Workshops. Based on HCBS requirements and Oregon Administrative Rule (OAR), Sheltered Workshop settings must transform to achieve compliance with regulations to ensure employment services are community-based. This has caused questions for individuals and their families, providers and state legislators. For that reason, Oregon has done targeted outreach regarding compliance with HCBS requirements for employment and non-residential day services settings. While many of the questions and requests focus on Sheltered Workshop settings, the forums and discussion include the requirements for all employment and non-residential day services.

These trainings and information sessions have included statewide community forums to which individuals, families, providers and legislators were invited to attend, several meetings with state Senators and Representatives, meetings with self-advocate and family-advocate groups, 1:1 meetings with individuals and families as requested, as well as on-going regional trainings regarding Oregon Administrative Rules and monitoring requirements for case managers.

ODDS coordinates meetings on a regular basis with a targeted provider group (the largest employment and residential providers, with the largest number of individuals served in a Sheltered Workshop setting) to discuss HCBS and Lane v. Brown compliance requirements as well as to help develop transformation plans. Oregon funds training and technical assistance for providers who wish to transform their services through WiSE and Living Opportunities (a current Oregon service provider) which include strategic assessments of provider organizations, full transformation and training plans, as well as interim and final reports regarding transformation. Oregon DHS has issued 35 grants.

ODDS employs five Regional Employment Specialists whose job description includes providing training and technical assistance regarding HCBS compliance to

case managers as well as Provider Organizations. These Regional Employment Specialists have provided targeted training to all case management entities (CME) regarding HCBS requirements, and during the assessment/on-site visits with providers are also providing technical assistance as requested, or as determined by ODDS to be needed. This includes review of the assessment, review of individualized service plans and Career Development Plans, training regarding required transformation or adaptation plans, technical assistance regarding provider score cards and verification of service delivered.

Regarding employment, DHS is currently funding a "Peer to Peer" program, run by the DD Council and Self-Advocacy Coalition, which is designed to help provide peer training to individuals who are interested in seeking competitive integrated employment with a focus on individuals who wish to leave a Sheltered Workshop setting and transition to HCBS compliant settings. DHS hosts monthly Employment Policy meetings which include self-advocates and family advocate groups to discuss the transformation taking place in Oregon and the best way to reach individuals and their families. Additionally, ODDS has developed a Supported Employment page which includes Fact Sheets and Pow Toons designed to help individuals and families understand the changes and their options for supported employment services and HCBS compliant settings moving forward (<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/Pages/Supported-Employment.aspx>).

At least monthly, DHS, Employment First (EF) releases messages regarding employment related changes that include increasing HCBS compliance. These messages include training opportunities, success stories, and policy changes. These messages are designed to be written in a way that individuals and families can understand. These messages can be found on the EF website (<http://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/messages.aspx>). DHS, Employment First also operates a Facebook page, as it has been reported that social media also helps reach individuals and their families.

DHS (Employment First with ODDS) provide a community seminar called "Meet at the Mountain." For 2017, the target audience for this seminar was families and individuals. In 2015, "Meet at the Mountain" had more than 300 people in



attendance and approximately 400 in 2017. Additionally, ODDS partners with other seminars and trainings which are operated by and target individuals and families such as Breaking Barriers (a local training in central Oregon), APSE and other local initiatives.

**Residential Settings:**

Regarding provider owned, controlled or operated residential settings, ODDS has conducted extensive trainings in local communities, including participants such as case management entities, providers, community partners, and individuals and families. Trainings are offered with each wave of HCBS implementation as well as upon request by the ODDS community.

ODDS intends to provide continuous training and outreach efforts to its service community. These trainings will be offered based on implementation of new expectations, policy clarification, and identified trends. Trainings will also be provided to local communities upon request.

Additionally, ODDS has continued to offer technical assistance and support to case management entities, providers, community partners, and individuals and families. Trainings in addition to the ones identified below are made available upon request by provider organizations, case management entities, and community advocacy groups.

ODDS is in the process of developing a "Train the Trainer" network of CME delegates to establish strong foundational knowledge and expertise at the local community level that will serve as an available resource for technical assistance, support, and education related to HCBS.

ODDS has maintained a strong commitment to public engagement and outreach with its service community. Listed below are trainings provided to the ODDS community.

Please see [Appendix H](#) for a list of trainings conducted by ODDS.

## *Phase III. Provider Self-Assessment, Individual Experience Assessment, and Validation Activities (July 2015 – June 2019)*

### **Provider Self-Assessment Tool (July 2015 – February 2016)**

In [Phase I](#) of the Transition Plan, DHS and OHA described how they assessed systemic 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 determine initial compliance with the settings requirements for individual sites within each type of provider-owned, controlled, or operated HCBS setting.

In consultation with Stakeholders and partners, DHS and OHA developed a Provider Self-Assessment Tool (PSAT) for provider-owned, controlled, or operated residential settings and a separate assessment for non-residential settings. To initially assess residential settings, DHS and OHA utilized an existing contract held by OHA to conduct the Provider Self-Assessment Tool (PSAT) survey and the Individual Experience Assessment survey described below. Non-residential Provider Self-Assessment Surveys for ODDS were conducted by the ODDS program.

For residential settings, the contracted entity contacted every provider or provider agency that provides HCBS in a provider-owned, controlled or operated residential setting. The provider for each site received a web link to the PSAT with instructions and required timelines for completion. HCBS providers were encouraged to complete the PSAT online. If the provider was unable to complete the PSAT online, paper PSATs were available upon the provider's request. Every provider or provider agency of HCBS in provider-owned, controlled, or operated residential settings was required to complete a PSAT for each individual HCBS site they operate or control. Providers were encouraged to include the individuals receiving services, their family members/representatives, advocates and others in their assessment process. DHS and OHA provided guidance to providers on how

to accomplish this activity. Some of the guidance included fact sheets, instructions, and FAQs.

Providers were required to complete and return the PSAT to DHS and OHA within 60 calendar days of receipt. The contracted entity conducted follow-up calls to providers and provider agencies to ensure completion of the PSAT.

While there was not a financial penalty levied against a residential provider for failing to complete a PSAT, providers who did not respond were addressed as follows:

- ODDS providers who did not respond to the PSAT were sorted in to the category of “expected to meet expectations” with remediation, pending regulatory on-site reviews.
- HSD and APD providers who did not respond to the PSAT were sent letters stating that due to lack of response, the provider is presumed to be out of compliance with the HCBS regulations until site visits determined their actual compliance status.

By December 31, 2018, every provider-owned, controlled or operated residential HCBS setting will have received an on-site review from state or local service delivery staff. During on-site reviews responses from the IEA are used as a tool to help validate the PSAT results and inform the state of individual site compliance with the HCBS setting requirements. This process is further described below in “Validation of Assessment Results”.

### **ODDS Non-Residential Settings:**

In January 2016, based on reviews conducted in 2015, all ODDS employment and day service providers received an initial response regarding anticipated compliance with the HCBS rules. This preliminary determination was based on the provider self-assessments and on-site visits to sheltered workshop settings. All providers who received a sheltered workshop designation had an opportunity to dispute the determination during 2015.

Validation activities for non-residential settings are described below under “Validation of Assessment Results”.

Ongoing review and monitoring of these sites is occurring using the processes described in [Phase V](#).

### **Individual Experience Assessment (July 2015 – February 2016)**

DHS and OHA did not assume any of the individual HCBS sites met the HCBS requirements. In consultation with Stakeholders, DHS and OHA developed and conducted the Individual Experience Assessment (IEA) for individuals receiving Medicaid-funded HCBS services in provider-owned, controlled, or operated residential settings and non-residential settings.

The IEA focused 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 were very similar to those asked in the PSAT but worded more simply. In addition to questions about residential settings, the IEA contained questions specifically related to employment and day services. The IEA and PSAT were conducted simultaneously and linked with unique identifiers (described in the Validation section) so the results were comparable in time. As with the PSAT, DHS and OHA utilized the existing contract held by OHA to conduct the IEA in tandem with the PSAT. The contracted entity sent the IEA to every individual receiving Medicaid-funded HCBS in a provider-owned, controlled or operated residential setting. Individuals had the choice of completing the IEA online or via paper.

Individuals were not required to complete the IEA but with advice and feedback from Stakeholders and the state's contracted entity, DHS and OHA determined ways to maximize individual participation in the IEA process. During the response period, if an individual did not respond to the initial survey, the state's contracted entity contacted individuals via mail up to three additional times to encourage participation and offer technical assistance. A toll-free phone line was also established for individuals to call if they required assistance in completing the IEA. Information regarding the IEA was also presented at each regional forum conducted by DHS and OHA (Described in [Phase II](#)).

During the analysis phase of IEA results, DHS and OHA gained vital insight about how individuals receiving services perceived their experiences both with the

service delivery system and their service provider. Additionally, the IEA asked if the individual felt that they could 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 provided DHS and OHA with a foundational understanding of actual on-the-ground compliance specific to each site.

The IEA indicated if it was completed by the individual, the family, the individual's guardian, or others. Individuals were encouraged to complete the IEA themselves but were permitted to choose an individual to assist them with filling out the IEA. IEA responses were also used as supplemental information to help prioritize the order of on-site visits. All settings receive on-site reviews as part of the initial validation and ongoing compliance monitoring process as described below.

### **Validation of Assessment Results (November 2015 – December 2018)**

DHS and OHA have used several ways to validate the PSAT and determine initial site compliance. The first tool of validation was the IEA. The IEA and the PSAT were linked with a unique identifying number that allowed the contracted entity to match the IEA response with the relevant PSAT for comparison. The unique number did not contain any identifiable protected health or personal information.

DHS, OHA and the contracted entity made every effort to obtain responses from at least one individual residing at each provider site. DHS and OHA received most of results of the completed PSATs and IEAs on 02/05/16.

Based on analysis and evaluation of the PSAT and IEA responses, DHS and OHA provided initial feedback to providers advising of any issues that require remediation during the transition period.

Due to the rate of return of IEAs, DHS and OHA took approximately 3 months to compile, analyze and compare the results of the PSATs and IEAs. The number of PSATs and IEAs responses received by each service delivery system and its validation activities:

**OHA, HSD:**

- 188 adult providers (out of a total of 253 surveys sent out, equaling a 74% response rate)
- 405 adult individuals (out of a total of 1,613 survey sent out, equaling a 25% response rate)

HSD providers and individuals who did not respond to the PSAT were sent letters stating that due to lack of response, the provider is presumed to be out of compliance with the HCBS regulations until on-site visits determined their actual compliance status. These sites were marked as "Pending Regulatory On-site Visit" on the online "Provider Status Report".

HSD derived initial HCBS compliance status for provider owned, controlled or operated settings from one or more of the following sources: Provider Self-Assessment Tool, pre-Heightened Scrutiny evidence reviews, pre-Heightened Scrutiny on-site reviews, and/or onsite visits from HSD regulators, Licensing and Certification Compliance Specialists (LCCS). The initial status was posted on Oregon's HCBS, HSD website <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/HSD.aspx> in October 2016 and has been updated regularly thereafter.

HSD completed initial assessment of its provider owned, controlled or operated settings in 2015-2016 through the provider and individual surveys. Onsite validation visits to every HSD HCBS setting were completed by September 30, 2018.

HSD, LCCS conducted on-site reviews to assess and validate HCBS compliance status. Each LCCS used the HSD-HCBS Provider Self-Assessment tool to encourage discussion, gather information and document the status of each provider's HCBS compliance. The assessment reviews 16 key areas of HCBS compliance with three additional questions asked about the physical location of the setting. Upon completion of the on-site validation review, the results are used to track each provider's full HCBS compliance and to update HSD's Provider Status Report. This assessment tool will also be used as part of the initial application and ongoing renewal process to assure continued compliance. HSD-licensed Adult Foster

Homes are on a one-year cycle for regulatory on-site visits, while Residential Treatment Facilities and Residential Treatment Homes are on a two-year cycle.

**DHS, APD:**

- 1,475 providers (out of a total of 2,242 surveys sent out, equaling a 66% response rate)
- 3,226 adult individuals (out of a total of 10,908 surveys sent out, equaling a 30% response rate)

APD providers who did not respond to the PSAT were sent letters stating that due to lack of response, the provider is presumed to be out of compliance with the HCBS regulations until on-site visits determined their actual compliance status. These sites were marked as "Pending Regulatory On-site Visit" on the online "Provider Status Report."

APD derived initial HCBS compliance status for provider owned, controlled or operated settings from one or more of the following sources: Provider Self-Assessment Tool, pre-Heightened Scrutiny evidence reviews, pre-Heightened Scrutiny onsite reviews, information provided on Individual Experience Surveys, and/or onsite visits from regulators (Licensors/Surveyors).

APD Licensors/Surveyors conduct on-site reviews of residential provider owned, controlled or operated sites. Multnomah County licenses its own Adult Foster Homes and conducted its own site visits using their county licensors. The DHS, APD program on-site assessments are completed using a state-mandated HCBS compliance assessment form which was based upon the overarching HCBS OARs. APD's HCBS compliance assessment form is available to CMS upon request. APD's HCBS criteria were incorporated into ASPEN (Automated Survey Processing Environment), the current Licensors/Surveyor system for reporting compliance for all APD residential providers. Most Oregon counties reported AFH compliance data using a web-based tool until 6/1/17, when they all moved to ASPEN (with the exception of Multnomah County, which is still using the web-based tool).

APD-licensed Adult Foster Homes are on a one-year cycle for regulatory on-site visits, while Assisted Living Facilities, Residential Care Facilities, Adult Day Services and Specialized Living Programs are on a two-year cycle.

APD Central Office staff conducted on-site visits to each non-residential Adult Day program to ensure full compliance with HCBS requirements.

The status was posted on Oregon's HCBS, APD website

(<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/APD.aspx>) in August 2016 and updated regularly thereafter. Since then, every APD setting, regardless of whether they completed and returned the Provider Self-Assessment Tool, has received at least one on-site visit to validate the initial findings of setting compliance.

APD will continue to perform on-site visits to ensure HCBS compliance throughout the state's transition period.

### **DHS, ODDS:**

- 3111 adult providers (out of a total of 4431 surveys sent out, equaling a 70% response rate)
- 231 youth providers (out of a total of 417 surveys sent out, equaling a 55% response rate)
- 6983 adult individuals (out of a total of 19,990 sent out, equaling a 35% response rate)
- 239 youth individuals (out of a total of 697 sent out, equaling a 34% response rate)

### **ODDS Residential Settings:**

ODDS residential providers who did not respond to the PSAT were sorted in to the category of "expected to meet expectations" with remediation pending regulatory on-site reviews.

Initial response letters to residential services providers who completed the PSAT were sent out on May 25, 2016 and included summary information of results from both the PSAT and IEA responses. For providers whose surveys identified



areas of needed improvement, the initial response letters contained a list of areas that the provider needs to remediate to achieve full compliance with HCBS Rules. Based on the feedback provided in the initial response letters, providers could initiate remediation activities.

ODDS, following completion of the Individual Experience Surveys and Provider Self-Assessment Tools process, developed the on-site assessment tool used at provider owned, controlled or operated residential settings. The on-site assessment explores the setting's compliance with the HCBS requirements and serves to validate the previously IEA and PSAT results.

ODDS began conducting on-site validation visits in January of 2016, corresponding with each site's regular licensing renewal. This process ensures all settings have on-site validation of HCBS compliance completed by December 31, 2018. Most settings received an on-site validation visit during 2016 and 2017. However, ODDS identified some residential settings that have not received an initial on-site assessment and validation visit. Case managers and other designated CME staff will be conducting on-site assessments and validation visits for each of these sites with completion expected by December 31, 2018.

ODDS Adult Foster Homes (AFH) are on a one-year licensing cycle and all AFHs received an on-site visit in 2016 to validate survey results and determine compliance status. AFHs are assessed annually thereafter for HCBS compliance during their regular licensing cycle. All other ODDS-licensed residential services settings (described in [Appendix D](#)) are on a 2-year licensing cycle and most received an initial on-site validation between January 2016 and December 2017. Upon completion of the initial on-site validation visit, ODDS-licensed residential services setting will be assessed for ongoing HCBS compliance during the regular licensing/certification renewal process.

On-site reviews conducted by Licensing/Surveyor and/or service delivery system staff serve as additional validation of the survey responses and to address any discrepancies in reporting versus compliance and practices observed through the on-site assessment process.

All settings that are found to be out of compliance with the HCBS requirements receive notification of the non-compliant issue. Providers are required to then submit a Provider Plan for Correction and complete the remediation activities identified in the plan. Settings found to have non-compliance issues after September 1, 2018, may also be subject to sanctions, citations, and/or revocation of license/certification for non-compliance issues.

**ODDS Non-Residential Settings:**

For ODDS employment and non-residential day services, HCBS compliance has been validated by on-site visits to provider settings completed by ODDS Regional Employment Specialists. By the end of 2017, a provider self-assessment was received by ODDS for every employment or day service in a provider-owned, controlled, operated, or congregate setting. An on-site visit occurred for every provider-owned, controlled, or operated setting.

During 2016 and 2017, Regional Employment Specialists and Community Developmental Disability Program and ODDS licensing staff conducted on-site reviews to validate the PSAT and IEA and further evaluate provider compliance with the HCBS regulations. An on-site review is conducted at every employment and non-residential day service setting where services occur at a provider owned, controlled or operated site. An off-site review is completed when services occur at general community businesses. For services that occur at general community businesses, HCBS compliance is also validated through Oregon's Employment Outcome System (EOS), case management monitoring, ODDS QA reviews, and the NCI adult consumer survey.

For on-site reviews, each reviewer was engaged in the development of the on-site checklist and participated in training prior to beginning the reviews. Based on the findings of these on-site reviews, as well as the provider self-assessment and the individual experience assessment surveys, the provider receives a status report indicating areas of compliance and non-compliance with HCSB regulation.

The onsite review includes a file review (including review of person-centered service plans), interviews with participants who attend the program, as well as verification of the initial provider self-assessment. Many provider agencies operate multiple facility-based employment or non-residential day programs. For

those agencies that have multiple sites, once every location has completed an on-site review, including HCBS compliance checklist, the regional specialist submits the checklist to a policy analyst at the central office. The checklist is then reviewed and, if there are any additional or remaining questions, they are resolved prior to the completion of a provider status report. Once the assessment, checklist and status report are reviewed, they are sent to the provider for any required follow up action.

Ongoing HCBS validation occurs through the ODDS biannual Employment Outcome System (EOS), case management monitoring, ODDS QA reviews, and the NCI Adult Consumer Survey. Settings where individualized services are provided in a typical community setting are also assessed and validated.

As part of ODDS' QA reviews, file reviews are conducted to ensure individualized action plans are in place to show how employment and non-residential day services are used by individuals to participate in the broader community.

### **Statewide Aggregation of Validation Results:**

After IEA and PSAT responses and results from initial site visits were compiled, analyzed, and compared, DHS and OHA sorted individual sites into one of four CMS-defined "buckets":

- Meets Expectations;
- Expected to Meet Expectations;
- Requires Heightened Scrutiny; and
- Will Not Meet HCBS Requirements.

Sites that were identified as requiring heightened scrutiny are addressed below in Phase IV. Heightened Scrutiny Process.

The aggregate number of individual sites sorted into each of the identified "buckets" is listed below. Additionally, APD, ODDS and HSD have published HCBS provider status reports showing levels of compliance at their program-specific HCBS websites. These reports are updated on a regular basis to show current compliance status. The reports can be found here:

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/APD.aspx>  
<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/ODDS.aspx>  
<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/HSD.aspx>

DHS and OHA are leveraging existing organizational partners such as the Governor's Advocacy Office, adult protective service staff, licensing staff and case managers to assist in validation of assessment results and ongoing provider compliance as described in [Phase V](#). below. Staff from these entities will report concerns or areas of inconsistency. The reports from these staff members will allow the centralized State HCBS team to compare complaints, issues and allegations against providers.

DHS and OHA continue to publicize and provide ongoing opportunities for the public to submit feedback on providers' initial and ongoing compliance and/or progress. As a key component, DHS and OHA ask advocacy organizations, such as the Oregon Long Term Care Ombudsman, to inform DHS and OHA if the Ombudsmen and/or other advocates express concerns about providers' attestations and residents' perception regarding HCBS compliance.

To further assist in validation activities and assure ongoing compliance, DHS and OHA actively engage with individuals receiving Medicaid-funded HCBS as specified in this plan, their families and their advocacy organizations on an ongoing basis to gather their opinion and insight on how providers are complying with the HCBS requirements.

**The aggregate number of individual sites per program:****OHA, HSD:**

| <b>HCBS Compliance Status</b> | <b>AFH</b> | <b>RTH</b> | <b>RTF</b> | <b>Totals</b> |
|-------------------------------|------------|------------|------------|---------------|
| Meets Expectations            | 87         | 47         | 31         | <b>165</b>    |
| Expected to Meet Expectations | 23         | 7          | 13         | <b>43</b>     |
| Requires Heightened Scrutiny  | 0          | 3          | 1          | <b>4</b>      |
| Will Not Meet Requirements    | 0          | 0          | 0          | <b>0</b>      |
| <b>Sub-totals</b>             | <b>110</b> | <b>57</b>  | <b>45</b>  | <b>212</b>    |

**DHS, APD:**

| <b>HCBS Compliance Status</b> | <b>AFH</b>   | <b>ALF</b> | <b>ALF-MCC</b> | <b>RCF</b> | <b>RCF-MCC</b> | <b>Specialized Living</b> | <b>Adult Day*</b> | <b>Totals</b> |
|-------------------------------|--------------|------------|----------------|------------|----------------|---------------------------|-------------------|---------------|
| Meets Expectations            | 689          | 203        | 1              | 67         | 57             | 16                        | 20                | <b>1,053</b>  |
| Expected to Meet Expectations | 753          | 12         | 3              | 54         | 115            | 0                         | 0                 | <b>937</b>    |
| Required Heightened Scrutiny  | 0            | 2          | 0              | 0          | 3              | 0                         | 0                 | <b>5</b>      |
| Will Not Meet Requirements    | 0            | 0          | 0              | 0          | 0              | 0                         | 0                 | <b>0</b>      |
| <b>Subtotals</b>              | <b>1,442</b> | <b>217</b> | <b>4</b>       | <b>121</b> | <b>175</b>     | <b>16</b>                 | <b>20</b>         | <b>1,995</b>  |

\*Adult Day is non-residential.

**DHS, ODDS (Residential):**

| <b>HCBS Compliance Status</b> | <b>Foster Care - Adult</b> | <b>Foster Care – Children</b> | <b>Group Care Home-Adult</b> | <b>Group Care Home-Children</b> | <b>Supported Living</b> | <b>Totals</b> |
|-------------------------------|----------------------------|-------------------------------|------------------------------|---------------------------------|-------------------------|---------------|
| Meets Expectations            | 930                        | 153                           | 657                          | 27                              | 121                     | <b>1,888</b>  |
| Expected to Meet Expectations | 251                        | 91                            | 236                          | 14                              | 3                       | <b>595</b>    |

| <b>HCBS Compliance Status</b> | <b>Foster Care - Adult</b> | <b>Foster Care – Children</b> | <b>Group Care Home-Adult</b> | <b>Group Care Home-Children</b> | <b>Supported Living</b> | <b>Totals</b> |
|-------------------------------|----------------------------|-------------------------------|------------------------------|---------------------------------|-------------------------|---------------|
| Required Heightened Scrutiny  | 0                          | 0                             | 5                            | 2                               | 0                       | <b>7</b>      |
| Will Not Meet Requirements    | 0                          | 0                             | 0                            | 0                               | 0                       | <b>0</b>      |
| <b>Subtotals</b>              | <b>1,181</b>               | <b>244</b>                    | <b>893</b>                   | <b>43</b>                       | <b>124</b>              | <b>2,490</b>  |

**DHS, ODDS (Non-residential):****Employment Services**

| <b>Service</b>           | <b>Participants</b> | <b>Providers</b>                                  | <b>Sites</b>                      | <b>HCBS Compliance</b>   |
|--------------------------|---------------------|---|-----------------------------------|--|
| Discovery                | 661                 | 78  | Community Settings                | Meets Expectations   |
| Maintenance Job Coaching | 653                 | 87  | Community Settings                | Meets Expectations   |
| Initial Job Coaching     | 783                 | 88  | Community Settings                | Meets Expectations   |
| Ongoing Job Coaching     | 1,341               | 105   | Community Settings                | Meets Expectations   |
| Employment Path Facility | 969                 | 40 (8 are providers with sheltered work settings) | 104 (13 are sheltered work sites) | Expected to Meet Expectations via transformation plan or plan of improvement – September 2018.<br><br>Sheltered work settings are not compliant. Settings must be transformed. Variance required to OAR 411- |

| Service                          | Participants | Providers | Sites | HCBS Compliance                      |
|----------------------------------|--------------|-----------|-------|--------------------------------------|
|                                  |              |           |       | 345 to continue past September 2018. |
| Employment Path Community        | 1,975        | 74        | 408   | Meets Expectations                   |
| Small Group Supported Employment | 1,006        | 36        | 134   | Meets Expectations                   |

**DHS, ODDS (Non-Residential)**  
**Community Living Supports (CLS)**

| HCBS Compliance Status        | CLS  | Totals   |
|-------------------------------|--|--|
| Meets Expectations            | Undeterminable number of community-based settings in full compliance | Undeterminable number of community-based settings in full compliance |
| Expected to Meet Expectations | 147  | <b>147</b>   |
| Required Heightened Scrutiny  | 0  | <b>0</b>   |
| Will Not Meet Requirements    | 0  | <b>0</b>   |
| <b>Subtotals</b>              | 147  | <b>147</b>   |

**The aggregate number of individual sites for the State:**

| <b>HCBS<br/>Compliance<br/>Status</b>        | <b>HSD</b> | <b>APD<br/>Residential</b> | <b>APD Non-<br/>Residential</b> | <b>ODDS<br/>Residential</b> | <b>ODDS<br/>Non-<br/>Residential</b> | <b>ODDS<br/>Employ-<br/>ment</b> | <b>Totals</b> |
|--|------------|----------------------------|---------------------------------|-----------------------------|--------------------------------------|----------------------------------|---------------|
| <b>Meets<br/>Expectations</b>                | 165        | 1,033                      | 20                              | 1,888                       | *see below                           | 542                              | <b>3,483</b>  |
| <b>Expected to<br/>Meet<br/>Expectations</b> | 43         | 937                        | 0                               | 595                         | 110                                  | 104                              | <b>2,248</b>  |
| <b>Requires<br/>Heightened<br/>Scrutiny</b>  | 4          | 5                          | 0                               | 7                           | 0                                    | 0                                | <b>19</b>     |
| <b>Will Not Meet<br/>Requirements</b>        | 0          | 0                          | 0                               | 0                           | 0                                    | 0                                | <b>0</b>      |
| <b>Subtotals</b>                             | <b>212</b> | <b>1,995</b>               | <b>20</b>                       | <b>2490</b>                 | <b>147</b>                           | <b>646</b>                       | <b>5,750</b>  |

\* ODDS Non-Residential Community Living Supports: ODDS is unable to determine the number of community-based settings in full compliance



## *Phase IV. Heightened Scrutiny Process – Initial and Ongoing (October 2014 – Ongoing)*

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

Throughout [Phases III](#) and [IV](#) of the Transition Plan, DHS and OHA will assess each site to determine if it meets the HCBS settings requirements or requires CMS's Heightened Scrutiny.

With the August 2017 STP submission, the state submitted evidence to CMS for heightened scrutiny for sites meeting the criteria below:

1. Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment, or in a building located on the grounds of, or immediately adjacent to, a public institution, which the state believes overcomes the institutional presumption and meets the requirements of a home and community-based setting.
2. Any setting regardless of location that has the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community.

To initially identify sites that fell into category 2, the APD and HSD identified “red flag” responses to specific questions asked in the Provider Self-Assessment Tool and Individual Experience Assessment (Phase III.) that indicated a site may have institutional qualities due to the effect of isolating an individual receiving HCBS from the broader community. The questions asked by the State on the PSAT and IEA that could indicate isolation were derived from CMS regulatory language, guidance and suggested exploratory questions. Copies of the PSAT and IEA tool are available to CMS upon request.

In the APD and HSD programs, a provider who had “red flag” indicators based on PSAT and IEA responses was not automatically sorted into the “bucket” of providers identified as requiring CMS' heightened scrutiny. There were several steps taken before evidence is submitted to CMS. These steps include prioritizing on-site visits by the licensing and service delivery system staff and providing the

site an opportunity to rebut the presumption of institutional qualities due to the appearance of isolating individuals from the broader community or provide a comprehensive plan for compliance with the regulations with milestones to show measurable progress towards compliance.

Prior to submission to CMS of the August 2017 STP and list of identified sites requiring heightened scrutiny, DHS and OHA conducted a 30-calendar day public notice and comment period. The public notice included information about how individuals could request a printed copy of the STP and provide input on those sites identified as requiring CMS' heightened scrutiny. The process used by DHS and OHA to commence the 30-calendar day public notice and comment period is identified in [Appendix F](#).

The process used to submit the first round of heightened scrutiny evidence to CMS is summarized below.

**Heightened Scrutiny Process used for first submissions to CMS:**

- Conducted an initial, off-site 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)
- Worked with stakeholders to create specific criteria indicating isolation characteristics to identify which sites will require heightened scrutiny (October 2014 -June 2015).
- Used the Provider Self-Assessment Tool (PSAT), Individual Experience Assessment (IEA) responses, and additional activities to help determine if a site meets the definition of an HCBS setting and begin heightened scrutiny review process. (September 2015 – April 2016)
- Notified identified affected providers of state's determination that site(s) must be reviewed to determine if the site must go through the heightened scrutiny process. (May 2016 – May 2017)
- Required identified providers of sites that appeared to require heightened scrutiny to submit sufficient evidence to the state rebutting that presumption. (May 2016 –May 2017)
- Conducted on-site review of sites ***initially*** determined to require heightened scrutiny. (May 2016 – May 2017)

- Determined, based on evidence provided and results of on-site review, if sufficient evidence was provided to seek heightened scrutiny from CMS, or if the site does not meet HCBS requirements. (May 2016 - Ongoing)
- Compiled a report of the sites that **initially** require heightened scrutiny (as of June 1, 2017). (May 2016 – May 2017)
- Commenced public notice and comment period including posting information on each service site determined to require CMS' heightened scrutiny. Information posted both on Oregon's HCBS website and made available in non-electronic format to those requesting. (June 2017 - July 2017)
- Revised Transition Plan to address public input, if necessary. (July 2017)
- Submitted amended Transition Plan to CMS, including evidence and justification of individual sites that appear presumptively non-HCBS for CMS' heightened scrutiny. (August 2017)
- Provided opportunity for sites 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. (August 2017 – September 2017)
- Expected receipt of CMS response to DHS and OHA's site-specific amended Transition Plan. (September 2017)

Using the same criteria above, DHS and OHA anticipate that, based on regular licensing/certification and other on-site visits, the identification of sites requiring heightened scrutiny and submission of evidence to CMS will be a rolling, ongoing process. The evidence found during the site visits will be submitted to CMS. Throughout the transition period and ongoing, prior to submission of evidence packages to CMS for sites identified as requiring heightened scrutiny, DHS and OHA will commence 30 calendar day public notice and comment periods using the process identified in [Appendix F](#).

On June 1, 2018, OHA received an invitation from the Federal HCBS Team requesting that Oregon participate in a pilot program developed by CMS and its Federal partners to inform the Heightened Scrutiny process. Oregon accepted the invitation to participate in the pilot program and submitted further evidence requested by the Federal HCBS Team to support OHA, HSD's determination that the four sites it submitted for heightened scrutiny meet the HCBS settings

regulations. The additional evidence was submitted to the Federal HCBS Team on September 26, 2018. Oregon has not yet received a response nor has the Federal HCBS Team requested additional evidence on the OHA, HSD sites or the sites submitted by DHS, APD and DHS, ODDS for heightened scrutiny.

The ongoing process used to submit heightened scrutiny evidence to CMS is summarized below.

### **Ongoing Heightened Scrutiny Process:**

- Determine and implement ongoing remediation strategies and next steps. (July 2016 – July 2017)
- Implement ongoing, rolling process for identification of sites and submission of evidence packages to CMS requiring heightened scrutiny. (August 2017 – Ongoing)
- Identify sites during regular licensing/certification and/or monitoring reviews that may require heightened scrutiny. (August 2017 - Ongoing)
- Require providers of identified sites to submit sufficient evidence to the State rebutting the presumption that the site does not meet HCBS setting requirements. (August 2017 – Ongoing)
- Determine if evidence provided is sufficient to seek CMS' heightened scrutiny or if the site does not meet HCBS requirements. (August 2017 - Ongoing)
- Commence public notice and comment period including posting information on each service site that has been determined to require CMS' Heightened Scrutiny. Information posted both on Oregon's HCBS website and will be made available in non-electronic format to those who request it. (August 2017 – Ongoing)
- Submit evidence and justification of compliance of individual sites that appear presumptively non-HCBS to CMS for Heightened Scrutiny. (August 2017 - Ongoing)
- Provide opportunity for sites to request the state's Administrative Review of DHS's and OHA's determination, upon notice of determination, that a site **does not** meet HCBS requirements and **will not** be submitted to CMS for heightened scrutiny. (August 2017 – Ongoing)
- Expected receipt of CMS response to Heightened Scrutiny evidence packages. (September 2017 - Ongoing)

## **Service Delivery Systems' Heightened Scrutiny Evidence Summary**

### **OHA, Health Systems Division (HSD):**

HSD used an internal state review process focused on physical site location, individual access to the community, access to visitors at any time, and provider support of individual independence.

During this process, OHA, HSD initially identified zero (0) Adult Foster Homes (AFH), two (2) Residential Treatment Facilities (RTF) and four (4) Residential Treatment Homes (RTH) for additional review for potential heightened scrutiny. HSD requested additional information from these sites regarding the services provided and the characteristics possessed that meet the HCBS settings requirements.

The below criteria were used to determine in which category the six sites should be "bucketed." Any "yes" answers resulted in the need for an on-site visit by HSD regulatory staff and possible heightened scrutiny referral to CMS:

- The setting is located on the grounds of or adjacent to a public institution.
- Settings are co-located or operationally related.
- The setting location potentially has the effect of isolating.
- The setting is approved to use interventions/restriction used in institutional setting or deemed unacceptable in Medicaid institutional setting (e.g., restraints).

This information and evidence was reviewed and validated by the licensing team with direct knowledge of the operations of these sites. From this internal review settings were further categorized as:

- Meets HCBS;
- Expected to Meet HCBS; or
- On-site review needed

The following is the breakdown from this phase of the Heightened Scrutiny review process:

| <b>Setting Type</b>            | <b>Meets HCBS</b> | <b>Expected to meet HCBS</b> | <b>On-site Review Needed</b> | <b>Total</b> |
|--------------------------------|-------------------|------------------------------|------------------------------|--------------|
| Residential Treatment Facility | 0                 | 1                            | 1                            | 2            |
| Residential Treatment Home     | 0                 | 1                            | 3                            | 4            |
| <b>Total</b>                   | <b>0</b>          | <b>2</b>                     | <b>4</b>                     | <b>6</b>     |

Link to HSD Provider Initial Status document:

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/HSD.aspx>

Following further review of the settings identified in Table 1, the following residential sites identified as requiring on-site reviews met at least one of the CMS criteria for Heightened Scrutiny referral:

1. any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment,
2. any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution, or
3. any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

| <b>Setting name and location</b> | <b>Setting Type</b> | <b>Reason: 1,2, or 3 from above</b> |
|----------------------------------|---------------------|-------------------------------------|
| Horizon House                    | RTF                 | 2                                   |
| Via Verde                        | RTH                 | 2                                   |
| Salmon Run                       | RTH                 | 2, 3                                |
| New Roads                        | RTH                 | 2, 3                                |

As described above, the initial number of sites identified by HSD for additional review was six (6). Out of the initial six (6) sites identified, two were eliminated as requiring further review for heightened scrutiny. One of the two eliminated sites

had an HSD-approved variance to OAR 309-035-0420 to allow the use of personal restraints on individuals. HSD has made the decision that no future OAR variances would be approved for personal restraints. The site is not located in a building that is also a publicly or privately-operated facility providing inpatient institutional treatment, is not located in a building on the grounds of, or immediately adjacent to, a public institution, nor does it have the effect of isolating individuals. Therefore, with the removal of the approved variance, it was determined that the site does not require CMS' heightened scrutiny.

The second setting was eliminated from requiring further review for heightened scrutiny because it was later determined that the site is expected to meet HCBS standards; the site is not located in a building that is also a publicly or privately-operated facility providing inpatient institutional treatment, is not located in a building on the grounds of, or immediately adjacent to, a public institution, and does not have the effect of isolating individuals. HSD determined that, based on additional review, the site does not require CMS' heightened scrutiny.

All four sites identified as requiring CMS' heightened scrutiny were reviewed for all HCBS settings criteria and are expected to meet requirements during the transition through remediation activities.

#### **HSD Home and Community-Based Setting Referrals for Heightened Scrutiny:**

The following two tables are based on HCBS site-specific reviews of Salmon Run and New Roads on Tuesday, October 26, 2016 and HCBS site-specific reviews of Horizon House and Via Verde on Wednesday, October 27, 2016. On-site reviews included a review of documentation, a review of the geographical area and interviews with staff and residents. Residents were out in the community and unavailable to interview at Via Verde during HSD's on-site visit.

| <b>Provider Name</b>            | <b>Facility Name</b> | <b>Integrated Environment</b> | <b>Individual's Access to Broader Community</b> | <b>Visitors</b>   | <b>Supporting Self-Direction &amp; Independence</b> |
|---------------------------------|----------------------|-------------------------------|---|-------------------|---|
| Marion County Health Department | Horizon House        | Meets Expectation             | Meets Expectation                               | Meets Expectation | Meets Expectation                                   |
| Shangri-La Corp.                | Via Verde            | Meets Expectation             | Meets Expectation                               | Meets Expectation | Meets Expectation                                   |
| Columbia Care Services, Inc.    | Salmon Run           | Meets Expectation             | Meets Expectation                               | Meets Expectation | Meets Expectation                                   |
| Columbia Care Services, Inc.    | New Roads            | Meets Expectation             | Expected to Meet Expectation                    | Meets Expectation | Meets Expectation                                   |



### **Issues of Concern and HCBS Qualities (Initial Evidence) Demonstrating Compliance**

| <b>Provider</b>      | <b>Issues of Concern relating to compliance with HCBS setting regulations</b>   | <b>HCBS Qualities Demonstrating Integrated Environment, Access to Broader Community, Visitors, and Supporting Self-Direction and Independence</b>   |
|----------------------|---|---|
| <b>Horizon House</b> | <ol style="list-style-type: none"> <li>1. Located on the grounds of the Oregon State Hospital in Salem, Oregon.</li> <li>2. Adjacent to homes housing the State Hospital population.</li> <li>3. Adjacent to the Oregon State Penitentiary (correctional institution).</li> </ol> | <p>Greenway Drive NE ends at 24<sup>th</sup> St. NE where a residential neighborhood begins. Services being provided to residents are in a home environment where residents have free access to the community. Each resident also has unrestricted use of their own mobile phone. The home is within a 10-minute walk to a city bus stop. The facility will offer transportation services and the residents may use taxi cabs, insurance transport services, or have friends/family transport them. The provider facilitates outings to various city, county, and state events, including events via Salem's All Activities listings. The provider offers outings, which often include recreational/senior centers, banking, shopping, and religious activities, etc. Residents may choose to work and/or volunteer, which often include the local human society, the local food share program, and Old Style Barber Shop. The provider allows individuals to leave the home at will and at any time. The provider does not restrict visitors of any resident's choosing at any time. The provider encourages all residents to leave the facility to engage in various community offerings and offers bus</p> |

| Provider | Issues of Concern relating to compliance with HCBS setting regulations | HCBS Qualities Demonstrating Integrated Environment, Access to Broader Community, Visitors, and Supporting Self-Direction and Independence |
|----------|--|--|
|          |  | training to allow for greater confidence in community engagement.  |

| Provider         | Issues of Concern relating to compliance with HCBS setting regulations  | HCBS Qualities Demonstrating Integrated Environment, Access to Broader Community, Visitors, and Supporting Self-Direction and Independence  |
|------------------|---|---|
| <b>Via Verde</b> | <ol style="list-style-type: none"> <li>1. Located on the grounds of the Oregon State Hospital in Salem, Oregon.</li> <li>2. Adjacent to homes housing the State Hospital population.</li> <li>3. Adjacent to the Oregon State Penitentiary.</li> <li>4. Is a PSRB program, in which residents may have a Conditional Release stating certain restrictions, such as curfew, locations, and persons to interact.</li> </ol> | <p>24<sup>th</sup> Street is adjacent to a residential neighborhood. Services being provided to residents are in a home environment where residents have free access to the community. Each resident also has unrestricted use of their own mobile phone. The home is within a 10-minute walk to a city bus stop. The facility will offer transportation services and the residents may use taxi cabs, insurance transport services, or have friends/family transport them. The provider facilitates outings to various city, county, and state events, including events via Salem's All Activities listings. The provider offers outings, which often include recreational/senior centers, banking, shopping, hair dressing appointments, etc. Residents may choose to work and/or volunteer, which often include the local human society, lawn care services, and the local food share program. Currently, there is one resident attending Chemeketa Community College. The provider allows individuals to leave the home at will and at any time. The provider does not restrict visitors of any resident's choosing at any time. The provider encourages all residents to leave the facility to engage in various community events and resources and offers bus training to allow for greater confidence in community engagement.</p> |

| Provider          | Issues of Concern relating to compliance with HCBS setting regulations  | HCBS Qualities Demonstrating Integrated Environment, Access to Broader Community, Visitors, and Supporting Self-Direction and Independence  |
|-------------------|---|---|
| <b>Salmon Run</b> | <ol style="list-style-type: none"> <li>1. Adjacent an Oregon State Hospital cottage, a class 1 SRTF.</li> <li>2. Adjacent to the Eastern Oregon Correctional Institution.</li> <li>3. Adjacent to a co-located and operationally related facility.</li> <li>4. Shares a common wall with another separate and distinct RTH operated by another social service agency.</li> <li>5. Is a PSRB program, in which residents may have a Conditional Release stating certain restrictions, such as curfew, locations, and persons to interact.</li> </ol> | <p>The home is within a 20-minute walk to the center of Pendleton, within a 5-minute walk to Blue Mountain Community College, Pendleton's 5-mile River Walk trail, and local parks, including a skate and water park. The home is within 800 yards of a city bus stop. Each resident may purchase taxi tickets for a nominal price. The facility will offer transportation services. Residents may use Dial-a-Ride for \$1.00 and any insurance provided transport services. The facility facilitates outings to various city, county, and state events, including events in neighboring cities and into Washington. The provider offers a minimum of four outings a day, which often include a recreational center, bowling, shopping, etc. Residents may choose to work and/or volunteer, which currently include local grocery outlets, social service organizations, and religious affiliations. Currently, there is one resident attending Blue Mountain Community College. The provider allows individuals to leave the home at will and at any time and encourages all residents to leave the facility to engage in various community events and resources. The provider does not restrict visitors of any resident's choosing at any time. Each resident also has unrestricted use of their own mobile phone.</p> |

| Provider         | Issues of Concern relating to compliance with HCBS setting regulations  | HCBS Qualities Demonstrating Integrated Environment, Access to Broader Community, Visitors, and Supporting Self-Direction and Independence  |
|------------------|---|---|
| <b>New Roads</b> | <ol style="list-style-type: none"> <li>1. Not located in a residential area.</li> <li>2. Adjacent to an Oregon State Hospital cottage, a class 1 SRTF.</li> <li>3. Adjacent to the Eastern Oregon Correctional Institution.</li> <li>4. Adjacent to a co-located and operationally related facility.</li> </ol> | <p>The home is within a 20-minute walk to the center of Pendleton, within a 5-minute walk to Blue Mountain Community College (BMCC), Pendleton's 5-mile River Walk trail, and local parks, including a skate and water park. The home is within 800 yards of a city bus stop. Each resident may purchase taxi tickets for a nominal price. The provider will offer transportation services. Residents may use Dial-a-Ride for \$1.00 and any insurance provided transport services. The facility facilitates outings to various city, county, and state events, including events in neighboring cities and into Washington. Currently there are four residents attending BMCC. The provider allows individuals to leave the facility at will and at any time and encourages all residents to leave the facility to engage in various community events and resources. The provider does not restrict visitors of any resident's choosing at any time. Each resident also has unrestricted use of their own mobile phone.</p> |

### **HSD Ongoing Efforts:**

In 2017, HSD developed an HCBS Heightened Scrutiny Identification Worksheet (HSIW) for residents, stakeholders, and the general public to "red flag" a setting that the state has not identified but may require heightened scrutiny. This worksheet was sent to each provider and uploaded to the HSD sub-page of Oregon's HCBS website for use by the public. Additionally, this worksheet was

disseminated and discussed with HSD's HCBS Stakeholder Group, each county's residential specialists and sent to Community Mental Health Providers to post for general public consumption.

On an ongoing basis, when HSD receives an HCBS HSIW, HSD will work with licensors to determine if the HCBS criteria are met and remediate any areas of non-compliance able to be remediated. For areas not able to be remediated, such as location or structure, the provider will be given the opportunity to rebut the possible isolating effect. If HSD and its licensors determine that there are isolating effects unable to be remediated and the provider is unwilling to come into compliance, HSD will notify the provider that its contract to receive Medicaid funds will be terminated and notify its Medicaid recipients that they will need to transition to alternative settings. If HSD and its licensors determine that the provider has overcome the isolating effects, but the location and structure cannot be overcome, HSD will submit a heightened scrutiny evidence package to CMS for review and final determination.

Settings located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment, located in a building on the grounds of, or immediately adjacent to, a public institution, or settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals who do not receive Medicaid HCBS will be identified as needing to be reviewed for possible inclusion in the heightened scrutiny process. Settings are identified through public input from consumers, family, friends, neighbors, or consumer advocates; on-site reviews by Licensors indicating that the provider's operations have the effect of isolating individuals from the broader community or ability to interact directly with those whom they wish to interact; or other factors, including feedback from Legal Aid, the Long-Term Care Ombudsman, or other advocates.

HSD anticipates that, based on regular annual and biennial on-site licensing visits and other on-site visits conducted by Licensing resulting from public comments or complaints, the identification of sites requiring heightened scrutiny and submission of evidence to CMS will be a rolling, ongoing process.

Prior to making a final referral to CMS for heightened scrutiny, HSD will:

- Prioritize on-site visits by the licensing staff;
- Have each setting conduct an HCBS Provider Self-Assessment to assist the licensors in knowing which HCBS standards the setting is not meeting expectation;
- Provide the setting an opportunity to rebut the presumption of institutional qualities due to the appearance of isolating individuals from the broader community or provide a comprehensive plan for compliance with the regulations with milestones to show measurable progress towards compliance.
- During the transition period, prior to submission of evidence packages to CMS for site identified as requiring heightened scrutiny, HSD will commence a 30-calendar day public notice and comment period using the process identified in [Appendix F](#).

**DHS, Aging and People with Disabilities (APD) Program:**

All APD residential settings were reviewed against all HCBS settings criteria.

The APD program conducted reviews of 2,179 providers of HCBS, using a variety of means: responses to the PSAT, information gathered from regulatory on-site visits, and/or evidence submitted by individual providers. APD analyzed the results from these activities and preliminarily sorted the settings into the following categories: setting meets HCBS, is expected to meet HCBS with corrective action, or needs to go through the Heightened Scrutiny review process. Refer to the [APD Provider Initial Status Report](#) and [APD Provider Initial Status Report Cover](#) on Oregon's HCBS APD website.

Of the 2,179 providers reviewed, APD identified 291 residential settings that needed to go through its initial Heightened Scrutiny review process: 184 Residential Care Facilities (RCF), 15 Assisted Living Facilities (ALF), and 92 Adult Foster Homes (AFH). [NOTE: There were 293 residential settings made up of 184 RCF, 15 ALF, and 94 AFH; however, 2 AFHs closed before Heightened Scrutiny reviews were completed, thus reducing the overall number to 291.] A sub-group of RCF and ALF included 169 secured/locked Memory Care Communities that specialize in the care of individuals with Alzheimer's/Dementia.

These 291 settings were selected for review based on the setting's proximity to an institution or by a provider selecting a facility description on the PSAT ("red flag response") that gave the appearance that the setting may be isolating in nature. APD required those identified settings to submit evidence including information and evidence regarding the physical site, the services provided in the setting and the setting's programmatic operations to rebut the presumption of isolating individuals. Based on that evidence, a subset of those settings was required to respond to additional questions.

APD program staff completed an off-site, internal review of all the materials and focused on the following four areas that were deemed indicators of potential isolation:

- Setting's physical location - the setting location potentially has the effect of isolating;



- Individual access to the community - services are all brought on-site, and individuals are not allowed or encouraged to use alternative services in the community;
- Individual access to visitors at any time - visitors are not allowed or are only allowed at specified times; and
- Provider support of individual independence - individuals are prohibited from leaving the setting or not encouraged to leave the setting.

A “yes” answer to any of the areas listed above identified the setting as needing more intensive review. Information and evidence received from the setting was reviewed and validated by the Licensing/Survey team that has direct knowledge of the operations of these specific settings.

Based on the above-described Heightened Scrutiny review process, all settings were sorted into the following three categories:

- Meets HCBS
- Expected to Meet HCBS with corrective actions/education
- On-site Review Needed

The following is the breakdown from this phase of the Heightened Scrutiny review process:

| <b>Setting Type</b>                         | <b>Meets HCBS</b> | <b>Expected to meet HCBS</b> | <b>On-site Review Needed</b> |
|---|-------------------|------------------------------|------------------------------|
| Residential Care Facility (non-memory care) | 10                | 8                            | 0                            |
| Assisted Living Facility (non-memory care)  | 4                 | 6                            | 2                            |
| Residential Care Facility – Memory Care     | 44                | 119                          | 3                            |
| Assisted Living Facility – Memory Care      | 0                 | 3                            | 0                            |
| Adult Foster Home                           | 36                | 56                           | 0                            |
| <b>Total</b>                                | <b>94</b>         | <b>192</b>                   | <b>5</b>                     |

APD's initial review of submitted documentation identified the following sites as meeting at least one of CMS's criteria for Heightened Scrutiny:

1. Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment,
2. Any setting that is located in a building on the grounds of, or immediately adjacent to, a public institution, or
3. Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

| <b>Setting Name</b>                           | <b>County</b> | <b>Setting Type</b>  | <b>Summary of Potentially Isolating Elements (#3 above)</b>                          |
|---|---------------|----------------------|--|
| Brookdale Roseburg                            | Douglas       | RCF with Memory Care | Secured/locked and surrounded by a brick wall sound barrier                          |
| Gardens at Laurelhurst Village, The [Avamere] | Multnomah     | ALF                  | Campus of three city blocks, proximity to hospital and Nursing Facility              |
| Middlefield Oaks Memory Care                  | Lane          | RCF with Memory Care | Secured/locked and 350 feet from community hospital, within a commercial zoning area |
| Pioneer Place                                 | Malheur       | ALF                  | Proximity to Nursing Facility  |
| Spruce Point Memory Care                      | Lane          | RCF with Memory Care | Zoning is mixed use, professional office, institutional; proximity to hospital       |

On-site visits were conducted at each of the five identified sites to verify whether each site had the effect of isolating individuals from the broader community, to record findings, determine if the presumption could be overcome, and develop remediation strategies. During the on-site visits, all five sites listed above were reviewed for all HCBS criteria to determine whether each site meets or is

expected to meet HCBS requirements. Additionally, APD posted the five sites online requesting public input about their effect of isolating others.

While APD believes the five sites listed above will meet HCBS criteria and overcome the presumption of isolating, APD submitted evidence to CMS as they appear to meet the criteria developed by CMS for Heightened Scrutiny review.

Should a facility not be able to meet HCBS compliance as expected, APD will use the same processes and procedures that are used for any other regulatory or non-regulatory deficiency, such as voluntary closure. If by July 1, 2021, a facility has not met HCBS requirements, APD will begin notifying residents within 30 days of that notice or determination. During the period from July through December 2021, case managers will work with individuals to identify other setting options.

### **Memory Care Review Discussion and Rationale**

Due to the secure/locked nature of Oregon's Memory Care Communities, special attention was given to these settings. Oregon considered whether its specialty care settings designed for Alzheimer's/Dementia could overcome the presumption of exhibiting institutional or isolating qualities. The secure/locked setting potentially negatively affects one's ability to control one's own schedule, access the community, and could be viewed as a restraint in the strictest interpretation.

Ultimately, the state concluded that these settings could overcome the presumption based on the following rationale.

Oregon's system of Long-Term Supports and Services (LTSS), including HCBS options, has long valued independence and choice.

The state has a robust in-home services program that is offered to all individuals during the person-centered service planning process. As a result, over 50% of individuals receiving Medicaid-funded LTSS choose to receive their services in their own or a family member's home. Having in-home services as an option meets the CMS expectation of a choice of a non-disability specific residential setting.

If a provider-owned, controlled or operated residential setting is chosen, individuals have a choice of a non-secure/unlocked setting, a secured/locked setting, or an institutional nursing facility setting.

Given these choices, some individuals choose the specialty care provided in a secure/locked setting that best meets the individual's specific need.

HCBS regulations require that individuals receiving Medicaid-funded HCBS have the same degree of access of individuals not receiving Medicaid-funded HCBS. For Oregon Memory Care Facilities, individuals receiving Medicaid represent about 40% of the census while individuals paying privately occupy about 60% of the census. These figures indicate that MCC are a service setting used by non-Medicaid individuals at a higher rate than Medicaid recipients, thus meeting the requirement of the same degree of access.

Finally, the state believes that many secure/locked MCC can meet the HCBS regulations by assuring two important criteria that Oregon intends to regulate, monitor, and enforce:

- That individuals have regular opportunities and support to access the greater community; and
- A person-centered planning process that places individually-based limitations to the rules (modifications to the conditions), thereby meeting the requirements set forth in Federal regulations. The rights of individuals residing in secure/locked settings who do not require the same level of security as others will be protected and accommodated, i.e. individual will be provided a mechanism to bypass the secure/locked nature of the setting.

In applying this rationale, Oregon is only submitting for Heightened Scrutiny those secure/locked MCC settings that have additional factors such as location, proximity to institutions, or other criteria that may have the effect of institutionalizing or isolating.

**APD Ongoing Efforts:**

APD greatly values input from consumers, stakeholders and the public regarding the identification of providers who have institutional qualities, such as isolating

individuals from the broader community. There are multiple methods for communicating concerns, including phone, email, website, etc. As such, a visual illustration showing how APD invites comments by the public is attached in [Appendix G](#) of this STP.

Based on evidence presented, the Director for the Aging and People with Disabilities Program will decide whether a setting will move forward for Heightened Scrutiny.

**DHS, Office of Developmental Disabilities Services (ODDS) Program:**

The state has the expectation that all service delivery occurs in integrated settings. Further, it is the expectation of ODDS that all sites where services are delivered and plans for services will reflect compliance with HCBS requirements. Any non-compliant settings, operations, or service delivery must remediate and come into compliance with HCBS settings requirements.

ODDS relied heavily on guidance provided by the Centers for Medicare and Medicaid Services (CMS) which articulated settings that have the effect of isolating individuals must go through a Heightened Scrutiny process.

As a result, ODDS developed a responsive process to evaluate settings that may appear isolating of individuals and determine whether the Heightened Scrutiny process is appropriate, if the setting can remediate, or if the setting is such that it cannot meet HCBS or overcome the institutional presumption. This process applies to licensed and non-licensed settings.

The development of ODDS' HCBS technical assistance and Heightened Scrutiny process mapping was a result of engagement with stakeholders. The process described for ODDS allows for the program to be responsive to the entire spectrum of settings where HCBS is offered. The process also allows for responsiveness to settings or program operations that may be unanticipated or arise in the future.

The characteristics serving as indicators for Heightened Scrutiny focus on service model delivery such as grouping of individuals with disabilities, limited access to

activities and social opportunities that include community members without disabilities, and campus-like operations.

ODDS has received consistent feedback throughout the transition and engagement process that Oregon's community of individuals, families, providers, case management entities, and advocacy organizations perceive the presence of a delayed egress system (employing magnetic locks or secure fencing) as having the potential to be institution-like or having the effect of isolating individuals. Based on the feedback received, the first Heightened Scrutiny criteria identified by the ODDS engagement looked at the presence of magnetic locking or secure fencing serving as a delayed egress system. These criteria were further vetted by looking at situations where the delayed egress is applied. Residential service sites that utilize a delayed egress system but serve a combination of individuals who require the delayed egress due to an identified support need in the same home as individuals who do not have an identified support need necessitating a delayed egress system, were considered for the Heightened Scrutiny process.

The premise for ODDS' determination of Heightened Scrutiny is that there are delayed egress systems in place that may not be functionally bypassed independently by residents who do not need the secure measures without the assistance of staff. Because the delayed egress is not necessary for all individuals subject to the delayed egress system, it was determined that this could be considered by CMS as an institution-like practice.

The settings submitted for HS are settings that serve a mixed population of individuals which include some individuals who need the support of a delayed egress system while other residents do not need such secure measures. ODDS acknowledges the importance of stability and relationships between members of shared households. Some of the settings have residents who have lived together for many years and wish to remain in the same housing situation. For those individuals who are not able to independently bypass the delayed egress but do not require the secure measures, their person-centered service plan will address how staff will be used to support the individuals to ensure the individual's ability to leave the setting and access the community.

Those programs that fall under the designation of requiring Heightened Scrutiny are required to submit an evidence package presenting how the site and its operations support integrated community living experiences. An on-site review is conducted by licensing to validate compliance with the Federal HCBS requirements. Any Individually-Based Limitations (Federally known as “modifications to conditions”), that are necessary for individuals residing in the setting are also submitted to ODDS for review. Providers are encouraged to submit any additional evidence or information that presents a case that services are the least restrictive and support community integration. Evidence package submissions along with the results of the on-site reviews and Individually-Based Limitations documentation are reviewed by ODDS. ODDS then makes a determination if the evidence submitted sufficiently supports the position that service delivery overcomes any institution-like features of the home. ODDS will then submit the evidence package to CMS for its Heightened Scrutiny.

If a setting is found to not be able to present a case for overcoming the institution-like qualities, then the setting will be directed to make further remediation efforts or ODDS will make a determination that the setting may no longer provide HCBS services. A provider may appeal ODDS’ determination. If a provider can provide sufficient evidence demonstrating that the setting supports the least restrictive and most integrated services, ODDS may reconsider its finding and choose to pursue CMS’ Heightened Scrutiny.

Sites that are not able to demonstrate a sufficient case for overcoming the institution-like features of the setting as determined by ODDS will not be presented to CMS for Heightened Scrutiny.

**Identification of Sites:**

ODDS engaged with providers and partners to evaluate all residential service setting homes which employ a delayed egress system. The homes were sorted into three categories:

- Homes where all individual residents have an established safety need for delayed egress;

- Homes that currently operate a delayed egress system but that will apply remediation measures to discontinue the delayed egress or remove the impact of the delayed egress system;
- Homes that employ a delayed egress system and serve a mixed population of individuals who have an established need for delayed egress in the same home as individuals who do not require such measures.

This evaluative process resulted in the identification of numerous sites that are going through or have gone through a remediation process to remove the delayed egress system or to make substantial changes to the setting to eliminate any barriers presented by a delayed egress system.

Through the identification process, ten residential service setting homes were determined to meet the criteria and require the Heightened Scrutiny review process. These home sites actively employ a delayed egress system while serving a mixed population of individuals who need secure measures and individuals who do not require such secure measures to be safely served in a community setting.

ODDS has determined that identified sheltered workshop settings do not meet HCBS requirements. These settings will not be submitted for heightened scrutiny review and must transform.

**Settings:**

All ten settings identified for the Heightened Scrutiny process are 24-Hour Residential homes.

Eight of the ten identified homes serve individuals age 18 or older, and two homes exclusively serve children under the age of 18.

All ten homes are located in residentially zoned community neighborhoods with no distinctive signage or other established physical identifiers which would indicate that the home serves individuals with disabilities. The occupancy of the homes is comparative to that of the surrounding neighborhood homes, with the number of individual residents in each home ranging between three and five individuals.



None of the identified homes are located on a campus or adjacently located to public or private institutions, including nursing homes.

**Homes identified:**

| <b>Agency</b>                     | <b>Location</b> | <b>Number of Individuals Served</b> | <b>Delayed Egress System</b>           |
|-----------------------------------|-----------------|-------------------------------------|--|
| Albertina Kerr                    | Gresham, OR     | 3                                   | magnetic door locks                    |
| Albertina Kerr                    | Tigard, OR      | 4                                   | magnetic door locks                    |
| Albertina Kerr                    | Portland, OR    | 3                                   | magnetic door locks                    |
| Albertina Kerr                    | Milwaukie, OR   | 3                                   | magnetic door locks/<br>secure fencing |
| Albertina Kerr                    | Milwaukie, OR   | 3                                   | secure fencing                         |
| Alternative Services-Oregon, Inc. | Portland, OR    | 5                                   | secure fencing                         |
| Alternative Services-Oregon, Inc. | Lebanon, OR     | 5                                   | magnetic door locks                    |
| Alternative Services-Oregon, Inc. | Portland, OR    | 3                                   | magnetic door locks                    |
| Renew Consulting                  | Willamina, OR   | 5                                   | magnetic door locks                    |
| South Coast Horizons              | North Bend, OR  | 5                                   | magnetic door locks                    |

**Evidence Package Process**

**Provider Evidence Package Submission:**

The sites identified above were asked to submit an evidence package to ODDS. The package request contained a framework template of questions the setting providers were asked to answer to demonstrate that the home is a HCBS setting which supports individual integration in the greater community.

The questions developed were specifically-targeted based on guidance provided by CMS. Each question section contained prompts to ask for detail and descriptions of characteristics, operations, and service delivery to individuals in the home.

The questions contained in the evidence package request asked providers to describe:

- The physical location of the home;
- How the setting supports individuals in accessing community activities and locations, including the frequency and nature of community activities accessed by individuals residing in the home;
- The nature and frequency of visitation by others to the home;
- The typical source and utilization of transportation by the residents of the home;
- Qualifications and training for agency staff related to the requirements of HCBS and philosophies of community-based living;
- How the self-direction and independence of individuals is encouraged and supported in the home;
- How the home was selected by the individual;
- Any additional information relevant to demonstrating the setting is Home and Community-based, supporting integration and full access to the greater community.

Providers were also invited to submit any additional supporting documentation desired.

### **On-Site Review:**

ODDS' Licensing Unit conducted on-site visits to each of the sites being reviewed. A templated questionnaire, called the HCBS On-Site Compliance Assessment for Residential Service Settings was utilized to determine each individual home's compliance with the HCBS setting requirements. There are two versions of the HCBS On-Site Compliance Assessment for Residential Service Settings - one for homes serving adults and one for homes serving children.

A copy of the HCBS compliance assessment may be found at the following links:

<http://www.dhs.state.or.us/spd/tools/dd/Adult%20Template%20On->

[Site%20HCBS%20Compliance%20Assessment%20for%20Residential%20Settings%20Final-electronic%20version.doc](#) ; and  
<http://www.dhs.state.or.us/spd/tools/dd/Kids%20Template%20On-Site%20HCBS%20Compliance%20Assessment%20for%20Residential%20Settings-electronic%20version.docx>

Each HCBS compliance assessment is accompanied by an instruction manual to guide reviewers in application of the HCBS setting requirements in their evaluation of site compliance.

### **Surveys and Feedback:**

Individual Experience Assessments were provided to each individual residing in Oregon provider-owned, controlled, or operated settings. The surveys afforded every service recipient to provide feedback based on their experiences of community living. The survey questions focused on elements of the Federal HCBS rules. The survey included selecting from available answer options as well as comment sections for the individual to provide additional feedback. Every individual residing in the sites identified for Heightened Scrutiny was provided with a survey.

Providers of the sites designated for Heightened Scrutiny were also provided a Provider Self-Assessment Tool where they were given the opportunity to evaluate their performance in consideration of the HCBS rules.

The results of the Individual Experience Surveys and the Provider Self-Assessment Surveys are posted on-line at: <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/ODDS.aspx>

### **Application of Individually-Based Limitations:**

ODDS utilized the Heightened Scrutiny Process to apply a pilot roll out of the Individually-Based Limitations to the Rules. Individually-Based Limitations to the Rules (or IBLs) are Oregon's application of the Federal Modifications to the Conditions. Individually-Based Limitations may be applied to the following HCBS freedoms and protections:

- Doors lockable by the individual with only the individual and appropriate staff having access to keys

- Choice in roommate
- Freedom and support to decorate and furnish individual units/bedrooms
- Freedom and support to control schedule and activities
- Freedom and support to have access to food at any time
- Visitors of the individual's choice at any time
- Use of restraints

Each setting was required to examine the individualized supports for each person served in the home and to apply the formal Individually-Based Limitations process for any structures or strategies in place that could be considered a condition or limitation to an individual's freedom in the above listed areas. The process includes utilization of the person-centered planning process.

The formal process includes utilization of a state-developed document that highlights each of the requirements necessary when a limitation is considered or implemented. During the pilot, for every limitation for each individual, the formal IBL process, including planning, documentation and consent by the individual, was applied.

A rolling, statewide implementation of the formal IBL process was implemented beginning in 2017 and coincides with individuals' annual service planning. Nearly all plans requiring IBLs to address significant health or safety risks were required to have IBLs in place by June 30, 2018. The final implementation date for IBLs of June 30, 2019 allows additional time for those exceptional situations where there may be complex supports or other intervening factors that need to be addressed for IBLs to be implemented.

### **State Determination:**

Following the submission and review of provider evidence packages, completion of on-site compliance assessments, and implementation of the formal Individually-Based Limitations process, representatives from ODDS convened a panel to determine if settings could overcome the presumption of being institution-like based on the use of a delayed egress system for a mixed population of individuals in a secure setting.

It is the position of ODDS that the ten sites identified and submitted for CMS' Heightened Scrutiny made a compelling case to be determined HCBS, including evidence of significant supports in place to offer community integration activities and community living experiences that are similar as those persons not receiving HCBS.

The physical location of the homes, as well as the operations and individualized support individuals receive in the homes, provide opportunities for community access and participation.

**Ongoing Efforts:**

It is anticipated that the Heightened Scrutiny process will continue to be modified and evolve based on growing understanding of HCBS and HS, continued engagement with stakeholders, and the potential emergence of programs or settings that appear to have institution-like or isolating characteristics.

ODDS intends to utilize CMS' Heightened Scrutiny in exceptional situations where there is a setting or service delivery component that has the appearance of isolation or being institution-like, such as an intentional community, but through planning and community integration efforts, the setting is able to overcome the institution-like or isolation presumption. ODDS does not license or support campus-like facilities for serving individuals with intellectual or developmental disabilities.

The State has considered that during regular on-site visits conducted by Licensing and service delivery system staff to review HCBS compliance, additional sites may be identified as being institution-like or having the effect of isolating individuals. Those sites will be addressed using the same processes described above and in Phase V. The processes may be applied to newly identified situations as well as to settings previously engaged in the process based on changes in setting composition, operations, or other established criteria.

ODDS will also receive and respond to reports from stakeholders of homes or operations that are perceived to be institution-like or have the effect of isolating individuals. ODDS greatly values input from consumers, stakeholders and the

public regarding the identification of providers who have institutional qualities, such as isolating individuals from the broader community. There are multiple methods for communicating concerns, including phone, email, website, etc.

If providers or settings are found to be out of compliance, ODDS or its designee will assist in the provider's development of a remediation plan, provide technical assistance and track efforts until compliance is achieved. Those settings ultimately unable or unwilling to come into compliance with the HCBS requirements will lose their designation as an HCBS provider/setting using the process defined in Phase V. Initial Remediation Activities.

ODDS has implemented a technical assistance process that allows ODDS Regional Liaisons to provide technical assistance and a critical lens to any settings that appear to struggle with implementation of HCBS requirements. The process allows ODDS to be responsive to any situation where there are concerns about an individual receiving HCBS in a setting that is not fully compliant with HCBS or appears to be isolating or institution-like.

A site will only be submitted to CMS for HS if a compelling case has been made that the setting overcomes the presumption of being isolating or institution-like. Factors used to determine whether a setting overcomes the presumption are focused on community integration opportunities and the community living experience of the individuals in the setting. If the setting provides sufficient opportunity for self-direction and community integration in a manner that is the least restrictive, most appropriate, then ODDS will support the finding of being HCBS compliant and will submit the setting to CMS for Heightened Scrutiny. Final determination of HCBS compliance at the state level is determined by ODDS with the inclusion of state policy and licensing staff, and administrators.

To date, ODDS has not encountered a setting where HCBS requirements could not be met.

## **Phase V. Initial Transition Period Review and Remediation Activities (May 2015 – March 2022)**

### **Initial compliance and remediation processes used by OHA, HSD:**

During the HCBS transition period, HSD Licensing/Verification setting reviews may be scheduled with (regular licensing cycle visits) or without notice (outside of regular licensing cycle visits) to ensure continued compliance with HCBS requirements included in Oregon Administrative Rules (OARs) and with Oregon Revised Statutes (ORS), which prescribe standards by which HSD licenses community based AFHs, RTFs, and RTHs.

HSD's review process includes a complete review of initial or renewal licensing application materials and a determination of whether the provider meets regulatory requirements through on-site inspections and plans of correction. Each licensor uses a set of tools, based on OARs, to determine compliance, including an inspection of the setting. Examples of tools are regulatory checklists (including one specifically created for HCBS requirements), on-site reports generated in Aspen, and plans of correction. Should providers not demonstrate compliance with OARs, the provider must complete and submit to HSD a plan of correction for each finding of noncompliance.

HSD will specify required documentation and set the time lines, not to exceed 30 days, for the submission and completion of plans of correction in accordance with the severity of the finding(s). HSD also tracks each area of non-compliance via "tags" on the License within the Aspen system and reviews and evaluates each plan of correction. If the plan of correction does not adequately remedy the finding(s) of noncompliance, HSD may require a revised plan of correction, and/or take action to apply civil penalties, or deny, revoke or suspend the license. AFH licenses are valid for one year and RTF and RTH licenses are valid for two years from the date issued unless sooner revoked or suspended. A license is not transferable or applicable to any location or persons other than what is indicated on the application and/or license.

By July 1, 2021, HSD will have conducted at least two on-site reviews of all HCBS residential settings. At that time, HSD will determine which settings are unable or

unwilling to achieve full compliance with HCBS setting requirements. HSD will begin sending non-compliance/closure letters in July 2021 to providers not in compliance with HCBS setting requirements. The letters will outline any administrative review rights and inform the provider that residents will be relocated to a compliant setting.

HSD will begin sending letters in July 2021 to each individual residing in non-compliant HCBS settings stating that their HCBS setting is not in compliance with HCBS setting requirements and will be closed by March 31, 2022. Each individual residing in a non-compliant setting will work with their care team to find alternative placement options, update their person-centered service plan, and move into their chosen service setting no later than March 17, 2022. Choice in service settings will be continuously addressed through the person-centered planning process. HSD anticipates engagement from the County Residential Specialists in supporting individuals to identify new living options similar to processes that are currently utilized when a provider decides to no longer conduct business at a site or licensing has determined that the setting does not meet standards and may no longer serve individuals.

If CMS determines that any one of the four settings submitted for Heightened Scrutiny does not meet the requirements, the same process identified above will be used.

HCBS provided by HSD through the 1915(i) authority do not occur in non-residential settings.

#### **Individual and Privately-Owned Homes:**

Case managers employed by HSD's independent and qualified agent are required to develop a person-centered service plan during a face-to-face meeting for any individual enrolled in and receiving 1915(i) HCBS State Plan services, including those individuals residing in their own private home. Additionally, case managers monitor person-centered service plans once every three months using non-face-to-face contacts with individuals receiving services. These monitoring activities consist of case managers assessing and monitoring for risks for individuals residing in their own, private home and are required to take steps to mitigate any risks, including violations of individuals' rights or freedoms. HCBS expectations are



being communicated and incorporated into ongoing training and case management duties. Case managers visit the individuals in their own homes at least annually.

### **Initial compliance and remediation processes used by DHS, APD:**

#### **APD Residential Settings:**

APD regulatory staff conducted on-site reviews for all APD HCBS provider-owned, controlled or operated settings. Following the on-site reviews, APD requested further documentation from settings that appeared to have isolating qualities. A team of compliance and policy experts from DHS and OHA was utilized to review all provider compliance documentation. Settings determined not to be in full compliance with HCBS regulations were required to create a plan for how they will achieve compliance, similar to a plan of correction used for OAR violations. This format allows providers and Licensors/Surveyors from the Office of Safety, Oversight, and Quality (SOQ) to use a familiar process to correct deficiencies in a non-threatening, supportive environment, while providing technical assistance. Licensors/Surveyors are monitoring these plans and providers are expected to achieve full compliance by July 1, 2020.

For settings that are not in compliance as of that date, regulatory staff may utilize a full range of corrective actions, including civil penalties, fines, putting conditions on licenses, non-renewal of licenses, suspensions and ultimately revocation of the licenses. APD will begin closing actions due to non-compliance with HCBS, which includes giving appropriate notices to facilities and residents and restricting admissions to prevent individuals from moving into non-compliant settings. Communication will begin in July 2021, to affected individuals and will be ongoing through December 2021. The final 30-day notice of facility closure will occur for remaining individuals in January 2022. After appropriate notice, Medicaid contracts will be ended, Medicaid payments will stop, and individuals will be moved to compliant settings no later than March 17, 2022. SOQ will be responsible for closure of facilities that are non-compliant with HCBS requirements. They will work closely with APD HCBS policy experts and the Medicaid Contracts Unit to coordinate closure activities in an orderly manner.

Based on initial reviews, APD expects all facilities will meet the HCBS settings requirements by the July 1, 2021 deadline. However, if any facilities must close due to non-compliance with the HCBS settings requirements, there is an adequate vacancy rate to accommodate any unanticipated closures.

**APD Non-residential Settings:**

APD has validated non-residential settings (Adult Day Services) HCBS settings compliance via on-site reviews. APD has a dedicated Central Office Policy Analyst who oversees contracts, certifications and facility standards of non-residential settings. This Policy Analyst, as part of the licensing/certification process, will continue to monitor each setting and address on an annual basis, any issues found, as appropriate, using the processes described in this STP.

**Individual and Privately-Owned Homes:**

APD case managers are required to monitor person-centered service plans directly (talking to or seeing the individual) once every three months and indirectly (talking to or seeing caregivers or monitoring plan activities) monthly when no direct monitoring occurs. At these contacts, case managers assess and monitor for risks for individuals residing in their own, private home. It is incorporated into the direct and indirect monitoring responsibilities and case managers are required to take steps to mitigate any risks, including violations of individuals' rights or freedoms. HCBS expectations are being communicated and incorporated into ongoing training and case management duties. Case managers visit consumers in their own homes at least annually.

**Initial compliance and remediation processes used by DHS, ODDS:****ODDS Residential Settings:**

The initial response letters to residential services providers who completed the PSAT were sent out on May 25, 2016 and included summary information of results from both the PSAT and IEA responses. For providers whose surveys identified areas of needed improvement, the initial response letters contained a list of areas that the provider will need to remediate to achieve full compliance with HCBS Rules. Based on the feedback provided in the initial response letters, providers can initiate remediation activities.

Providers' compliance or non-compliance with the HCBS regulations are being validated and monitored on an on-going basis through regular licensing and certification reviews that include on-site visits. PSAT and IEA survey results are used by licensing staff to inform on-site reviews. Throughout 2016-2018, local Community Developmental Disabilities Programs (CDDP), Regional Program, ODDS' Licensing, and ODDS' central office staff will have conducted on-site reviews to evaluate provider and site compliance with the regulations. Validation of ongoing HCBS settings compliance is an activity conducted by Licensing and services delivery system staff. HCBS settings compliance status for licensed/certified settings will be evaluated as part of the issuance of new or renewed site licenses/certifications. When sites are found to be out of compliance, the licensing entities provide monitoring and tracking of the provider's plan of correction until remediation activities are successfully completed.

To ensure a consistent approach to compliance, ODDS developed an HCBS check list for use by licensors, certifiers, case management staff, and ODDS staff to conduct on-site reviews. On-site reviews include inspection of the site, observations, documentation review (including, but not limited to review of select Individual Support Plans, progress notes, activity tracking and financial records which will show the individuals are accessing preferred community activities, provider agency policies and procedures), interviews with provider agency and site staff, as well as interviews with individuals served at the location who are present at the time of the on-site review.

Based on the findings of these on-site reviews, in instances where a site is found to be out of compliance with HCSB Rules, the provider will develop a Provider Plan for Correction for coming into compliance with the requirements. CDDP, Regional, ODDS Licensing staff, and ODDS central office staff will be working in partnership with community-based providers to provide technical assistance in development of these Provider Plan of Corrections. All current community-based providers must begin making measurable progress towards compliance in 2016 through 2020.

All current community-based residential providers licensed before January 1, 2016, were required to be in full compliance by September 1, 2018. No new

providers may receive a license or certification to operate a HCBS setting until they are in full compliance. For providers that are remediating complex issues, ODDS will continue to assist those providers to achieve full compliance by July 2020. Non-compliant providers will be notified in July 2020 of their failure to comply with the State's intent to move individuals to compliant settings by December 31, 2020. Individuals are transitioned to compliant settings. Each on-site compliance checklist (for children and adults) has an accompanying manual to provide detailed guidance including examples to assist the field. The following documents are posted on Oregon HCBS web site and are available to the public:

- [ODDS Presentation: HCBS On-site Compliance Assessment for Residential Settings](#)
- [ODDS Adults: Adult HCBS On-Site Compliance Assessment for Residential Settings](#)
- [ODDS Adults: Instructions for the Adult HCBS On-Site Assessment](#)
- [ODDS Children: Child HCBS On-Site Compliance Assessment for Residential Settings](#)
- [ODDS Children: Instructions for the Child HCBS On-Site Assessment](#)
- [ODDS Providers: How to Complete the Plan of Correction Provider Guide](#)

ODDS is optimistic that all provider-owned, controlled or operated sites will achieve full compliance with the HCBS settings requirements. However, if at the conclusion of the transition period there are sites that ultimately do not fully comply with HCBS requirements, individuals impacted by a provider's inability to achieve compliance will be notified by ODDS in July 2020. Individuals will be sent a notice informing them of their provider's non-compliance and resulting inability to be a Medicaid HCBS provider and the need for the individual to be assisted in moving to a compliant HCBS service setting.

Immediately after notifications are sent to individuals, case managers will begin engaging individuals in identifying alternate living options and available providers. Through the person-centered service planning process and choice advising, the case management entity must assure that case management and other I/DD service options, provider options and setting options, including non-disability specific settings and an option for a private or shared unit in a residential program are described to each individual and/or the individual's representative. This

robust process includes identification of the needs of the individual, risks, plans for managing risks, and preferences of the individual in how their needs are met. Providers agreeing to be a service provider must deliver services in accordance with those supports identified in the individual's person-centered service plan. Provider responsibility is addressed in the Medicaid Provider Enrollment Agreement as well as through licensing standards in Oregon Administrative Rules.

Providers are given referral information that helps inform their choice of whether to accept an individual for services. A screening process is also available to allow for the provider and individual to meet to determine if the individual's needs may be appropriately met in the proposed setting and the setting is mutually desirable.

At this time, ODDS is unable to provide an estimate of the number of beneficiaries who may need assistance to identify alternate settings where they may receive services in an HCBS compliant setting. Based on the demonstration of engagement from its provider communities in training efforts, as well as the progress towards compliance demonstrated through on-site reviews, ODDS anticipates the number of individuals impacted by providers unable to achieve compliance will be minimal.

ODDS provided in-person trainings statewide to state licensors and Community Developmental Disabilities Program (CDDP) staff who are responsible for completing the on-site compliance assessments. Additional technical assistance staff meetings and trainings have also taken place in response to program requests for technical assistance. Technical assistance and training continues to be available and is offered upon request. Training and technical assistance was also available as featured sessions at ODDS' annual case management conference that occurred in August 2016. ODDS posted a training presentation on the web for reference:

<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/ODDS.aspx>

**ODDS Employment Service and Day Service Settings:**

For all ODDS waiver employment service and day service providers, an initial response regarding anticipated compliance with the HCBS rules was sent in January 2016 based on reviews conducted in 2015. This preliminary determination was based on the provider self-assessments and on-site visits to sheltered workshop settings. All providers who received a sheltered workshop designation had an opportunity to dispute the determination during 2015.

During 2016, Regional Employment Specialists, Community Developmental Disabilities Programs (CDDP), and the ODDS Licensing staff conducted on-site reviews to validate the PSAT and IES and further evaluate provider compliance with the HCBS rules. An on-site review has occurred in every setting where services occur at a provider site. Each reviewer was engaged in the development of the on-site checklist and participated in training prior to beginning the reviews. Based on the findings of these on-site reviews, as well as the provider self-assessment and the individual experience surveys, the provider received a status report indicating areas of compliance and non-compliance with HCBS rules.

The on-site review includes a file review (including review of Individual Support Plans), interviews with participants who attend the program, as well as verification of the initial provider assessment. Many provider agencies operate multiple facility-based employment or non-residential day programs. For those agencies that have multiple sites, once every location has completed an on-site review, including the HCBS compliance checklist, the regional specialist submits the checklist to a policy analyst at the central office. The checklist is then reviewed and, if there are any additional or remaining questions, they are resolved prior to the completion of a provider status report. Once the assessment, checklist and status report are reviewed, they are sent to the provider for any required follow up action.

Providers with employment and day service settings that need some remediation to come into full compliance, or need to provide additional assurances of full compliance, will develop a Provider Plan for Improvement.

Providers with sheltered workshop settings were informed in the January 2016 letter that they would need to develop an HCBS transformation plan to outline steps to come into compliance with HCBS regulations.

ODDS has a contract with Wise and Living Opportunities to help agencies transform their Sheltered Employment into community-based employment settings. Many providers have, as part of this transition, had support and oversight by contractors who include national SMEs on supported employment and the requirements around community integration. Additionally, ODDS staff and regional employment specialists continue to work in partnership with community-based providers to provide technical assistance in development and implementation of these plans. Related ongoing technical assistance for facility-based employment and day service providers is also available through Oregon's Employment First Transformation Project.

Employment and day service providers who received an On-Site Compliance Assessment by June 30, 2016 were required to create and submit a plan by September 30, 2016. Those providers who received an On-Site Assessment on July 1, 2016 or after are allowed 90 days to complete a plan.

ODDS employment service providers that do not complete implementation of their transformation plans, but make substantial progress towards transformation prior to September 1, 2018, consistent with a provider HCBS transformation plan, may apply for a rule variance if it can be shown how full compliance will be reached within a reasonable period of time. All providers must achieve full compliance by July 1, 2021, and any variances granted may not extend past that date.

For Small Group Employment, ODDS requires that those services are delivered at a general community business (e.g. municipalities, universities, hospitals, McDonald's, and other general community business settings). Individuals must be experiencing the setting to the same degree as those not receiving HCBS. CMS has even visited some of these settings in Oregon in 2017 and was able to witness the level of integration expected from Small Group settings.

Every small group setting completed an initial provider self-assessment. For general community businesses (all settings assessed as Small Group settings), validation occurred, and continues to occur through case management service authorization and monitoring, Employment Outcome Survey (EOS) reviews, licensing, technical assistance visits and quality assurance reviews, as outlined below.

Specifically, local case managers are aware of requirements for Small Group services and must do monitoring at least annually. Additionally, case managers also review individual experiences with the individuals at the person-centered service plan to validate the provider self-assessment for small group settings. Reports of non-compliance are sent to ODDS and an on-site visit is conducted by a Regional Employment Specialist who is employed by ODDS.

ODDS also validated assessment results with Employment Outcome Survey information and will continue to do this every 6 months to ensure the other requirements of Small Group Employment are met such as paying minimum wage, that Employment Specialists are credentialed, that services occur at general community businesses and the individuals are integrated in with other employees from the community. Furthermore, ODDS licensing also monitors credentials and provider compliance at least every 2 years.

ODDS quality assurance reviews are completed to ensure everyone using the service has an individualized action plan that shows how the employment service is used to integrate into the general workforce and used to obtain competitive integrated employment. This information has also been used to validate HCBS compliance. Regional Employment Specialists are stationed across the state and are subject matter experts (SME) regarding employment policy. They are responsible for technical assistance to local case managers and provider agencies and are frequently on-site with providers. If they have any concerns based on a site visit or other interaction with a provider, they will also monitor the service either through site visits or through review of service planning documents.

If there is anything in the assessment or validation process, or other information received, that indicates that the setting may in any way be isolating, ODDS regional employment specialists go on-site to review the setting. The HCBS review process has been updated to reflect this.

Providers of facility-based non-residential community living supports are expected to be in compliance. However, some changes may be necessary to reach full compliance or assure continued compliance. Providers are also encouraged to further their HCBS-related goals. Providers of facility-based community living supports are expected to implement improvement plans to ensure full compliance by September 1, 2018. ODDS non-residential community living supports providers that do not complete implementation of their improvement



plans prior to September 1, 2018, but that have made substantial progress towards full compliance, may apply for a rule variance if it can be shown how full compliance will be reached within a reasonable period of time after September 1, 2018, and additional time is needed. All providers must achieve full compliance by July 1, 2021, and any variances granted may not extend past that date. Specific sites or service provider programs that cannot or will not reach full compliance will be removed from the HCBS program.

Ongoing provider compliance or non-compliance with HCBS regulations will be determined through the regular licensure and certification process that includes on-site review at provider sites, and paper reviews when services occur at general community businesses. HCBS compliance will continue to be validated through provider self-assessments, case management monitoring, Oregon's Employment Outcome System (EOS), and the NCI adult consumer survey.

ODDS provided in-person trainings to regional employment specialists responsible for completing on-site reviews for employment and day service settings. Questions regarding on-site reviews are staffed on a weekly basis and as necessary. Technical assistance and training continues to be available to our partners and is provided upon request.

Additionally, the on-site review tool and related instructions are posted on the ODDS website and made available to the public. The on-site review tool for employment and day service settings, as well as related instructions, can be found via the following links:

- ODDS Employment Services: Tool and instructions for on-site reviews

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/Documents/odds-employment-services-tool-on-site-reviews.pdf>

- ODDS Non-Residential Day Services: Tool and instructions for on-site reviews

<http://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/PROVIDERS-PARTNERS/Documents/odds-non-res-day-tool.pdf>

**Individual and Privately-Owned Homes:**

While Oregon presumes that individual and privately-owned homes meet the requirements to be considered home and community based, ODDS has taken a multi-faceted approach to monitoring HCBS compliance in these settings.

Oregon's DD system has an established culture which promotes integration, independence, and self-direction for individuals. The individual rights language in Oregon Administrative Rules addresses these concepts. Oregon's DD system has a strongly established person-centered planning process which supports individuals to direct their planning and services.

In addition to the adoption of the over-arching HCBS OARs, specific language has been added to ODDS' Case Management Services OARs which require that the case manager must apply HCBS settings requirements to service planning (OAR 411-415-0070(1)-(3)) and to monitor for compliance with the home and community-based services and settings rules (OAR 411-415-0090(2)(b)). Case managers are required by OARs to conduct a monitoring visit to the home of every individual receiving home and community-based services at least annually, and at least quarterly when the home is a licensed setting. Among consideration of factors related to health and safety, case managers are specifically required to evaluate whether all service settings, including an individual's own private home, are compliant with OAR 411-004-0020(1). Case managers have the authority to deny the authorization of services in settings where individuals or their representatives do not permit case managers to monitor the setting or service delivery.

Additionally, ODDS Quality Assurance (QA) team conducts biennial reviews of all case management entities. As part of the reviews, the QA team ensures that Case Management entities perform required levels of monitoring and, going forward, will review adherence to HCBS rules and requirements related to individual choice and person-centered planning process. QA reviews include interviews with select individuals, with HCBS-related questions being incorporated into the questionnaire.

Extensive efforts have been made to conduct community forums and provide information to individuals, family members, case managers and service providers to educate ODDS' partners about the HCBS regulations. Ongoing education and outreach will occur with much of the education focused on case management

entities and providers to create a foundation so that these entities can best support individuals in receiving and understanding information in accordance with each individual's unique needs and communication style. Training on discrete topics for case managers were a part of the annual Case Management conference in August 2016. Such topics will also be addressed at future annual Case Management conferences. ODDS continues to actively explore and develop communication tools and educational resources for individuals and their families, including visual guides, brochures, and other media options.

The DD system emphasizes the use of the person-centered service planning process which ensures that HCBS standards are met. ODDS, in collaboration with stakeholders, has reviewed and revised the person-centered service plan, called the Individual Support Plan (ISP) by the DD system in Oregon, to fully address integration as part of the individual's person-centered service plan. The ISP also serves to address other HCBS requirements around choice and documentation for individually-based limitations (IBL). The ISP documents the individual's acknowledgment of these rights and of any limitation that might be necessary. Implementation of the revised person-centered service plan/ISP was completed July 2017. A rolling implementation of the IBL process was implemented coinciding with annual planning beginning in 2017. Nearly all plans requiring IBLs to address significant health or safety risks are required to IBLs in place by June 30, 2018. The final implementation date for IBLs of June 30, 2019 allows additional time for those exceptional situations where there may be complex supports or other intervening factors that need to be addressed for IBLs to be implemented.

The person-centered service planning process is comprehensive and based on information gathered about what is important "to" and "for" the individual before plan development. The ISP is uniform across the state, ensuring that when an individual transitions from any setting based on a change of need or choice, the expectations for meeting HCBS requirements exists and must be addressed in the planning process. When an individual chooses to live in a new setting, receive different services, or request a new provider, the HCBS expectations are embedded into the person-centered planning process.

The current documents utilized in Oregon's DD person-centered service plans (referred to as the ISP- Individual Support Plan) can be found at:

<http://oregonisp.org/>.

Updated forms were posted May 1, 2017, with the Manual being posted June 30, 2017.

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

On an ongoing basis, Oregon will assess providers' progress toward and continuous compliance with the HCBS regulations through reports, interviews and on-site inspections that include information from and dialogue with providers and individuals receiving services.

Licensing and service delivery system staff are critical in identifying the need for and requiring providers' compliance plans, assuring measurable progress towards compliance as identified in the compliance plan, and ensuring providers' ongoing compliance with the HCBS regulations. DHS and OHA will continue to ensure that these staff members are adequately trained on the regulations and their role and duties in assuring initial and ongoing compliance.

Licensing/certification visits are conducted on an ongoing, regulated basis. The licensing/certification frequency for provider-owned, controlled or operated settings is as follows:

- HSD Adult Foster Homes - Annually;
- HSD Residential Treatment Homes - Biennially;
- HSD Residential Treatment Facilities - Biennially;
- APD Certified Adult Day Services - Biennially;
- APD Assisted Living Facilities (includes endorsed Memory Care Facilities) - Biennially;
- APD Residential Care Facilities (includes endorsed Memory Care Facilities) - Biennially;
- APD Specialized Living Programs - Biennially;
- APD Adult Foster Homes - Annually;
- ODDS Licensed/Certified Community Living Supports – Facility-based – Biennially;
- ODDS Licensed/Certified Employment Services (Community-Based Job Coaching, Job Development, Discovery, Small Group, Employment Path Community, and Facility-Based Employment Path) – Biennially;
- ODDS Supported Living – Biennially;
- ODDS Adult Foster Homes - Annually;
- ODDS Children's Foster Homes – Annually; and

- ODDS Group Care Homes – Biennially

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

- APD and ODDS programs conducting National Core Indicator surveys on an annual basis;
- HSD utilizing the HSD-HCBS Provider Self-Assessment as integrated into the initial application for licensure process;
- Incorporating questions related to HCBS settings compliance into annual person-centered service planning processes;
- Case managers monitoring HCBS compliance during required case management contacts and monitoring visits (County Residential Specialists conduct monitoring activities for OHA, HSD);
- Ongoing licensing inspections, including HCBS-regulations specific checklists/assessments, conducted by licensing staff; and
- Oregon's existing quality assurance/quality improvement system will include ongoing HCBS setting compliance monitoring to ensure that settings continue to comply with the HCBS Setting Rule.

### **OHA, HSD Ongoing Compliance Process and Monitoring:**

The HSD Licensing and Certification Unit holds bi-weekly unit meetings where licensors can be offered technical assistance regarding HCBS compliance. HSD also conducts bi-monthly HCBS stakeholder meetings.

HSD has uploaded documents such as FAQs, stakeholder meeting notes, templates, training, and presentations to HSD's HCBS website for additional ongoing education, training and technical assistance. HSD will continually upload additional documents as they are needed and developed. On-site trainings have been provided to licensors and county staff (residential specialist) about HCBS settings compliance and monitoring.

Online training was provided with audio Power-Point presentations that have been uploaded to Oregon's HCBS website. HCBS settings assessment tools have been provided to licensors and county staff to determine ongoing HCBS compliance.

Residential Treatment Facilities and Residential Treatment Homes are licensed every two years and Adult Foster Homes are licensed annually. Each license renewal includes the submission of an application with supporting documentation (to include the HCBS Self-Assessment Tool), reviewed by the licensing and certification compliance specialist to ensure continued compliance with programming and policies and procedures, and an on-site review conducted by the licensing and certification compliance specialist. Following the on-site review, a report is issued to the provider stating areas of deficiencies with rule requirements. Providers have 30 days to respond with a corrective action plan before the licensed is reviewed. Each setting often communicates with HSD during their licensing period with questions, concerns and issues and HSD often communicates with settings during their licensing period due to investigation of concerns or complaints.

### **DHS, APD Ongoing Compliance Process and Monitoring:**

APD convenes compliance meetings with its internal policy experts and compliance experts regularly. This group includes staff and management from APD Policy, DHS Provider Enrollment Unit, SOQ Licensors and Surveyor policy staff and managers, and information technology. These meetings are ongoing and there is no anticipated end date to these meetings.

Regular training and technical assistance forums are being provided to service delivery system staff to address questions and inform staff about available tools as they become available (i.e., system enhancements in Oregon ACCESS and ASPEN, website FAQ documents, Consumer Bill of Rights documents, and checklists). Training has been provided to all State and County regulatory oversight staff (Licensors and Surveyors). HCBS settings compliance assessment and validation materials follow the form and function of familiar compliance tools to ensure ease of understanding and use.

Following initial on-site reviews, Residential Care Facilities and Assisted Living Facilities are formally reviewed for license renewal every two years. Adult Foster Homes are formally reviewed for license renewal annually. All Medicaid-

contracted settings are routinely visited by case managers. Many facilities have Long-Term Care Ombudsman volunteers assigned, or one could be assigned, if a setting is determined to need additional oversight.

**DHS, ODDS Ongoing Compliance Process and Monitoring:**

ODDS has made a significant effort to provide in-person engagement with local communities as part of the training effort allowing for a robust opportunity for feedback and input from stakeholders. Stakeholders are encouraged to initiate communication at any time and have multiple means to interact with the ODDS policy team through direct contact with Subject Matter Experts (SMEs), Regional staff, and via the HCBS webpage and email links.

ODDS is committed to providing continuous training and support to the service field. Extensive in-person training has taken place, with additional rounds anticipated. ODDS has developed various documents and presentations which are posted to the ODDS-information page of the HCBS website. ODDS has conducted webinars and call-ins. Training requests for communities and providers are accommodated when they are presented. Additional efforts include future waves of field training, webinars, resources materials and the developmental of a "Train the Trainer" technical assistance and support structure for local communities. Technical assistance is provided upon request at any time- this may be as the result of an on-site review identifying compliance issues or providers requesting assistance in interpretation or implementation of requirements.

Ongoing provider compliance or non-compliance with HCBS regulations will be determined through the regular licensure and certification process that includes on-site review.

Case managers must have a reciprocal interaction with individuals or their representative no less than once every three months. Individuals with three or more significant health and safety risks must have a monthly case management contact. At least one case management contact per year must be face to face. For



individuals living in residential program settings, monitoring of services may be combined with site visits.

Once a year, services specific to health, safety and behavior must be monitored, addressing questions established by ODDS. Checklists are used by case managers to document their findings during monitoring visits. Tools to guide case management staff in service monitoring are located on-line on the DD Staff Tools page under the "Service Monitoring Guidelines" category at:

<http://www.dhs.state.or.us/spd/tools/dd/cm/>.

Case managers are responsible for ensuring the appropriate follow-up to monitoring. If a case manager determines that developmental disabilities services are not being delivered in compliance with HCBS requirements or as agreed in the person-centered service plan, or if service needs have changed, a case manager must initiate at least one of the following actions: update the person-centered service plan; work with provider to identify service delivery shortcomings for remediation; provide or refer technical assistance to an agency provider or common law employer for a personal support worker; seek corrective action, if needed, by referring provider to ODDS Licensing for review or for administrative support; or meet with the executive director or board of directors of the provider.

### **Ongoing Stakeholder Engagement:**

Throughout the transition period, DHS and OHA will continue to engage Stakeholders and utilize other avenues to evaluate progress, identify areas of concern, and propose solutions. This transition process will be transparent to Stakeholders and the broader public and ensure progress towards successful implementation of the activities identified in the to assure lasting compliance. On a regular basis, the statewide stakeholder committee (described in the "Statewide Transition Plan Preparation" section above) is convened and an in-person meeting is held. Each service delivery system convenes a sub-group of program-specific stakeholders in the months when the statewide stakeholder committee is not meeting. The statewide committee and program-specific committees are comprised of individuals, individual-advocate groups, providers, provider-advocate groups, contractors, service delivery system personnel and state staff.

Additionally, the state created a website Comment box (for people with no email account) and an HCBS-specific email box for anyone to submit questions, concerns or comments. DHS and OHA created the HCBS website for overarching statewide topics and sub-sites for each program area that contain specific information pertaining to individuals and providers for that program/service delivery system. The state also regularly sends out HCBS-relevant information via Director/Administrator Messages, provider alerts, transmittals and newsletters. Providers who are members of advocacy groups received information from those groups. The Licensing staff sent letters to providers who are not members of advocacy groups, explaining the HCBS rules and changes, and directing them to Oregon's HCBS website. SOQ Licensors/Surveyor policy staff direct phone numbers were also provided.

## 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<br>(first day of month) | Approx. End Date<br>(last day of month) |
|--|--|---|
| <b>Pre- Plan Activities</b>                                  |  |   |
| Meetings with provider associations                          | Jul- 14                                    | Sep- 14                                 |
| Convene a HCBS Transition Stakeholder Group                  | Aug- 14                                    | Sep- 19                                 |
| HCBS Transition Stakeholder Kick-off meeting                 | Aug- 14                                    | Aug- 14                                 |
| <b>Oregon Transition Plan Development and Submission</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                                |
| Response Received from CMS                                   |  | Jan - 16                                |
| State's Response to CMS's request for additional information |  | Apr - 16                                |
| CMS provides initial approval of state's STP                 |  | Oct - 16                                |
| Draft Amended Transition Plan                                |  | May - 17                                |
| Public Comment Period: <i>June 16, 2017</i>                  |  | Jun - 17                                |
| End of Public Comment Period (July 17, 2017)                 |  | Jul - 17                                |
| Amended Statewide Transition Plan                            |  | Aug - 17                                |
| CMS Requests additional information                          |  | Nov - 17                                |
| State's Response to CMS's request for additional information |  | Jan - 18                                |
| CMS Requests additional information                          |  | Mar - 18                                |

| Key Action Items   | Approx. Start Date<br>(first day of month) | Approx. End Date<br>(last day of month) |
|--|--|---|
| State's Response to CMS's request for additional information   |  | Mar - 18                                |
| Draft Amended Transition Plan  |  | Nov - 18                                |
| Public Comment Period: <i>November 15, 2018</i>  |  | Nov - 18                                |
| End of Public Comment Period (December 17, 2018)   |  | Dec - 18                                |
| Amended Statewide Transition Plan  |  | Dec - 18                                |
| <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 & Mar- 15                       |
| Post scorecard on Oregon HCBS Website  | Aug- 14                                    | Sep- 14 & Mar- 15                       |
| <b><i>OAR, 1915(c) waivers, and 1915(i) and 1915(k) State Plan Amendment (SPA) Changes</i></b>                           |  |   |
| Assess OARs, waivers, and SPAs for needed changes  | Oct - 14                                   | Apr - 15                                |
| 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  | Jan - 16                                   | Jan - 16                                |
| Finalization of program-specific OARs  | Jan - 16                                   | Sep - 16                                |
| Amendment of over-arching HCBS OAR as described in <a href="#">Appendix E</a>  | Jan - 17                                   | Jan - 17                                |
| Public Notice and Submission of any necessary waiver amendments and SPAs.  | Mar - 17                                   | Mar - 22                                |
| <b><i>Phase II- Statewide Training and Education Efforts</i></b>   |  |   |
| Meet with providers and associations   | Jul- 14                                    | Ongoing                                 |
| Develop educational materials for individuals, providers, and Case Managers including FAQs and Fact Sheets               | Jul- 14                                    | Ongoing                                 |

| <b>Key Action Items</b>   | <b>Approx. Start Date</b><br>(first day of month) | <b>Approx. End Date</b><br>(last day of month) |
|---|---|--|
| Develop and disseminate additional training regarding rights, protections, community inclusion and modifications to conditions. | Jul- 14   | Ongoing  |
| Share materials with stakeholders   | Oct - 14  | Ongoing  |
| Host regional training and information meetings for individuals, providers, and case managers.                                  | Sep – 15  | Oct - 15                                       |
| Post materials on website   | Oct- 15   | Ongoing  |
| Delivery System Education Efforts   | Nov – 14  | Mar - 22                                       |
| <b><i>Phase III- Provider Self-Assessment and Individual Experience Assessment and On-site Visits</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   | Feb - 16                                       |
| <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   | Dec- 15  |
| State and partners to conduct individual assessments, as necessary ( <i>in-person, phone</i> )                                  | Sep - 15  | Dec- 15  |
| Provide technical assistance to individuals   | Sep - 15  | Dec - 15                                       |
| Individual Experience Assessments completed and returned to State   | Sep - 15  | Feb - 16                                       |

| Key Action Items  | Approx. Start Date<br>(first day of month) | Approx. End Date<br>(last day of month) |
|---|--|---|
| <b><i>Provider Self-Assessment and Individual Experience Assessment Results, Responses and Validation</i></b>   |  |   |
| State receives responses from PSATs and IEAs  | Feb- 16                                    | Feb- 16                                 |
| State evaluates Individual Experience Assessments and Provider Self-Assessments responses (comparison and validation of results from both using unique identifier that connects site with individual) | Feb- 16                                    | Apr - 16                                |
| State solicits input from advocacy organizations and existing organizational partners to assist in validation of results  | Mar - 16                                   | May - 16                                |
| State sorts settings into initial compliance categories   | Mar - 16                                   | Apr - 16                                |
| State provides <b>initial</b> feedback and recommendations on areas of improvement to residential and non-residential providers   | May - 16                                   | May - 16                                |
| State commences initial on-site visits to provider-owned, controlled or operated settings to validate PSAT, IEA results and review for HCBS settings compliance                                       | Jan – 16                                   | Dec - 18                                |
| State posts program-specific provider status reports to HCBS website as updates are available   | Aug – 16                                   | Mar – 22                                |
| Ongoing education and technical assistance efforts, and public input  | Sep - 15                                   | Ongoing                                 |
| <b><i>Phase IV. Heightened Scrutiny Process - Initial and Ongoing</i></b>   |  |   |
| <b><i>Initial Heightened Scrutiny and Submission of Amended Statewide Transition Plan</i></b>   |  |   |
| State uses the provider assessment, IEA responses, and additional criteria to determine if a site meets the definition of an HCBS site  | Feb - 16                                   | Jun - 16                                |
| State identifies settings that appear to require heightened scrutiny  | Aug – 16                                   | Oct - 16                                |
| State notifies sites that appear to require CMS' Heightened Scrutiny  | May – 16                                   | Oct – 16                                |
| Providers who appear to require Heightened Scrutiny submit evidence to the State rebutting presumption of non-HCBS  | May – 16                                   | Oct – 16                                |

| <b>Key Action Items</b>   | <b>Approx. Start Date</b><br>(first day of month) | <b>Approx. End Date</b><br>(last day of month) |
|---|---|--|
| State conducts on-site reviews of settings identified who appear to require heightened scrutiny per CMS's regulations   | May - 16  | May - 17                                       |
| State determines, based on evidence provided and results of on-site review, if sufficient evidence was provided to seek heightened scrutiny from CMS or if the site does not meet HCBS requirements | May – 16  | May – 17                                       |
| State compiles aggregated report of sites requiring heightened scrutiny   | May – 16  | Jun – 17                                       |
| State identifies necessary Transition Plan changes  | Oct – 16  | Jul – 17                                       |
| State amends Statewide Transition Plan  | Apr – 17  | Jun – 17                                       |
| State commences 30-day public notice and comment period for amended Transition Plan and sites determined to require CMS' heightened scrutiny  | Jun -17   | Jul - 17                                       |
| Revisions to Statewide Transition Plan based on public input  | Jul – 17  | Jul – 17                                       |
| 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  | Aug – 17  | Aug – 17                                       |
| Provide opportunity for sites determined by State not to be HCBS to request an administrative review by DHS and OHA   | Aug – 17  | Sep – 17                                       |
| Expected response from CMS  | Sep – 17  | Sep – 17                                       |
| Invitation from Federal HCBS Team to participate in HS pilot program with request for additional HS evidence for OHA, HSD sites.  | Jun – 18  | Jun - 18                                       |
| Response and additional HS evidence for OHA, HSD sites sent to Federal HCBS Team  | Jun – 18  | Sep - 18                                       |
| <b>Heightened Scrutiny Process - Ongoing (rolling process)</b>  | (N/A)   | (N/A)  |
| State notifies sites that, as a result of on-site visits, have been identified as appearing to require CMS' Heightened Scrutiny   | Aug – 17  | Ongoing  |
| Providers appearing to require CMS' Heightened Scrutiny submit evidence to the State rebutting presumption of non-HCBS  | Oct – 16  | Ongoing  |

| <b>Key Action Items</b>   | <b>Approx. Start Date</b><br>(first day of month) | <b>Approx. End Date</b><br>(last day of month) |
|---|---|--|
| State determines, based on evidence provided and results of on-site review, if sufficient evidence was provided to seek heightened scrutiny from CMS or if the site does not meet HCBS requirements | Aug – 17  | Ongoing  |
| State commences public notice and comment period for sites determined to require CMS' heightened scrutiny   | Aug – 17  | Ongoing  |
| State addresses public input/comment  | Aug – 17  | Ongoing  |
| State submits evidence to CMS for each setting that is presumed to be non-HCB, but State is requesting CMS' heightened scrutiny   | Aug – 17  | Ongoing  |
| Provide opportunity for sites determined by State not to be HCBS to request an administrative review by DHS and OHA   | Aug – 17  | Ongoing  |
| Expected response from CMS  | Sep – 17  | Ongoing  |
| <b><i>Phase V- Initial Transition Period Review and Remediation Activities</i></b>  |   |  |
| State develops policies and procedures for service delivery system and Licensing staff to monitor progress on provider compliance.  | May – 15  | Jun – 17                                       |
| Finalization of over-arching HCBS OAR   | Jan – 16  | Jan – 16                                       |
| Finalization of program-specific OARs   | Jan – 16  | Sep – 16                                       |
| Providers submit FINAL Compliance/Corrective Action Plan addressing State's findings  | Jan – 16  | Jun - 20                                       |
| Service Delivery Systems and regulatory agencies conduct on-site reviews  | Jan – 16  | Jun – 19                                       |
| State developed a comprehensive status report of provider's compliance activities and outcomes  | Sep – 16  | Nov – 16                                       |
| Post initial status report on website   | Aug – 16  | Aug – 16                                       |
| State gathered public input on initial providers' status report   | Aug – 16  | Oct – 16                                       |
| State gathers ongoing public input on providers' progress toward compliance.  | Oct – 16  | Jul – 21                                       |
| State reviews and addresses, as appropriate, public input on providers' status report.  | Aug – 16  | Ongoing  |



| <b>Key Action Items</b>  | <b>Approx. Start Date</b><br>(first day of month) | <b>Approx. End Date</b><br>(last day of month) |
|--|---|--|
| State regularly updates providers' status report with progress toward compliance   | Oct – 16  | Mar - 22                                       |
| Service delivery systems notify Medicaid providers of non-compliance with intent to move individuals and terminate contract and license      | Jul – 20  | Dec – 21                                       |
| Service delivery systems notify individuals of their need to transition to alternative settings  | Jul – 20  | Dec – 21                                       |
| Service delivery systems assist individuals in finding, selecting and transitioning to alternative settings                                  | Jul – 20  | Dec – 21                                       |
| State terminates Medicaid contracts with non-compliant providers   | Jul – 21  | Mar – 22                                       |
| <b><i>Modifications to Conditions – Individually Based Limitations to the Rules</i></b>  |   |  |
| Develop policies and procedures on implementation of individually based limitations to the rule (IBLR) contained in individual service plan. | Jan – 15  | Jul – 16                                       |
| Create expectations and a method for collecting data on an ongoing basis to measure the effectiveness of the individually based IBLR.        | Jan – 15  | Jul – 16                                       |
| Develop timeframes for review of the data and effectiveness of the IBLR to ensure it continues to be appropriate.                            | Jan – 15  | Jul – 16                                       |
| Train service delivery system staff on IBL process.  | Jan – 16  | Jun – 19                                       |
| Implement IBLR process at annual service planning.   | Jul – 17  | Ongoing  |
| <b><i>Phase VI- Ongoing Compliance and Oversight</i></b>   |   |  |
| Develop and implement ongoing monitoring and quality assurance processes within existing structure   | May – 15  | Mar – 22                                       |
| Service Delivery Systems and Licensing conduct on-site reviews to assure ongoing compliance  | Jun – 18  | Ongoing  |

| <b>Key Action Items</b>                  | <b>Approx. Start Date</b><br>(first day of month) | <b>Approx. End Date</b><br>(last day of month) |
|--|---|--|
| Commence National Core Indicator Surveys | 2017  | Ongoing  |

## Appendix B: Initial Global Scorecard

| OAR & Policy Review  | HSD AFH | HSD RTH / RTF | ODDS AFH | ODDS Group Homes |
|--|---------|---------------|----------|------------------|
| 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     | No            | Yes      | Yes              |

| <b>OAR &amp; Policy Review</b>   | <b>HSD AFH</b> | <b>HSD RTH<br/>/ RTF</b> | <b>ODDS AFH</b> | <b>ODDS Group<br/>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                      | Yes             | Yes                         |
| 6. Do individuals have privacy in their sleeping or living unit?   | Yes            | Yes                      | Yes             | Yes                         |
| 7. Do units have lockable entrance doors, with appropriate staff having keys to doors?   | Yes            | No                       | Yes             | Yes                         |
| 8. If individuals share rooms, do they do so only at their choice?   | Yes            | Yes                      | Yes             | Yes                         |
| 9. Do individuals have the freedom to furnish and decorate their sleeping or living units?   | Yes            | Yes                      | Yes             | Yes                         |
| 10. Do individuals have the freedom and support to control their own schedules and activities?   | Yes            | Yes                      | Yes             | Yes                         |
| 11. Do individuals have access to food at any time?  | Yes            | Yes                      | Yes             | Yes                         |
| 12. Are individuals able to have visitors of their choosing at any time?   | Yes            | Yes                      | Yes             | Yes                         |
| 13. Is the setting is physically accessible to the individual?   | Yes            | No                       | Yes             | Yes                         |

| <b>OAR &amp; Policy Review</b>   | <b>HSD AFH</b> | <b>HSD RTH<br/>/ RTF</b> | <b>ODDS AFH</b> | <b>ODDS Group<br/>Homes</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                         |

| <b>OAR &amp; Policy Review</b>   | <b>ODDS<br/>Supporte<br/>d Living<br/>(POCO)</b> | <b>ODDS<br/>Children's<br/>Foster<br/>Homes</b> | <b>Certified DD<br/>Day Support<br/>Activities</b> | <b>ODDS<br/>Certified<br/>Employment<br/>(Community-Based<br/>Job Coaching, Job<br/>Development,<br/>Discovery, Small<br/>Group, Employment<br/>Path Community, and<br/>Facility-Based<br/>Employment Path)</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   |

| <b>OAR &amp; Policy Review</b>   | <b>ODDS<br/>Supporte<br/>d Living<br/>(POCO)</b> | <b>ODDS<br/>Children's<br/>Foster<br/>Homes</b> | <b>Certified DD<br/>Day Support<br/>Activities</b> | <b>ODDS<br/>Certified<br/>Employment<br/>(Community-Based<br/>Job Coaching, Job<br/>Development,<br/>Discovery, Small<br/>Group, Employment<br/>Path Community, and<br/>Facility-Based<br/>Employment Path)</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*  |  |   |
| 6. Do individuals have privacy in their sleeping or living unit?   | Yes  | Yes*  |  |   |
| 7. Do units have lockable entrance doors, with appropriate staff having keys to doors?   | Yes  | No  |  |   |
| 8. If individuals share rooms, do they do so only at their choice?   | Yes  | Yes   |  |   |
| 9. Do individuals have the freedom to furnish and decorate their sleeping or living units?   | Yes  | Yes   |  |   |
| 10. Do individuals have the freedom and support to control their own schedules and activities?   | Yes  | No  |  |   |
| 11. Do individuals have access to food at any time?  | Yes  | Yes   |  |   |

| <b>OAR &amp; Policy Review</b>   | <b>ODDS<br/>Supporte<br/>d Living<br/>(POCO)</b> | <b>ODDS<br/>Children's<br/>Foster<br/>Homes</b>  | <b>Certified DD<br/>Day Support<br/>Activities</b> | <b>ODDS<br/>Certified<br/>Employment<br/>(Community-Based<br/>Job Coaching, Job<br/>Development,<br/>Discovery, Small<br/>Group, Employment<br/>Path Community, and<br/>Facility-Based<br/>Employment Path)</b> |
|--|--|--|--|---|
| 12. Are individuals able to have visitors of their choosing at any time?   | Yes  | Yes***   |  |   |
| 13. Is the setting is physically accessible to the individual?   | Yes  | Yes  | Yes  | Yes   |
| <b>OAR &amp; Policy Review</b>   | <b>ODDS<br/>Supporte<br/>d Living<br/>(POCO)</b> | <b>ODDS<br/>Children'<br/>s Foster<br/>Homes</b> | <b>Certified DD<br/>Day Support<br/>Activities</b> | <b>ODDS<br/>Certified<br/>Employment<br/>(Community-Based<br/>Job Coaching, Job<br/>Development,<br/>Discovery, Small<br/>Group, Employment<br/>Path Community, and<br/>Facility-Based<br/>Employment Path)</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*   |



| OAR & Policy Review  | ODDS<br>Supporte<br>d Living<br>(POCO) | ODDS<br>Children's<br>Foster<br>Homes | Certified DD<br>Day Support<br>Activities | ODDS<br>Certified<br>Employment<br>(Community-Based<br>Job Coaching, Job<br>Development,<br>Discovery, Small<br>Group, Employment<br>Path Community, and<br>Facility-Based<br>Employment Path) |
|--|--|---------------------------------------|---|--|
| <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 Administrative Rule changes have been made 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. 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*

*POCO- Provider-owned, controlled or operated*

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

### **Oregon Health Authority, Health Systems Division**

| <b><u>OAR</u></b>              | <b><u>OAR Title</u></b>  |
|--------------------------------|--|
| <a href="#"><u>309-035</u></a> | Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders |
| <a href="#"><u>309-040</u></a> | Adult Foster Homes   |

### **Department of Human Services, Aging and People with Disabilities**

| <b><u>OAR</u></b>              | <b><u>OAR Title</u></b>   |
|--------------------------------|---|
| <a href="#"><u>411-015</u></a> | Long-Term Care Service Priorities for Individuals Served                |
| <a href="#"><u>411-028</u></a> | Case Management Services  |
| <a href="#"><u>411-050</u></a> | Adult Foster Homes  |
| <a href="#"><u>411-054</u></a> | Residential Care and Assisted Living Facilities                         |
| <a href="#"><u>411-057</u></a> | Memory Care Communities   |
| <a href="#"><u>411-065</u></a> | Specialized Living Services Contracts                                   |
| <a href="#"><u>411-066</u></a> | Residential and Certification Standards for Adult Day Services Programs |
| <a href="#"><u>411-067</u></a> | Continuing Care Retirement Community                                    |

**Department of Human Services, Office of Developmental Disabilities Services**

| <b><u>OAR</u></b>              | <b><u>OAR Title</u></b>  |
|--------------------------------|--|
| <a href="#"><u>407-025</u></a> | Integrated Employment Services to Individuals with I/DD  |
| <a href="#"><u>411-318</u></a> | Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services |
| <a href="#"><u>411-320</u></a> | Community Developmental Disability Programs  |
| <a href="#"><u>411-323</u></a> | Agency Certification and Endorsement to Provider Services to Individuals with I/DD in Community-Based Settings                     |
| <a href="#"><u>411-325</u></a> | 24-Hour Residential Settings for Children and Adults with I/DD   |
| <a href="#"><u>411-328</u></a> | Supported Living Settings for Individuals with I/DD  |
| <a href="#"><u>411-340</u></a> | Support Services for Adults with I/DD  |
| <a href="#"><u>411-345</u></a> | Employment and Alternatives to Employment Services for Individuals with I/DD   |
| <a href="#"><u>411-346</u></a> | Foster Homes for Children with I/DD  |
| <a href="#"><u>411-360</u></a> | Adult Foster Homes for Individuals with I/DD   |
| <a href="#"><u>411-415</u></a> | Case Management Services   |
| <a href="#"><u>411-450</u></a> | Community Living Services  |

## *Appendix D: Setting and Program Types with Medicaid Authority reviewed for compliance with HCBS Regulations*

| <b>Setting Type</b>  | <b>Funding Authority</b> | <b>Rule Meets HCBS Criteria</b><br>See Crosswalk for detail |
|--|--------------------------|---|
| Assisted Living Facility (ALF)   | 1915(k)                  | Yes   |
| Adult Foster Care (AFC)  | 1915(i)<br>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)<br>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)  | 1915(k)<br>1915(i)       | Yes   |
| Integrated Community Employment Settings (Job Coaching, Job Development, Discovery, Supported Small Group and Employment Path) | 1915(c)                  | Yes   |
| ODDS Community Living Supports Facility Settings   | 1915(k)                  | Yes   |
| Employment Path Facility-Based Settings  | 1915(c)                  | Yes   |

\* An individual's own or family home is presumed to meet the qualities of a home and community-based setting per CMS guidance and is not a provider-owned, controlled, or operated residential setting.

## *Appendix E: Crosswalk/Systems Remediation Grid*

### **Oregon Crosswalk/System Remediation Grid (as of September 30, 2016)**

To achieve full compliance with CMS HCBS rule, changes were made to state regulations to mirror and adequately capture the intent of the federal HCBS requirements. To ensure full compliance with CMS HCBS Rule across all program areas in a consistent manner, the overarching HCBS Rule was created to govern all settings in which services are provided under 1915(c), 1915(k), or 1915(i) Medicaid authorities. The global HCBS rule, OAR 411-004, includes the federal HCBS language and applies to all corresponding program, service and setting-specific rules.

While working with CMS towards CMS' initial approval of the state's systemic-assessment Transition Plan, the need to amend the overarching HCBS rule was identified to permit freedom from restraint to be a right upon which an individually-based limitation to the rule may be applied. Oregon Revised Statute, Oregon Administrative Rules, the 1915(i) (adult foster homes only), and the 1915(k) allow the use of restraints in HCBS settings as follows:

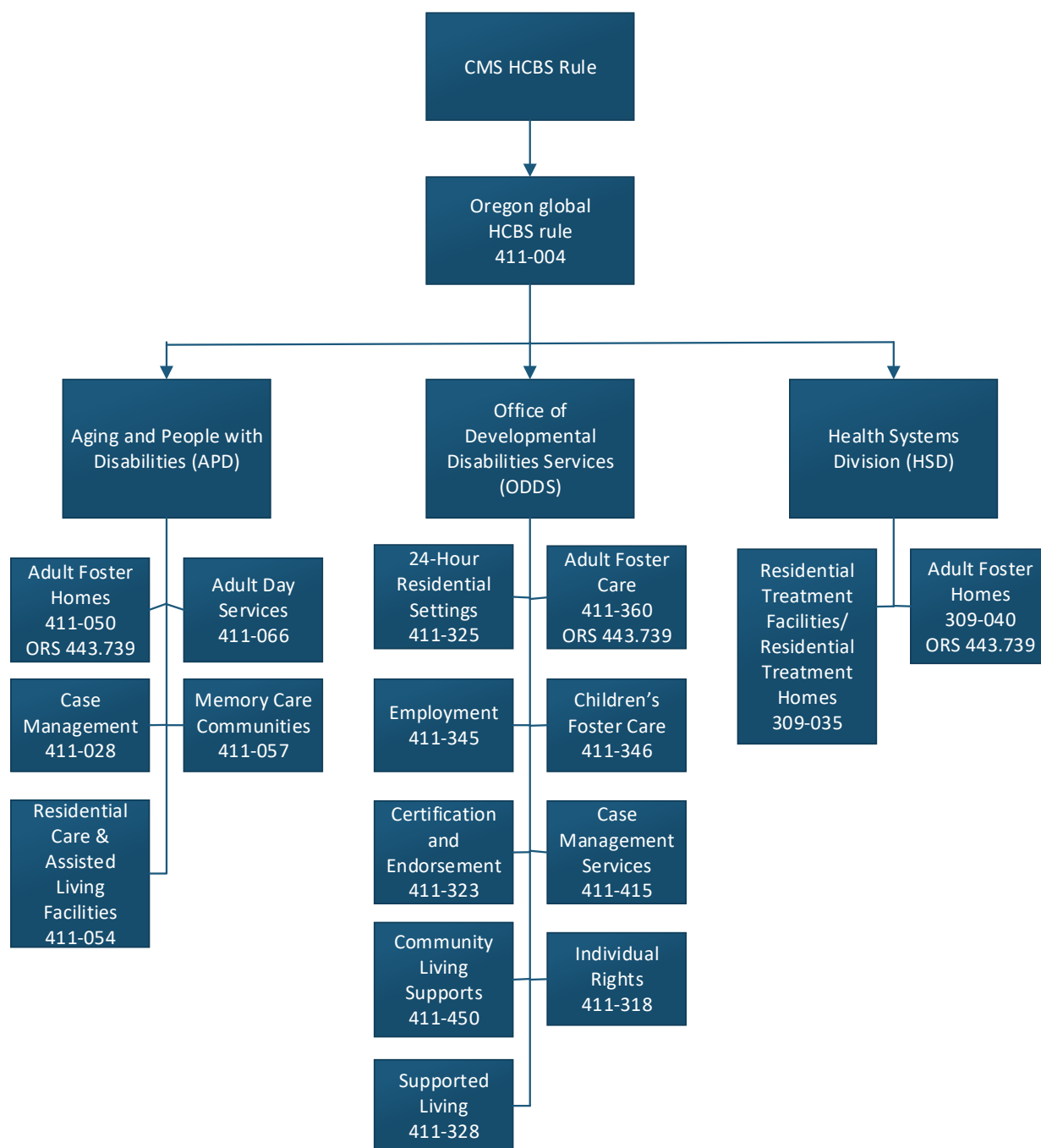
- In the case of an emergency to protect the individual or other individuals,
- Mechanical devices, material, equipment (referred to as safeguarding equipment) or manual methods to provide support to an individual for the purpose of achieving and maintaining functional body position, proper balance, and protecting the individual from injury or symptoms of existing medical conditions.

Use of any type of restraint must be prescribed by a physician or other qualified practitioner and is part of a defined plan to address the safety of the individual or others. The process for individually-based limitations to the rule, in accordance with the Federal regulations, will be followed for any individual for whom restraints are prescribed. Involuntary seclusion and wrongful restraints are defined as abuse in OARs. Through its established rule-making process, the state amended the overarching HCBS OAR with an effective date of 01/01/2017.

To strengthen compliance further, additional clarifying language was added to each program, service and setting specific rules to highlight or clarify new

requirements or practices expected because of the HCBS regulations. The updated rules are cited in the initial global scorecard. Because of this work, and the rule amendment referenced above, all Oregon Rules fall within the category of fully compliant with CMS HCBS Rule.

The function of the Oregon global HCBS rule is reflected in the following illustration:





## OHA/HSD

| Area of Compliance and Regulation  | Initial Status  | Remediation Actions<br>[Include Links to OARs and Policies]  | Current Status<br>[Align/Comply, Silent, Conflicts]                      | Timeline  |
|--|---|--|--|---|
| <p>1. Is the setting integrated into the greater community?</p> <p>42 CFR 441.301(c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that settings are integrated into the greater community</li> <li>- <a href="#">OAR 411-004-0000(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(B)</a></li> <br/> <li>- Updated HSD-specific program rules to reflect requirement that settings are integrated into the greater community. Rules reviewed/updated include:<br/>HSD AFH:               <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0300(1)(a-b)</a></li> <li>- <a href="#">OAR 309-040-0307(1)(a)(A-D)</a></li> <li>- <a href="#">OAR 309-040-0390(8)(a)(B)</a></li> </ul>               HSD RTF/RTH:               <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0100(1)(a-b)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(a)(A-D)</a></li> <li>- <a href="#">OAR 309-035-0160(2)(b)(B)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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| <p>2. Does the setting facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities, including:</p> <p>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)<br/> 42 CFR 441.530(a)(1)(ii)<br/> 42 CFR 441.710(a)(1)(ii)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that settings facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities</li> <li>- <a href="#">OAR 411-004-0000(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a), (1)(e), (3)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(B), (2)(c)(D)</a></li> <li>- Updated HSD-specific program rules to reflect requirement that settings facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities. Rules reviewed/updated include:<br/> HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0300(1)(a-b)</a></li> <li>- <a href="#">OAR 309-040-0307(1)(a)(B, D), (1)(e)</a></li> <li>- <a href="#">OAR 309-040-0390(7)(m), (8)(a)(B, D)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0100(1)(b)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(a)(A-D), (1)(e)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs:<br/>Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
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|   |   | - <a href="#">OAR 309-035-0160(1)(m), (2)(b)(B,D)</a>  |  |   |
| <p><i>a. Opportunities to seek employment and work in competitive integrated settings?</i></p> <p>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting facilitates opportunities for individuals to seek employment and work in competitive integrated settings</li> <li>- <a href="#">OAR 411-004-0000(2)(a)</a></li> <li>- <a href="#">OAR 411-004-0010(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(A)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(C)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the setting facilitates opportunities for individuals to seek employment and work in competitive integrated settings. Rules reviewed/updated include:</li> <li>- HSD AFH:</li> </ul> | <p>Overarching HCBS OARs:<br/>Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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|  |   | <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(1)(a)(A)</a></li> <li>- <a href="#">OAR 309-040-0390(7)(m), (8)(a)(C)</a></li> <li>- <a href="#">OAR 309-040-0410(2)(d)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(1)(a)(A)</a></li> <li>- <a href="#">OAR 309-035-0190(1)(m), (2)(b)(C)</a></li> <li>- <a href="#">OAR 309-035-0175(4)(e)</a></li> </ul>  |   |  |
| <i>b. Engage in community life?</i><br>42 CFR 441.301(c)(2)(i) & (c)(4)(i)<br>42 CFR 441.530(a)(1)(i)<br>42 CFR 441.710(a)(1)(i) | HSD AFH:<br>Yes<br><br>HSD<br>RTF/RTH:<br>Yes | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting facilitates individuals engagement in community life<br/> <a href="#">OAR 411-004-0000(2)(b)</a><br/> <a href="#">OAR 411-004-0020(1)(a)(B)</a><br/> <a href="#">OAR 411-004-0030(2)(c)(D)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the setting facilitates individuals' engagement in community life. Rules reviewed/updated include:<br/><br/> HSD AFH:<br/> <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0300(1)(b)</a></li> <li>- <a href="#">OAR 309-040-0307(1)(a)(B)</a></li> <li>- <a href="#">OAR 309-040-0390(8)(a)(D)</a></li> </ul> HSD RTF/RTH: </li> </ul> | Overarching<br>HCBS OARs:<br>Align/Comply<br><br>HSD OARs: Align/<br>Comply | HCBS rules became effective 01/01/16<br><br>HSD-specific Rules reviewed/updated and effective 09/06/16 |

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|  |   | <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0100(1)(b)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(a)(B)</a></li> <li>- <a href="#">OAR 309-035-0190(1)(m), (2)(b)(B, D)</a></li> </ul>   |  |   |
| <p>c. Control personal resources?</p> <p>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting facilitates individuals control personal resources</li> <li>- <a href="#">OAR 411-004-0000(2)(c), (3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(C)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(A), (2)(c)(D)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the setting facilitates individuals control personal resources. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0305(61)</a></li> <li>- <a href="#">OAR 309-040-0307(1)(a)(C)</a></li> <li>- <a href="#">OAR 309-040-0390(8)(a)(A, D)</a></li> </ul> </li> <li>- HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0105(44)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(a)(C)</a></li> <li>- <a href="#">OAR 309-035-0190(2)(b)(D)</a></li> </ul> </li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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| <p><i>d. Receive services in the community?</i></p> <p>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that settings facilitate individuals receiving services in the community</li> <li>- <a href="#">OAR 411-004-0000(2), (2)(d)</a></li> <li>- <a href="#">OAR 411-004-0010(6), (17)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(D)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(D)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the setting facilitates individuals receiving services in the community. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0300(1)(b)</a></li> <li>- <a href="#">OAR 309-040-0307(1)(a)(D)</a></li> <li>- <a href="#">OAR 309-040-0390(8)(a)(D)</a></li> </ul> </li> <li>- HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0100(1)(b)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(a)(D)</a></li> <li>- <a href="#">OAR 309-035-0190(1)(m), (2)(b)(B, D)</a></li> </ul> </li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
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| <p>3. Are the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint protected?</p> <p>42 CFR 441.301(c)(4)(iii)<br/>42 CFR 441.530(a)(1)(iii)<br/>42 CFR 441.710(a)(1)(iii)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion protected.</li> <li>- <a href="#">OAR 411-004-0020(1)(c), (2)</a></li> <li>- *Per CMS' request, amend overarching Home and Community-Based Services and Settings rule to allow application of individually-based limitations to the rule to an individual's right of freedom from restraint, in accordance with approved 1915(i) (only in AFH), and existing ORS and OARs.</li> <li>- Updated HSD-specific program rules to reflect the requirement that the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint are protected. Rules reviewed/updated include:<br/>HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(1)(c), (2)(d)</a></li> <li>- <a href="#">OAR 309-040-0410(1)(e), (2)(i)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> <p>AFH ORS (441.739) Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>*Amendment to 411-004-0020, and 411-004-0040 with an effective date of 01/01/2017</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
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|  |   | <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0390(12)</a></li> <li>- <a href="#">ORS 443.738(9)</a> states chemical and physical restraints may only be used to treat a resident's medical symptoms or to maximize a resident's physical functioning. They may not be used for the home's convenience or for discipline.</li> <li>- <a href="#">ORS 443.739(1), (4), (7), and (8)</a> reflect the requirement that the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint (except as ordered by a physician or other qualified practitioner) are protected.</li> </ul> <p>HSD RTF/RTH:</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0100(1)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(c), (4)(d)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(H)</a></li> <li>- <a href="#">OAR 309-035-0167(1)</a></li> <li>- <a href="#">OAR 309-035-0175(4)(f)</a></li> </ul> |  |                                      |
| 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? | <p>HSD AFH:<br/>No</p> <p>HSD RTF/RTH:<br/>No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the individual's initiative, autonomy, and independence in making life choices, including but not limited</li> </ul>  | Overarching HCBS OARs:<br>Align/Comply | HCBS rules became effective 01/01/16 |



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| <p>42 CFR 441.301(c)(4)(iv)<br/> 42 CFR 441.530(a)(1)(iv)<br/> 42 CFR 441.701(a)(1)(iv)</p> |  | <p>to, daily activities, physical environment, and with whom to interact, are optimized and not regimented</p> <p><a href="#">OAR 411-004-0000(1), (3)(e)</a></p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(d), (1)(e), (2)(f), (2)(i)</a></li> <li>- <a href="#">OAR 411-004-0030(1)(c), (1)(h)</a></li> </ul> <p>- Updated HSD-specific program rules to reflect the requirement that 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. Rules reviewed/updated include:</p> <ul style="list-style-type: none"> <li>- HSD AFH:</li> <li>- <a href="#">OAR 309-040-0300(1)</a></li> <li>- <a href="#">OAR 309-040-0307(1)(d-e), (2)(f, i)</a></li> <li>- <a href="#">OAR 309-040-0390(10)(c)</a></li> <li>- <a href="#">OAR 309-040-0410(1)(e)(D, O)</a></li> <li>- HSD RTF/RTH:</li> <li>- <a href="#">OAR 309-035-0100(1)</a></li> <li>- <a href="#">OAR 309-035-0110(1)(d-e), (2)(b), (4)(f, i)</a></li> </ul> | <p>HSD OARs:<br/>Align/Comply</p> | <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
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|  |  | - <a href="#">OAR 309-035-0190(1)(a-c), (2)(b)(B)</a>   |  |   |
| <b>RESIDENTIAL SETTINGS</b>  |  |   |  |   |
| <p>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?</p> <p>42 CFR 441.301(c)(4)(vi)(A)<br/> 42 CFR 441.530(a)(1)(vi)(A)<br/> 42 CFR 441.710(a)(1)(vi)(A)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the unit or room is 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</li> <li>- <a href="#">OAR 411-004-0010(18), (21)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(b), (2)(c)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the unit or room is 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</li> </ul> | <p>Overarching HCBS OARs:<br/>Align/Comply</p> <p>HSD OARs:<br/>Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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|  |   | <p>from eviction that tenants have under the State's landlord tenant laws. Rules reviewed/updated include:</p> <ul style="list-style-type: none"> <li>- HSD AFH:</li> <li>- <a href="#">OAR 309-040-0307(2)(b-c)</a></li> <li>- <a href="#">OAR 309-040-0394(2)(o)(A)</a></li> <li>- <a href="#">OAR 309-040-0410(2)(a)</a></li> <li>- HSD RTF/RTH:</li> <li>- <a href="#">OAR 309-0035-0110(1)(b), (4)(b-c)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(A)</a></li> </ul>  |  |   |
| <p>6. Do individuals have privacy in their sleeping or living unit?</p> <p>42 CFR 441.301(c)(4)(vi)(B)</p> <p>42 CFR 441.530(a)(1)(vi)(B)</p> <p>42 CFR 441.710(a)(1)(vi)(B)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have privacy in their sleeping or living unit</li> <li>- <a href="#">OAR 411-004-0010(21)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(c), (2)(d)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that individuals have privacy in their sleeping or living unit. Rules reviewed/updated include:<br/>HSD AFH:</li> <li>- <a href="#">OAR 309-040-0307(2)(d)</a></li> <li>- <a href="#">OAR 309-040-0365(6)(a)</a></li> <li>- <a href="#">OAR 309-040-0380(1)(d)</a></li> <li>- <a href="#">OAR 309-040-0394(2)(o)(H)</a></li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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|   |   | <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0410(2)(i)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(1)(c), (4)(d)</a></li> <li>- <a href="#">OAR 309-035-0140(7)(c)(e), (8)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(H)</a></li> <li>- <a href="#">OAR 309-035-0175(4)(c), (5)(h)</a></li> <li>- <a href="#">OAR 309-035-0320(7)(d), (8)(a)</a></li> <li>- <a href="#">OAR 309-035-0380(2)(h), (3)(c)</a></li> </ul>  |  |   |
| <p>7. Do units have lockable entrance doors, with appropriate staff having keys to doors?</p> <p>42 CFR 441.301(c)(4)(vi)(B)(1)</p> <p>42 CFR 441.530(a)(1)(vi)(B)(1)</p> <p>42 CFR 441.710(a)(1)(vi)(B)(1)</p> | <p>HSD AFH:<br/>No</p> <p>HSD<br/>RTF/RTH:<br/>No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings, including the requirement that units have lockable entrance doors, with appropriate staff having keys to doors</li> <li>- <a href="#">OAR 411-004-0020(2)(e)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that units have lockable entrance doors, with appropriate staff having keys to doors. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(e)</a></li> <li>- <a href="#">OAR 309-040-0365(6)(a)</a></li> <li>- <a href="#">OAR 309-040-0410(2)(e)</a></li> </ul> </li> <li>- HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(4)(e)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(D)</a></li> <li>- <a href="#">OAR 309-035-0175(5)(d)</a></li> </ul> </li> </ul> </li> </ul> | <p>Overarching HCBS OARs:<br/>Align/Comply</p> <p>HSD OARs:<br/>Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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| <p>8. If individuals share rooms, do they do so only at their choice?</p> <p>42 CFR 441.301(c)(4)(vi)(B)(2)</p> <p>42 CFR 441.530(a)(1)(vi)(B)(2)</p> <p>42 CFR 441.710(a)(1)(vi)(B)(2)</p>                         | <p>HSD AFH:<br/>No</p> <p>HSD<br/>RTF/RTH:<br/>No</p>   | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that if individuals share rooms, they do so only at their choice</li> <li>- <a href="#">OAR 411-004-0020(2)(f)</a></li> <li>- Updated HSD -specific program rules to reflect the requirement that if individuals share rooms, they do so only at their choice. Rules reviewed/updated include:<br/>HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(f)</a></li> <li>- <a href="#">OAR 309-040-0394(2)(o)(D)</a></li> <li>- <a href="#">OAR 309-040-0410(2)(f)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(4)(f)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(E)</a></li> <li>- <a href="#">OAR 309-035-0175(5)(e)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs:<br/>Align/Comply</p> <p>HSD OARs:<br/>Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
| <p>9. Do individuals have the freedom to furnish and decorate their sleeping or living units?</p> <p>42 CFR 441.301(c)(4)(vi)(B)(3)</p> <p>42 CFR 441.530(a)(1)(vi)(B)(3)</p> <p>42 CFR 441.710(a)(1)(vi)(B)(3)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have the freedom to furnish and decorate their sleeping or living units.</li> <li>- <a href="#">OAR 411-004-0020(2)(g)</a></li> </ul>   | <p>Overarching HCBS OARs:<br/>Align/Comply</p> <p>HSD OARs: Align/Comply</p>     | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and</p>                    |

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|  |  | <ul style="list-style-type: none"> <li>- Updated HSD-specific program rules to reflect the requirement that individuals have the freedom to furnish and decorate their sleeping or living units. Rules reviewed/updated include:<br/>HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(g)</a></li> <li>- <a href="#">OAR 309-040-0394(2)(o)(F)</a></li> <li>- <a href="#">OAR 309-040-0410(2)(g)</a></li> </ul> </li> <li>HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(4)(g)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(F)</a></li> <li>- <a href="#">OAR 309-035-0175(5)(f)</a></li> </ul> </li> </ul>                           |  | effective<br>09/06/16   |
| <p>10. Do individuals have the freedom and support to control their own schedules and activities?</p> <p>42 CFR 441.301(c)(4)(vi)(C)</p> <p>42 CFR 441.530(a)(1)(vi)(C)</p> <p>42 CFR 441.710(a)(1)(vi)(C)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have the freedom and support to control their own schedules and activities <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(d), (2)(i)</a></li> </ul> </li> <li>- Updated HSD-specific program rules to reflect the requirement that individuals have the freedom and support to control their own schedules and activities. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>-</li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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|   |   | <p>HSD AFH</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(i)</a></li> <li>- <a href="#">OAR 309-040-0394(2)(o)(G)</a></li> <li>- <a href="#">OAR 309-040-0410(1)(e)(O), (2)(c)(h)</a></li> </ul> <p>HSD RTF/RTH:</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0107(1)(d)(e), (4)(i)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(G)</a></li> <li>- <a href="#">OAR 309-035-0175(5)(c)</a></li> </ul>   |  |   |
| <p>11. Do individuals have access to food at any time?</p> <p>42 CFR 441.301(c)(4)(vi)(C)</p> <p>42 CFR 441.530(a)(1)(vi)(C)</p> <p>42 CFR 441.710(a)(1)(vi)(C)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have access to food at any time</li> <li>- <a href="#">OAR 411-004-0020(2)(i)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that individuals have access to food at any time. Rules reviewed/updated include:</li> </ul> <p>HSD AFH:</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(i)</a></li> <li>- <a href="#">OAR 309-040-0385(8)</a></li> <li>- <a href="#">OAR 309-040-0392(2)(o)(B)</a></li> <li>- <a href="#">OAR 309-040-0410(1)(e)(O)</a></li> </ul> <p>HSD RTF/RTH:</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(4)(i)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(B)</a></li> <li>- <a href="#">OAR 309-035-0175(5)(g)</a></li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |

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| <p>12. Are individuals able to have visitors of their choosing at any time?</p> <p>42 CFR 441.301(c)(4)(vi)(D)</p> <p>42 CFR 441.530(a)(1)(vi)(D)</p> <p>42 CFR 441.710(a)(1)(vi)(D)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals are able to have visitors of their choosing at any time</li> <li>- <a href="#">OAR 411-004-0020(2)(h)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that individuals are able to have visitors of their choosing at any time. Rules reviewed/updated include:<br/>HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(h)</a></li> <li>- <a href="#">OAR 309-040-0394(2)(o)(C)</a></li> <li>- <a href="#">OAR 309-040-0410(2)(b)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(4)(h)</a></li> <li>- <a href="#">OAR 309-035-0165(2)(o)(C)</a></li> <li>- <a href="#">OAR 309-035-0175(5)(b)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |



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| <p>13. Is the setting physically accessible to the individual?</p> <p>42 CFR 441.301(c)(4)(vi)(E)</p> <p>42 CFR 441.530(a)(1)(vi)(E)</p> <p>42 CFR 441.710(a)(1)(vi)(E)</p>     | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting is accessible to the individual</li> <li>- <a href="#">OAR 411-004-0020(2)(b)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the setting is accessible to the individual. Rules reviewed/updated include:<br/>HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(2)(a)</a></li> <li>- <a href="#">OAR 309-040-0365(1)(d), (3)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(4)(a)</a></li> <li>- <a href="#">OAR 309-035-0140(2)(a-c), (3)</a></li> <li>- <a href="#">OAR 309-035-0175(4)(b)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
| <p>14. Is the residential setting located in a building:</p>  |  |  |  |   |
| <p>a. That is also a facility that provides inpatient institutional treatment?</p> <p>42 CFR 441.301(c)(5)(v)</p> <p>42 CFR 441.530(a)(2)(v)</p> <p>42 CFR 441.701(a)(2)(v)</p> | <p>HSD AFH:<br/>No</p> <p>HSD<br/>RTF/RTH:<br/>No</p>  | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is not located in a building that is also a facility that provides inpatient institutional treatment</li> <li>- <a href="#">OAR 411-004-0020(7)(e)(A)(i)</a></li> </ul>  | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and</p>                    |

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|   |   | <ul style="list-style-type: none"> <li>- Updated HSD-specific program rules to reflect the requirement that the residential setting is not located in a building that is also a facility that provides inpatient institutional treatment. Rules reviewed/updated include:<br/>HSD AFH:</li> <li>- <a href="#">OAR 309-040-0300(1)(a-b)</a></li> <li>- <a href="#">OAR 309-035-0100(1)(a-b)</a></li> </ul>   |  | effective<br>09/06/16  |
| <i>b. On the grounds of or immediately adjacent to a public institution?</i><br>42 CFR 441.301(c)(5)(v)<br>42 CFR 441.530(a)(2)(v)<br>42 CFR 441.710(a)(2)(v) | HSD AFH:<br>No<br><br>HSD RTF/RTH:<br>Yes | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is located in a building that is not on the grounds of or immediately adjacent to a public institution</li> <li>- <a href="#">OAR 411-004-0020(7)(e)(A)(ii)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the residential setting is located in a building that is not on the grounds of or immediately adjacent to a public institution. Rules reviewed/updated include:<br/>HSD AFH:</li> <li>- <a href="#">OAR 309-040-0300(1)(a-b)</a></li> </ul> | Overarching HCBS OARs:<br>Align/Comply<br><br>HSD OARs: Align/Comply | HCBS rules became effective<br>01/01/16<br><br>HSD-specific Rules reviewed/updated and effective<br>09/06/16 |

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|   |   | - <a href="#">OAR 309-035-0100(1)(a-b)</a>   |  |   |
| <p><i>c. On the grounds of or immediately adjacent to disability-specific housing?</i></p> <p>42 CFR 441.301(c)(5)(v)<br/>42 CFR 441.530(a)(2)(v)<br/>42 CFR 441.710(a)(2)(v)</p> | <p>HSD AFH:<br/>No</p> <p>HSD<br/>RTF/RTH:<br/>No</p> | <p>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is located in a building that is not on the grounds of or immediately adjacent to disability-specific housing</p> <p>- <a href="#">OAR 411-004-0020(7)(e), (7)(e)(A)(iii)</a></p> <p>- Updated HSD-specific program rules to reflect the requirement that the residential setting is located in a building that is not on the grounds of or immediately adjacent to disability-specific housing. Rules reviewed/updated include:<br/>HSD AFH:<br/>- <a href="#">OAR 309-040-0300(1)(a-b)</a><br/>HSD RTF/RTH:<br/>- <a href="#">OAR 309-035-0100(1)(a-b)</a></p> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
| <b>RESIDENTIAL SETTINGS - System Questions</b>  |   |  |  |   |

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| <p>15. Is the setting selected by the individual from among all available alternatives and is identified in the person-centered service plan?</p> <p>42 CFR 441.301(c)(4)(ii)<br/>42 CFR 441.530(a)(1)(ii)<br/>42 CFR 441.710(a)(1)(ii)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan</li> <li>- <a href="#">OAR 411-004-0020(1)(b), (1)(b)(D)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the residential setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(1)(b)(A-C)</a></li> <li>- <a href="#">OAR 309-040-0390(8)(a)(A-B)</a></li> <li>- <a href="#">OAR 309-040-0395(1)</a></li> </ul> </li> <li>- HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(1)(b)(A-C), (2)(a-c)</a></li> <li>- <a href="#">OAR 309-035-0190(2)(b)(A-B)</a></li> </ul> </li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
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| <p>16. Is the individual choice regarding services and supports, and who provides them, facilitated?</p> <p>42 CFR 441.301(c)(4)(v)<br/>42 CFR 441.530(a)(1)(v)<br/>42 CFR 441.710(a)(1)(v)</p> | <p>HSD AFH:<br/>Yes</p> <p>HSD<br/>RTF/RTH:<br/>Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings, including the requirement that the individual's choice regarding services and supports, and who provides them, is facilitated</li> <li>- <a href="#">OAR 411-004-0020(1)(d), (1)(e)</a></li> <li>- <a href="#">OAR 411-004-0030(1)(h)</a></li> <li>- Updated HSD-specific program rules to reflect the requirement that the individual's choice regarding services and supports, and who provides them, is facilitated. Rules reviewed/updated include:<br/>HSD AFH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-040-0307(1)(d-e)</a></li> <li>- <a href="#">OAR 309-040-0390(7)(h)</a></li> </ul> HSD RTF/RTH: <ul style="list-style-type: none"> <li>- <a href="#">OAR 309-035-0110(1)(e)</a></li> <li>- <a href="#">OAR 309-035-0190(1)(h)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>HSD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>HSD-specific Rules reviewed/updated and effective 09/06/16</p> |
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\*The updated HSD-specific Rules available on Oregon's Secretary of States website 11/01/2016. The remediation grid will be updated with hyperlinks to the rules at that time.

## DHS/APD

| Area of Compliance and Regulation   | Initial Status<br>(As of 7/2014 for Residential and 9/2015 for Non-Residential)     | Remediation Actions<br><i>[Include Links to OARs and Policies]</i>   | OAR Compliance with CFR<br><i>[Align/Comply, Silent, Conflicts]</i>      | Timeline  |
|---|---|--|--|---|
| <p>1. <i>Is the setting integrated into the greater community?</i></p> <p>42 CFR 441.301(c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> <p>APD ADS: Yes</p> <p>APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that settings are integrated into the greater community</li> <li>- <a href="#">OAR 411-004-0000(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(B)</a></li> <li>- Updated APD-specific program rules to reflect requirement that settings are integrated into the greater community. Rules reviewed/updated include:               <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(4),(41)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(9)(a)(I)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(1), (2)</a><br/><a href="#">OAR 411-054-0012(5)</a></li> <li>- APD Case Management<br/><a href="#">OAR 411-028-0000(1)</a><br/><a href="#">OAR 411-028-0020(2)(b)</a></li> <li>- APD Specialized Living<br/><a href="#">OAR 411-065-0000</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs: Align/Comply</p> <p>APD OARs: Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

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| <p>2. Does the setting facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities, including:<br/> 42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)<br/> 42 CFR 441.530(a)(1)(ii)<br/> 42 CFR 441.710(a)(1)(ii)</p> | <p>APD AFH: Yes<br/> APD RCF/ALF: Yes<br/> APD ADS: Yes<br/> APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that settings facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities</li> <li>- <a href="#">OAR 411-004-0000(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a), (1)(e), (3)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(B), (2)(c)(D)</a></li> <li>- Updated APD-specific program rules to reflect requirement that settings facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities. Rules reviewed/updated include:</li> <li>- APD AFH<br/> <a href="#">OAR 411-050-0600</a><br/> <a href="#">OAR 411-050-0602(41), (42)</a><br/> <a href="#">OAR 411-050-0645(1)(b)(D), (1)(f)</a><br/> <a href="#">OAR 411-050-0655(9)(a)(I)</a></li> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(1), (2)</a><br/> <a href="#">OAR 411-054-0012(5)</a></li> <li>- APD Specialized Living<br/> <a href="#">OAR 411-065-0046(1)</a></li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |
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| <p><i>a. Opportunities to seek employment and work in competitive integrated settings?</i><br/> 42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)<br/> 42 CFR 441.530(a)(1)(i)<br/> 42 CFR 441.710(a)(1)(i)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ ALF: Yes</p> <p>APD ADS: Programs for Older Adults or Memory Care – Generally N/A; Programs for People with Disabilities – Yes</p> <p>APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting facilitates opportunities for individuals to seek employment and work in competitive integrated settings</li> <li>- <a href="#">OAR 411-004-0000(2)(a)</a></li> <li>- <a href="#">OAR 411-004-0010(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(A)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(C)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the setting facilitates opportunities for individuals to seek employment and work in competitive integrated settings. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/> <a href="#">OAR 411-050-0600</a><br/> <a href="#">OAR 411-050-0602(41)</a><br/> <a href="#">OAR 411-050-0645(1)(b)(D)</a></li> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(2)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |
| <p><i>b. Engage in community life?</i><br/> 42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)</p>   | <p>APD AFH: Yes</p> <p>APD RCF/ ALF: Yes</p>   | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting facilitates</li> </ul>   | <p>Overarching HCBS OARs Align/Comply</p>                              | <p>HCBS rules became effective 01/01/16</p>   |



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| <p>42 CFR 441.530(a)(1)(i)<br/>42 CFR 441.710(a)(1)(i)</p>  | <p>APD ADS: Yes<br/>APD SLP: Yes</p>                                       | <p>individuals engagement in community life<br/><a href="#">OAR 411-004-0000(2)(b)</a><br/><a href="#">OAR 411-004-0020(1)(a)(B)</a><br/><a href="#">OAR 411-004-0030(2)(c)(D)</a></p> <ul style="list-style-type: none"> <li>- Updated APD-specific program rules to reflect the requirement that the setting facilitates individuals' engagement in community life. Rules reviewed/updated include:</li> <li>- APD AFH<br/><a href="#">OAR 411-050-0600</a><br/><a href="#">OAR 411-050-0602(41)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(9)(a)(C),(H),(I)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0027(1)(m)-(n)</a></li> <li>- APD K-State Plan<br/><a href="#">OAR 411-035-0010(23)</a></li> <li>- APD Specialized Living<br/><a href="#">OAR 411-065-0046</a></li> </ul> | <p>APD OARs<br/>Align/Comply</p>   | <p>APD-specific Rules reviewed/updated and effective 01/01/16</p>                        |
| <p>c. Control personal resources?<br/>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)<br/>42 CFR 441.530(a)(1)(i)<br/>42 CFR 441.710(a)(1)(i)</p> | <p>APD AFH: Yes<br/>APD RCF/ALF: Yes<br/>APD ADS: Yes<br/>APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting facilitates individuals control personal resources</li> <li>- <a href="#">OAR 411-004-0000(2)(c), (3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> </ul>   | <p>Overarching HCBS OARs<br/>Align/Comply<br/><br/>APD OARs<br/>Align/Comply</p> | <p>HCBS rules became effective 01/01/16<br/><br/>APD-specific Rules reviewed/updated</p> |

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|---|---|--|---|--|
|   |   | <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0020(1)(a)(C)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(A), (2)(c)(D)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the setting facilitates individuals control personal resources. Rules reviewed/updated include:</li> <li>- APD AFH<br/> <a href="#">OAR 411-050-0600</a><br/> <a href="#">OAR 411-050-0602(41)</a><br/> <a href="#">OAR 411-050-0645(1)(b)(D)</a><br/> <a href="#">OAR 411-050-0655(9)(a)(M)</a></li> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(2)</a><br/> <a href="#">OAR 411-054-0027(1)(i)</a><br/> <a href="#">OAR 411-054-0085(8)(a)</a></li> <li>- APD Specialized Living<br/> <a href="#">OAR 411-065-0046</a></li> </ul> |   | and effective 01/01/16   |
| <i>d. Receive services in the community?</i><br>42 CFR 441.301(c)(2)(i) & (c)(4)(i)<br>42 CFR 441.530(a)(1)(i)<br>42 CFR 441.710(a)(1)(i) | APD AFH: Yes<br><br>APD RCF/ALF: <i>blank</i><br><br>APD ADS: Yes<br><br>APD SLP: Yes | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that settings facilitate individuals receiving services in the community</li> <li>- <a href="#">OAR 411-004-0000(2), (2)(d)</a></li> <li>- <a href="#">OAR 411-004-0010(6), (17)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(D)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(D)</a></li> </ul>   | Overarching HCBS OARs Align/Comply<br><br>APD OARs Align/Comply | HCBS rules became effective 01/01/16<br><br>APD-specific Rules reviewed/updated and effective 01/01/16 |

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|--|--|--|--|--|
|  |  | <ul style="list-style-type: none"><li>- Updated APD-specific program rules to reflect the requirement that the setting facilitates individuals receiving services in the community. Rules reviewed/updated include:</li><li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a></li><li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0027(1)(m)-(n)</a><br/><a href="#">OAR 411-054-0045(2)(b)</a></li><li>- APD Case Management<br/><a href="#">OAR 411-028-0010(4)</a><br/><a href="#">OAR 411-028-0020(1)(c), (2)(b)</a></li><li>- APD In-Home Services<br/><a href="#">OAR 411-030-0002(1), (36)</a><br/><a href="#">OAR 411-030-0033(2)(a)</a><br/><a href="#">OAR 411-030-0100(1)</a></li><li>- APD Homecare Workers in CEP<br/><a href="#">OAR 411-031-0040(5), (7)</a></li><li>- APD Memory Care Communities<br/><a href="#">OAR 411-057-0140(5)(a), (k)</a></li><li>- APD Specialized Living<br/><a href="#">OAR 411-065-0046</a></li></ul> |  |  |
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| <p>3. Are the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint protected?</p> <p>42 CFR 441.301(c)(4)(iii)<br/>42 CFR 441.530(a)(1)(iii)<br/>42 CFR 441.710(a)(1)(iii)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> <p>APD ADS: Yes</p> <p>APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint are protected</li> <li>- <a href="#">OAR 411-004-0020(1)(c), (2)</a></li> <li>- Per CMS' request, amend overarching Home and Community-Based Services and Settings rule to allow application of individually-based limitations to the rule to an individual's right of freedom from restraint, in accordance with approved 1915(k), and existing ORS and OARs.</li> <li>- Updated APD-specific program rules to reflect the requirement that the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint are protected. Rules reviewed/updated include:</li> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41),(42)</a></li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> <p>AFH ORS (441.739) Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>*Amendment to 411-004-0020, and 411-004-0040 with an effective date of 01/01/2017</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |
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[OAR 411-050-0645\(1\)\(b\)\(D\), \(1\)\(e\), \(7\)\(b\)\(A\),\(B\), \(7\)\(d\)](#)  
[OAR 411-050-0655\(8\)\(a\), \(8\)\(d\), \(8\)\(i\)\(B\), \(9\)\(a\)\(A\),\(F\),\(G\),\(H\),\(J\),\(L\), \(9\)\(b\)\(D\),\(H\)](#)  
[OAR 411-050-0665\(14\)\(a\), \(14\)\(c\)\(B\)](#)

[ORS 443.738\(9\)](#) states chemical and physical restraints may only be used to treat a resident's medical symptoms or to maximize a resident's physical functioning. They may not be used for the home's convenience or for discipline.

[ORS 443.739\(1\), \(4\), \(7\), and \(8\)](#) reflect the requirement that the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint are protected.

- APD RCF/ALF  
[OAR 411-054-0000\(2\)](#)  
[OAR 411-054-0025\(7\), \(10\)](#)  
[OAR 411-054-0027\(1\)\(a\), \(1\)\(g\), \(1\)\(k\)](#)  
[OAR 411-054-0060\(1\)](#)
- APD Case Management  
[OAR 411-028-0000\(1\)](#)
- APD In-Home Services  
[OAR 411-030-0002\(1\)](#)  
[OAR 411-030-0100\(1\)](#)
- APD K-State Plan  
[OAR 411-035-0000\(1\)](#)

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|---|---|--|--|---|
|   |   | <ul style="list-style-type: none"> <li><a href="#">OAR 411-035-0010(23)</a></li> <li>- APD Memory Care Communities<br/><a href="#">OAR 411-057-0100</a><br/><a href="#">OAR 411-057-0140(5)(a)-(e)</a><br/><a href="#">OAR 411-057-0160(1)</a><br/><a href="#">OAR 411-057-0170(1)</a></li> <li>- APD Specialized Living<br/><a href="#">OAR 411-065-0046</a></li> </ul>   |  |   |
| <p>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?</p> <p>42 CFR 441.301(c)(4)(iv)<br/>42 CFR 441.530(a)(1)(iv)<br/>42 CFR 441.701(a)(1)(iv)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> <p>APD ADS: Yes</p> <p>APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that 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<br/><a href="#">OAR 411-004-0000(1), (3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(d), (1)(e), (2)(f), (2)(i)</a></li> <li>- <a href="#">OAR 411-004-0030(1)(c), (1)(h)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the individual's initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and</li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

with whom to interact, are optimized and not regimented. Rules reviewed/updated include:

- APD AFH  
[OAR 411-050-0600](#)  
[OAR 411-050-0602\(41\),\(42\)](#)  
[OAR 411-050-0645\(1\)\(b\)\(D\)](#)  
[OAR 411-050-0655\(4\)\(a\)\(K\),\(N\), \(8\)\(a\), \(9\)\(a\)\(C\),\(H\),\(I\),\(K\), \(9\)\(b\)\(A-H\)](#)
- APD RCF/ALF  
[OAR 411-054-0000\(1\), \(2\)](#)  
[OAR 411-054-0025\(10\)](#)  
[OAR 411-054-0027\(1\)](#)  
[OAR 411-054-0036\(6\)\(a\)](#)
- APD Case Management  
[OAR 411-028-0000\(1\)](#)  
[OAR 411-028-0010\(4\)](#)  
[OAR 411-028-0020\(1\)\(c\), \(2\)\(b\)](#)
- APD In-Home Services  
[OAR 411-030-0002\(1\)](#)  
[OAR 411-030-0100\(1\)](#)
- APD K-State Plan  
[OAR 411-035-0010\(23\)](#)  
[OAR 411-035-0015\(4\)](#)
- APD Memory Care Communities  
[OAR 411-057-0160\(1\), \(2\)\(a\), \(2\)\(d\)](#)
- APD Specialized Living  
[OAR 411-065-0046](#)
- APD Service Priorities  
[OAR 411-015-0008\(1\)\(a\)\(C\), \(2\)\(b\)\(B\)](#)

| RESIDENTIAL SETTINGS   |  |   | (N/A)  | (N/A)   |
|--|--|---|--|---|
| <p>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?</p> <p>42 CFR<br/>441.301(c)(4)(vi)(A)<br/>42 CFR<br/>441.530(a)(1)(vi)(A)<br/>42 CFR<br/>441.710(a)(1)(vi)(A)</p> | <p>APD AFH: No</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the unit or room is 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</li> <li>- <a href="#">OAR 411-004-0010(18), (21)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(b), (2)(c)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the unit or room is 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. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |



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|  |                                       | <a href="#">OAR 411-050-0615(2)</a><br><a href="#">OAR 411-050-0645(1)(b)(D)</a><br><a href="#">OAR 411-050-0655(9)(b)(A)</a><br><ul style="list-style-type: none"> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(2)</a><br/> <a href="#">OAR 411-054-0025(10)</a><br/> <a href="#">OAR 411-054-0027(2)(a)</a> </li> <li>- APD In-Home Services<br/> <a href="#">OAR 411-030-0002(1)</a><br/> <a href="#">OAR 411-030-0033</a> </li> <li>- APD Memory Care Communities<br/> <a href="#">OAR 411-057-0110(24)</a> </li> </ul>  |   |  |
| 6. Do individuals have privacy in their sleeping or living unit?<br>42 CFR<br>441.301(c)(4)(vi)(B)<br>42 CFR<br>441.530(a)(1)(vi)(B)<br>42 CFR<br>441.710(a)(1)(vi)(B) | APD AFH: Yes*<br><br>APD RCF/ALF: Yes | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have privacy in their sleeping or living unit</li> <li>- <a href="#">OAR 411-004-0010(21)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(c), (2)(d)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that individuals have privacy in their sleeping or living unit. Rules reviewed/updated include:             <ul style="list-style-type: none"> <li>- APD AFH<br/> <a href="#">OAR 411-050-0602(41)</a><br/> <a href="#">OAR 411-050-0615(2)(d)(G)</a><br/> <a href="#">OAR 411-050-0645(1)(b)(D)</a> </li> </ul> </li> </ul> | Overarching HCBS OARs Align/Comply<br><br>APD OARs Align/Comply | HCBS rules became effective 01/01/16<br><br>APD-specific Rules reviewed/updated and effective 01/01/16 |

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|   |  | <a href="#">OAR 411-050-0650(4)(d), (4)(e), (5)(d)(A)-(B)</a><br><a href="#">OAR 411-050-0655(4)(b)(G), (9)(a)(G)</a><br>- APD RCF/ALF<br><a href="#">OAR 411-054-0000(2)</a><br><a href="#">OAR 411-054-0025(7)</a><br><a href="#">OAR 411-054-0027(1)(a), (1)(g), (1)(j)</a><br>- APD Specialized Living<br><a href="#">OAR 411-065-0046(2)(e)</a>  |   |  |
| 7. Do units have lockable entrance doors, with appropriate staff having keys to doors?<br>42 CFR<br>441.301(c)(4)(vi)(B)(1)<br>42 CFR<br>441.530(a)(1)(vi)(B)(1)<br>42 CFR<br>441.710(a)(1)(vi)(B)(1) | APD AFH: No<br>APD RCF: Not always<br>APD ALF: Yes | - Implement new Home and Community-Based Services and Settings, including the requirement that units have lockable entrance doors, with appropriate staff having keys to doors<br>- <a href="#">OAR 411-004-0020(2)(e)</a><br>- Updated APD-specific program rules to reflect the requirement that units have lockable entrance doors, with appropriate staff having keys to doors. Rules reviewed/updated include:<br>- APD AFH<br><a href="#">OAR 411-050-0602(41)</a><br><a href="#">OAR 411-050-0615(2)(d)(C)</a><br><a href="#">OAR 411-050-0645(1)(b)(D)</a><br><a href="#">OAR 411-050-0650(4)(e), (5)(c), (5)(d)(A-C)</a> | Overarching HCBS OARs Align/Comply<br><br>APD OARs Align/Comply | HCBS rules became effective 01/01/16<br><br>APD-specific Rules reviewed/updated and effective 01/01/16 |

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|  |   | <ul style="list-style-type: none"> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(2)</a><br/> <a href="#">OAR 411-054-0200(5)(a)</a><br/> <a href="#">OAR 411-054-0027(1)(g), (1)(j)</a><br/> <a href="#">OAR 411-054-0300(4)(e)</a> </li> </ul>  |  |   |
| <p>8. If individuals share rooms, do they do so only at their choice?</p> <p>42 CFR<br/> 441.301(c)(4)(vi)(B)(2)<br/> 42 CFR<br/> 441.530(a)(1)(vi)(B)(2)<br/> 42 CFR<br/> 441.710(a)(1)(vi)(B)(2)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that if individuals share rooms, they do so only at their choice</li> <li>- <a href="#">OAR 411-004-0020(2)(f)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that if individuals share rooms, they do so only at their choice. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/> <a href="#">OAR 411-050-0602(41)</a><br/> <a href="#">OAR 411-050-0615(2)(d)(D)</a><br/> <a href="#">OAR 411-050-0645(1)(b)(D)</a><br/> <a href="#">OAR 411-050-0655 (4)(b)(D), (9)(b)(E)</a> </li> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(2)</a><br/> <a href="#">OAR 411-054-0027(1)(g), (1)(j), (2)(d)</a> </li> <li>- APD Service Priorities<br/> <a href="#">OAR 411-015-0008(1)(a)(C), (2)(b)(B)</a> </li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

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| <p>9. Do individuals have the freedom to furnish and decorate their sleeping or living units?</p> <p>42 CFR<br/>441.301(c)(4)(vi)(B)(3)<br/>42 CFR<br/>441.530(a)(1)(vi)(B)(3)<br/>42 CFR<br/>441.710(a)(1)(vi)(B)(3)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have the freedom to furnish and decorate their sleeping or living units</li> <li>- <a href="#">OAR 411-004-0020(2)(g)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that individuals have the freedom to furnish and decorate their sleeping or living units. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a><br/><a href="#">OAR 411-050-0615(2)(d)(E)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(4)(b)(E), (9)(b)(F)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0027(1)(g), (1)(j), (2)(e)</a></li> <li>- APD Memory Care Communities<br/><a href="#">OAR 411-057-0170(8)(b)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |
| <p>10. Do individuals have the freedom and support to control their own schedules and activities?</p> <p>42 CFR<br/>441.301(c)(4)(vi)(C)<br/>42 CFR</p>   | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have the freedom and support to control their own schedules and activities</li> </ul>  | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated</p>                        |

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| <p>441.530(a)(1)(vi)(C)<br/>42 CFR<br/>441.710(a)(1)(vi)(C)</p>   |  | <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(d), (2)(i)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that individuals have the freedom and support to control their own schedules and activities. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a><br/><a href="#">OAR 411-050-0615(2)(d)(F)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(4)(b)(f), (9)(b)(G)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0027(1)(a), (1)(g), (1)(j), (1)(k), (1)(m), (1)(n), (2)(f)</a></li> <li>- APD In-Home Services<br/><a href="#">OAR 411-030-0040(8)(a)</a></li> <li>- APD Memory Care Communities<br/><a href="#">OAR 411-057-0160(2)(d)</a></li> <li>- APD Specialized Living<br/><a href="#">OAR 411-065-0046(2)</a></li> </ul> </li> </ul> |  | and effective 01/01/16  |
| <p>11. Do individuals have access to food at any time?<br/>42 CFR<br/>441.301(c)(4)(vi)(C)<br/>42 CFR</p> | <p>APD AFH: Yes</p> <p>APD RCF: Not always</p> <p>APD ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals have access to food at any time</li> </ul>   | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules</p> |

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|---|--|---|--|---|
| <p>441.530(a)(1)(vi)(C)<br/>42 CFR<br/>441.710(a)(1)(vi)(C)</p>   |  | <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0020(2)(j)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that individuals have access to food at any time. Rules reviewed/updated include:</li> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41), (42)</a><br/><a href="#">OAR 411-050-0615(2)(d)(A)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D), (4)(c)(C)</a><br/><a href="#">OAR 411-050-0655(4)(b)(A), (8)(a), (9)(b)(B)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0027(1)(g), (1)(j), (2)(b)</a></li> </ul> |  | <p>reviewed/updated and effective 01/01/16</p>  |
| <p>12. Are individuals able to have visitors of their choosing at any time?<br/>42 CFR<br/>441.301(c)(4)(vi)(D)<br/>42 CFR<br/>441.530(a)(1)(vi)(D)<br/>42 CFR<br/>441.710(a)(1)(vi)(D)</p> | <p>APD AFH: Yes**<br/><br/>APD RCF/ALF: Not defined in OAR</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that individuals are able to have visitors of their choosing at any time</li> <li>- <a href="#">OAR 411-004-0020(2)(h)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that individuals are able to have visitors of their choosing at any time. Rules reviewed/updated include:</li> </ul>   | <p>Overarching HCBS OARs Align/Comply<br/><br/>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16<br/><br/>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

|   |   |  |  |   |
|---|---|--|--|---|
|   |   | <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a><br/><a href="#">OAR 411-050-0615(2)(d)(B)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(4)(b)(B), (8)(a), (9)(b)(C)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0027(1)(g), (2)(c)</a></li> <li>- APD Specialized Living<br/><a href="#">OAR 411-065-0046(2)</a></li> </ul>  |  |   |
| <p>13. Is the setting physically accessible to the individual?</p> <p>42 CFR<br/>441.301(c)(4)(vi)(E)</p> <p>42 CFR<br/>441.530(a)(1)(vi)(E)</p> <p>42 CFR<br/>441.710(a)(1)(vi)(E)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the setting is accessible to the individual</li> <li>- <a href="#">OAR 411-004-0020(2)(b)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the setting is accessible to the individual. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0650(1)(a), (1)(e), (5)(f), (5)(s)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a><br/><a href="#">OAR 411-054-0200(5)(d)-(h)</a><br/><a href="#">OAR 411-054-0300(5)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

| 14. Is the residential setting located in a building:   |  |   | (N/A)  | (N/A)   |
|---|--|---|--|---|
| <p>a. That is also a facility that provides inpatient institutional treatment?</p> <p>42 CFR 441.301(c)(5)(v)</p> <p>42 CFR 441.530(a)(2)(v)</p> <p>42 CFR 441.701(a)(2)(v)</p> | <p>APD AFH: No</p> <p>APD RCF/ ALF: No</p>                               | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is not located in a building that is also a facility that provides inpatient institutional treatment</li> <li>- <a href="#">OAR 411-004-0020(7)(e)(A)(i)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the residential setting is not located in a building that is also a facility that provides inpatient institutional treatment. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41), (42)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(8)(a)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |
| <p>b. On the grounds of or immediately adjacent to a public institution?</p> <p>42 CFR 441.301(c)(5)(v)</p>   | <p>APD AFH: Possibly adjacent</p> <p>APD RCF/ALF: In some situations</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is located in a building that is</li> </ul>   | <p>Overarching HCBS OARs Align/Comply</p>                              | <p>HCBS rules became effective 01/01/16</p>   |



|   |  |  |  |   |
|---|--|--|--|---|
| 42 CFR 441.530(a)(2)(v)<br>42 CFR 441.710(a)(2)(v)  |  | <p>not on the grounds of or immediately adjacent to a public institution</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0020(7)(e)(A)(ii)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the residential setting is located in a building that is not on the grounds of or immediately adjacent to a public institution. Rules reviewed/updated include:</li> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41), (42)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(8)(a)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a></li> </ul> | APD OARs<br>Align/Comply   | APD-specific Rules<br>reviewed/updated<br>and effective<br>01/01/16   |
| <p><i>c. On the grounds of or immediately adjacent to disability-specific housing?</i></p> <p>42 CFR 441.301(c)(5)(v)<br/>42 CFR 441.530(a)(2)(v)<br/>42 CFR 441.710(a)(2)(v)</p> | <p>APD AFH:<br/>Possibly adjacent</p> <p>APD RCF/ALF:<br/>In some situations</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is located in a building that is not on the grounds of or immediately adjacent to disability-specific housing</li> <li>- <a href="#">OAR 411-004-0020(7)(e), (7)(e)(A)(iii)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the residential setting is located in a building that is not on the grounds of</li> </ul>  | <p>Overarching HCBS OARs<br/>Align/Comply</p> <p>APD OARs<br/>Align/Comply</p> | <p>HCBS rules became effective<br/>01/01/16</p> <p>APD-specific Rules<br/>reviewed/updated<br/>and effective<br/>01/01/16</p> |

|   |   |   |  |   |
|---|---|---|--|---|
|   |   | <p>or immediately adjacent to disability-specific housing. Rules reviewed/updated include:</p> <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41), (42)</a><br/><a href="#">OAR 411-050-0645(1)(b)(D)</a><br/><a href="#">OAR 411-050-0655(8)(a)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a></li> </ul>   |  |   |
| <b>RESIDENTIAL SETTINGS<br/>- System Questions</b>  |   |   | (N/A)  | (N/A)   |
| <p>15. Is the setting selected by the individual from among all available alternatives and is identified in the person-centered service plan?</p> <p>42 CFR 441.301(c)(4)(ii)<br/>42 CFR 441.530(a)(1)(ii)<br/>42 CFR 441.710(a)(1)(ii)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the residential setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan<br/><a href="#">OAR 411-004-0020(1)(b), (1)(b)(D)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the residential setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan. Rules reviewed/updated include:</li> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a></li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

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|---|---|--|--|---|
|   |   | <a href="#">OAR 411-050-0615(2)</a><br><a href="#">OAR 411-050-0645(1)(b)(D)</a><br><ul style="list-style-type: none"> <li>- APD RCF/ALF</li> </ul> <a href="#">OAR 411-054-0000(2)</a><br><ul style="list-style-type: none"> <li>- APD Case Management</li> </ul> <a href="#">OAR 411-028-0020(1)(c), (2)(b)</a><br><ul style="list-style-type: none"> <li>- APD Homecare Workers in CEP</li> </ul> <a href="#">OAR 411-031-0040(2), (5), (7)</a><br><ul style="list-style-type: none"> <li>- APD K-State Plan</li> </ul> <a href="#">OAR 411-035-0015(5)</a><br><ul style="list-style-type: none"> <li>- APD Specialized Living</li> </ul> <a href="#">OAR 411-065-0035(1)</a> |  |   |
| <p>16. Is the individual choice regarding services and supports, and who provides them, facilitated?</p> <p>42 CFR 441.301(c)(4)(v)<br/> 42 CFR 441.530(a)(1)(v)<br/> 42 CFR 441.710(a)(1)(v)</p> | <p>APD AFH: Yes</p> <p>APD RCF/ALF: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings, including the requirement that the individual's choice regarding services and supports, and who provides them, is facilitated</li> <li>- <a href="#">OAR 411-004-0020(1)(d), (1)(e)</a></li> <li>- <a href="#">OAR 411-004-0030(1)(h)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the individual's choice regarding services and supports, and who provides them, is facilitated. Rules reviewed/updated include:</li> <li>- APD AFH</li> </ul> <a href="#">OAR 411-050-0602(41)</a><br><a href="#">OAR 411-050-0645(1)(b)(D)</a>   | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

|  |                                |   |                                    |                                      |
|--|--------------------------------|---|------------------------------------|--------------------------------------|
|  |                                | <ul style="list-style-type: none"> <li>- APD RCF/ALF<br/> <a href="#">OAR 411-054-0000(2)</a><br/> <a href="#">OAR 411-054-0005(10), (16), (63), (67)</a><br/> <a href="#">OAR 411-054-0025(7)</a><br/> <a href="#">OAR 411-054-0027(1)(a)-(b)</a></li> <li>- APD Case Management<br/> <a href="#">OAR 411-028-0010(4)</a><br/> <a href="#">OAR 411-028-0020(1)(c), (2)(b)</a></li> <li>- APD In-Home Services<br/> <a href="#">OAR 411-030-0020(10), (11)</a><br/> <a href="#">OAR 411-030-0050(2)(a)-(b)</a></li> <li>- APD Homecare Workers in CEP<br/> <a href="#">OAR 411-031-0040(8)</a></li> <li>- APD K-State Plan<br/> <a href="#">OAR 411-035-0015(4), (5)</a></li> <li>- APD Memory Care Communities<br/> <a href="#">OAR 411-057-0160(2)(a)-(b)</a></li> <li>- APD Specialized Living<br/> <a href="#">OAR 411-065-0035(2)</a><br/> <a href="#">OAR 411-065-0046(2)(a), (b), (i)</a></li> <li>- APD Service Priorities<br/> <a href="#">OAR 411-015-0008(1)(a)(C), (2)(b)(B)</a></li> </ul> |                                    |                                      |
| <b>NON-RESIDENTIAL SETTINGS</b>  |                                |   |                                    |                                      |
| <i>17. Is the setting:</i>   |                                |   |                                    |                                      |
| <i>a. Located in a building that provides inpatient institutional treatment?<br/>42 CFR 441.301(c)(5)(v)</i> | APD ADS: No<br><br>APD SLP: No | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the non-residential</li> </ul>  | Overarching HCBS OARs Align/Comply | HCBS rules became effective 01/01/16 |

|  |                                    |  |  |   |
|--|------------------------------------|--|--|---|
| <p>42 CFR 441.530(a)(2)(v)<br/>42 CFR 441.710(a)(2)(v)</p>   |                                    | <p>setting is not located in a building that provides inpatient institutional treatment</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000</a></li> <li>- <a href="#">OAR 411-004-0020(7), (7)(e)(A)(i), (7)(e)(B)</a></li> <li>- Updated APD AFH OARs for Definitions to reflect the requirement that the non-residential setting is not located in a building that provides inpatient institutional treatment. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH <a href="#">OAR 411-050-0602(41)</a></li> <li>- APD RCF/ALF <a href="#">OAR 411-054-0000(2)</a></li> <li>- APD Adult Day Services <a href="#">OAR 411-066-0020(6)(e)</a></li> </ul> </li> </ul> | APD OARs Align/Comply  | APD-specific Rules reviewed/updated and effective 01/01/16  |
| <p><i>b. Located in a building on the grounds of or immediately adjacent to a public or private institution?</i><br/>42 CFR 441.301(c)(5)(v)<br/>42 CFR 441.530(a)(2)(v)<br/>42 CFR 441.710(a)(2)(v)</p> | <p>APD ADS: No<br/>APD SLP: No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the non-residential setting is not located in a building on the grounds of or immediately adjacent to a public or private institution</li> <li>- <a href="#">OAR 411-004-0000</a></li> <li>- <a href="#">OAR 411-004-0020(7), (7)(e)(A)(ii), (7)(e)(B)</a></li> </ul>  | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

|   |                                       |   |  |   |
|---|---------------------------------------|---|--|---|
|   |                                       | <ul style="list-style-type: none"> <li>- Updated APD-specific program rules to reflect the requirement that the non-residential setting is not located in a building on the grounds of or immediately adjacent to a public or private institution. Rules reviewed/updated include:</li> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a></li> </ul>  |  |   |
| <p>18. Does the setting have the effect of isolating individuals receiving Medicaid HCBS from the broader community?</p> <p>42 CFR 441.301(c)(5)(v)<br/>42 CFR 441.530(a)(2)(v)<br/>42 CFR 441.710(a)(2)(v)</p> | <p>APD ADS: No</p> <p>APD SLP: No</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the non-residential setting does not have the effect of isolating individuals receiving Medicaid HCBS from the broader community</li> <li>- <a href="#">OAR 411-004-0000</a></li> <li>- <a href="#">OAR 411-004-0020(1), (7), (7)(e)(A)(iii), (7)(e)(B)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the non-residential setting does not have the effect of isolating individuals receiving Medicaid HCBS from the</li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

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|---|---|---|---|---|
|   |   | <p>broader community. Rules reviewed/updated include:</p> <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a></li> <li>- APD Adult Day Services<br/><a href="#">OAR 411-066-0005(2)</a><br/><a href="#">OAR 411-066-0020(3)</a></li> </ul>   |   |   |
| <p>19. Is the setting physically accessible to the individuals using it?</p> <p>42 CFR<br/>441.301(c)(4)(vi)(E)<br/>42 CFR 441.530(a)(vi)(E)<br/>42 CFR 441.710(a)(vi)(E)</p> | <p>APD ADS: Yes</p> <p>APD SLP: Yes</p> | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the non-residential setting is physically accessible to the individuals using it</li> <li>- <a href="#">OAR 411-004-0000</a></li> <li>- <a href="#">OAR 411-004-0020(2)(b)</a></li> <li>- Update APD-specific program rules to reflect the requirement that the non-residential setting is physically accessible to the individuals using it. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD AFH<br/><a href="#">OAR 411-050-0602(41)</a></li> <li>- APD RCF/ALF<br/><a href="#">OAR 411-054-0000(2)</a></li> <li>- APD Adult Day Services<br/><a href="#">OAR 411-066-0020(4)</a></li> </ul> </li> </ul> | <p>Overarching HCBS OARs Align/Comply</p> <p>APD OARs Align/ Comply</p> | <p>HCBS rules became effective 01/01/16</p> <p>APD-specific Rules reviewed/updated and effective 01/01/16</p> |

| NON-RESIDENTIAL SETTINGS – System Questions   |                                  |   |   |  |
|---|----------------------------------|---|---|--|
| 20. Is the non-residential service setting selected by the individual from among setting options that include non-disability specific settings and are the setting options identified and documented in the person-centered service plan?<br>42 CFR 441.301(c)(4)(ii)<br>42 CFR 441.530(a)(1)(ii)<br>42 CFR 441.710(a)(1)(ii) | APD ADS: Yes<br><br>APD SLP: Yes | <ul style="list-style-type: none"><li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the non-residential setting is selected by the individual from among setting options that include non-disability specific settings and are the setting options identified and documented in the person-centered service plan</li><li>- <a href="#">OAR 411-004-0000</a></li><li>- <a href="#">OAR 411-004-0020(1), (1)(b)</a></li><li>- Updated APD-specific program rules to reflect the requirement that the non-residential setting is selected by the individual from among setting options that include non-disability specific settings and are the setting options identified and documented in the person-centered service plan. Rules reviewed/updated include:<ul style="list-style-type: none"><li>- APD Case Management<br/><a href="#">OAR 411-028-0010(4)</a><br/><a href="#">OAR 411-028-0020(1)(c), (2)(b)</a></li></ul></li></ul> | Overarching HCBS OARs Align/Comply<br><br>APD OARs Align/Comply | HCBS rules became effective 01/01/16<br><br>APD-specific Rules reviewed/updated and effective 01/01/16 |
| 21. Does the setting facilitate individual choice regarding services and supports, and who provides them?<br>42 CFR 441.301(c)(4)(v)<br>42 CFR 441.530(a)(1)(v)<br>42 CFR 441.710(a)(1)(v)  | APD ADS: Yes<br><br>APD SLP: Yes | <ul style="list-style-type: none"><li>- Implement new Home and Community-Based Services and Settings rules, including the requirement that the non-residential setting facilitates individual choice regarding services and supports, and who provides them</li><li>- <a href="#">OAR 411-004-0010(17)</a></li><li>- <a href="#">OAR 411-004-0020(1)(e), (2)</a></li></ul>  | Overarching HCBS OARs Align/Comply<br><br>APD OARs Align/Comply | HCBS rules became effective 01/01/16<br><br>APD-specific Rules reviewed/updated and effective 01/01/16 |



|  |  |   |  |  |
|--|--|---|--|--|
|  |  | <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0030(2)(c)(H), (2)(c)(P)</a></li> <li>- Updated APD-specific program rules to reflect the requirement that the non-residential setting facilitates individual choice regarding services and supports, and who provides them. Rules reviewed/updated include: <ul style="list-style-type: none"> <li>- APD Case Management<br/><a href="#">OAR 411-028-0000(1)</a><br/><a href="#">OAR 411-028-0010(4)</a><br/><a href="#">OAR 411-028-0020(1)(c), (2)(b)</a></li> <li>- APD Service Priorities<br/><a href="#">OAR 411-015-0008(1)(a)(C), (2)(b)(B)</a></li> </ul> </li> </ul> |  |  |
|--|--|---|--|--|

\*1 or 2 individuals may share a bedroom

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

#### ACRONYM KEY

| APD Setting | Explanation of Setting               |
|-------------|--------------------------------------|
| ADS         | Certified Adult Day Services         |
| AFH         | Adult Foster/Group Home              |
| ALF         | Assisted Living Facility             |
| CCRC        | Continuing Care Retirement Community |
| CEP         | Consumer-Employed Provider Program   |

|     |                                       |
|-----|---------------------------------------|
| RCF | Residential Care Facility             |
| SLP | Contracted/Specialized Living Program |

## DHS/ODDS

| Area of Compliance and Regulation  | Initial Status   | Remediation Actions<br><i>[Include Links to OARs and Policies]</i>  | Current Status-<br>OAR Compliance<br>w/CFR<br><i>[Align/Comply, Silent, or Conflicts]</i> | Timeline  |
|--|--|---|---|---|
| <p>1. Is the setting integrated into the greater community?</p> <p>42 CFR 441.301(c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> <p>DD Certified Employment Services: Yes*</p> <p>DD Certified Day Services: Yes*</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules, including the requirement that settings are integrated-               <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(B)</a></li> </ul> </li> <li>Update DD specific program, service and setting rules to reflect requirement of community-integrated settings. Rules updated to reflect integration requirement include:               <ul style="list-style-type: none"> <li>- Case Management Services<br/><a href="#">OAR 411-415-0070(1)(a);(f)</a><br/><a href="#">OAR 411-415-0090(2)(b)(H)</a></li> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> </li> </ul> | <p>Align/Comply</p>   | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16 &amp; 6/28/16</p> |

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|  |   | <a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a><br><ul style="list-style-type: none"> <li>- Community Living Supports</li> </ul> <a href="#">OAR 411-450-0050(8)(p)</a><br><a href="#">OAR 411-450-0060(5)(b)(B)</a><br><ul style="list-style-type: none"> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities</li> </ul> <a href="#">OAR 411-345-0010(3);(4)(d)</a><br><a href="#">OAR 411-345-0020(2)</a><br><a href="#">OAR 411-345-0025;(3);(5);(8)(e)(f);(10)(a)(A)(i)(iii);(10)(a)(B);(10)(b)(c);(10)(c)(D)(F); (10)(G)</a><br><a href="#">OAR 411-345-0140(2)(b)</a><br><a href="#">OAR 411-345-0160(5)(c)</a><br><ul style="list-style-type: none"> <li>• Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:</li> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> </ul> |              |                          |
| <p>2. Does the setting facilitate the individual's full access to the greater community, in the same manner as individuals without disabilities, including:</p> <p>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(ii)</p> <p>42 CFR 441.710(a)(1)(ii)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> <p>DD Certified Employment Services: Yes*</p> | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules, including the requirement that settings facilitate access to the greater community-</li> <li>- <a href="#">OAR 411-004-0000(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a); (1)(e); (3)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(B), (2)(c)(D)</a></li> </ul>   | Align/Comply | HCBS rule created 1/1/16 |

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|  | DD Certified Day Services: Yes* | <ul style="list-style-type: none"> <li>Update DD specific program, service and setting rules to reflect requirement that settings facilitate access to the greater community. Rules updated include: <ul style="list-style-type: none"> <li>Case Management Services<br/><a href="#">OAR 411-415-0070(1)(a):(f)</a><br/><a href="#">OAR 411-415-0090(2)(b)(H)</a></li> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035(1)(c):(3)(a):(4)(a)(B)</a></li> <li>Community Living Supports<br/><a href="#">OAR 411-450-0050(8)(p)</a><br/><a href="#">OAR 411-450-0060(5)(b)(B)</a></li> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(1)(i):(o)</a><br/><a href="#">OAR 411-318-0010(3)</a></li> <li>Employment Services for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-345-0010(3):(4)(d)</a><br/><a href="#">OAR 411-345-0020(2)</a><br/><a href="#">OAR 411-345-0025;(3):(5):(8)(e)(f):(10)(a)(A)(i)(iii):(10)(a)(B):(10)(b)(c):</a></li> </ul> </li> </ul> | DD Specific rules updated 1/1/16 & 6/28/16 |
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|   |  | <a href="#">(10)(c)(D)(F); (10)(G)</a><br><a href="#">OAR 411-345-0140(2)(b)</a><br><a href="#">OAR 411-345-0160(5)(c)</a>   |              |   |
|   |  | <ul style="list-style-type: none"> <li>Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:</li> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> </ul>  |              |   |
| <p><i>a. Opportunities to seek employment and work in competitive integrated settings?</i></p> <p>42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i)</p> <p>42 CFR 441.530(a)(1)(i)</p> <p>42 CFR 441.710(a)(1)(i)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> <p>DD Certified Employment Services: Yes*</p> <p>DD Certified Day Services: Yes*</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules, including the requirement that settings support opportunities to seek employment and work in competitive, integrated settings- <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(2)(a)</a></li> <li>- <a href="#">OAR 411-004-0010(2)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(A)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(C)</a></li> </ul> </li> <li>Update DD specific program, service and setting rules to reflect opportunities to seek employment and work in competitive, integrated settings. Rules updated include: <ul style="list-style-type: none"> <li>- Case Management Services</li> </ul> </li> </ul> <p><a href="#">OAR 411-415-0070(1)(a);(f)</a><br/> <a href="#">OAR 411-415-0090(2)(b)(H)</a></p> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16 &amp; 6/28/16</p> |

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|  |  | <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/> <a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a> </li> <li>- Community Living Supports<br/> <a href="#">OAR 411-450-0050(8)(p)</a><br/> <a href="#">OAR 411-450-0060(5)(b)(B)</a> </li> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities<br/> <a href="#">OAR 411-345-0010(3);(4)(d)</a><br/> <a href="#">OAR 411-345-0020(2)</a><br/> <a href="#">OAR 411-345-0025(1)-(5);(8)(e)(f)</a><br/> <a href="#">OAR 411-345-0025(10)(a)(A)(i)(iii);(a)(B);(b)(c);(c)(D)(F);(d);(G)</a><br/> <a href="#">OAR 411-345-0140(2)(b)</a><br/> <a href="#">OAR 411-345-0160(5)(c)</a> </li> <li>• Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:           <ul style="list-style-type: none"> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> </ul> </li> </ul> |              |                          |
| <b>b. Engage in community life?</b><br>42 CFR 441.301(c)(2)(i) & (c)(4)(i)<br>42 CFR 441.530(a)(1)(i)<br>42 CFR 441.710(a)(1)(i) | DD AFH: Yes<br><br>DD Group Homes: Yes | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules, including the requirement that settings support individuals to engage in community life-</li> </ul>   | Align/Comply | HCBS rule created 1/1/16 |

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|  | <p>DD Certified Employment Services: Yes</p> <p>DD Certified Day Services: Yes</p> | <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(2)(b)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(B)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(D)</a></li> </ul> <ul style="list-style-type: none"> <li>• Update DD specific program, service and setting rules to reflect requirement that settings support individuals to engage in community life. Rules updated include:             <ul style="list-style-type: none"> <li>- Case Management Services<br/><a href="#">OAR 411-415-0070(1)(a);(f)</a><br/><a href="#">OAR 411-415-0090(2)(b)(H)</a></li> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li> <li>- Community Living Supports<br/><a href="#">OAR 411-450-0050(8)(p)</a><br/><a href="#">OAR 411-450-0060(5)(b)(B)</a></li> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(1)(i);(o)</a><br/><a href="#">OAR 411-318-0010(3)</a></li> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-345-0010(3);(4)(d)</a></li> </ul> </li> </ul> |  | <p>DD Specific rules updated 1/1/16 &amp; 6/28/16</p> |
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|  |   | <a href="#">OAR 411-345-0020(2)</a><br><a href="#">OAR 411-345-0025(3);(5);(8)(e)(f)</a><br><a href="#">OAR 411-345-0025(10)(a)(A)(i)(iii);</a><br><a href="#">(a)(B);(b)(c);(c)(D)(F);(G)</a><br><a href="#">OAR 411-345-0140(2)(b)</a><br><a href="#">OAR 411-345-0160(5)(c)</a>  |              |  |
|  |   | <ul style="list-style-type: none"> <li>• Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services: <ul style="list-style-type: none"> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> </ul> </li> </ul>   |              |  |
| <i>c. Control personal resources?</i><br>42 CFR 441.301(c)(2)(i) & (c)(4)(i)<br>42 CFR 441.530(a)(1)(i)<br>42 CFR 441.710(a)(1)(i) | DD AFH: Yes<br><br>DD Group Homes: Yes<br><br>DD Certified Employment Services: Yes<br><br>DD Certified Day Services: Yes | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules, including the requirement that settings support individuals to control personal resources- <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(2)(c); (3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(a)(C)</a></li> <li>- <a href="#">OAR 411-004-0030(2)(c)(A), (2)(c)(D)</a></li> </ul> </li> <li>• Update DD specific program, service and setting rules to reflect requirement that settings support individuals to control personal resources. Rules updated include: <ul style="list-style-type: none"> <li>- Case Management Services</li> </ul> </li> </ul> | Align/Comply | HCBS rule created 1/1/16<br><br><br><br><br><br><br><br><br><br>DD Specific rules updated 1/1/16 & 6/28/16 |

[OAR 411-415-0090\(2\)\(b\)\(H\)](#)

- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings

[OAR 411-323-0030\(1\)\(b\);\(3\);\(4\)\(a\)\(C\)](#)[OAR 411-323-0035 \(1\)\(c\);\(3\)\(a\);\(4\)\(a\)\(B\)](#)

- Community Living Supports

[OAR 411-450-0050\(8\)\(p\)](#)[OAR 411-450-0060\(5\)\(b\)\(B\)](#)

- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services

[OAR 411-318-0010\(1\)\(k\);\(m\)](#)[OAR 411-318-0010\(3\)](#)

- Employment Services for Individuals with Intellectual or Developmental Disabilities

[OAR 411-345-0010\(3\);\(4\)\(d\)](#)[OAR 411-345-0025\(3\)](#)[OAR 411-345-0140\(2\)\(b\)](#)[OAR 411-345-0160\(5\)\(c\)](#)

- Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:
  - [ORS 427.007\(1\)\(a\)](#)
  - [ORS 427.007\(4\)](#)

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| <p>d. Receive services in the community? 42 CFR 441.301(c)(2)(i) &amp; (c)(4)(i) 42 CFR 441.530(a)(1)(i) 42 CFR 441.710(a)(1)(i)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> <p>DD Certified Employment Services: Yes</p> <p>DD Certified Day Services: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules, including the requirement that settings support individuals to receive services in the community- <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0000(2);(2)(d)</a></li> <li><a href="#">OAR 411-004-0010(6), (17)</a></li> <li><a href="#">OAR 411-004-0020(1)(a)(D)</a></li> <li><a href="#">OAR 411-004-0030(2)(c)(D)</a></li> </ul> </li> <li>Update DD specific program, service and setting rules to reflect requirement that settings support individuals to receive services in the community. Rules updated include: <ul style="list-style-type: none"> <li>Case Management Services<br/><a href="#">OAR 411-415-0070(1)(a);(f)</a><br/><a href="#">OAR 411-415-0090(2)(b)(H)</a></li> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035(1)(c);(3)(a);(4)(a)(B)</a></li> <li>Community Living Supports<br/><a href="#">OAR 411-450-0050(8)(p)</a><br/><a href="#">OAR 411-450-0060(5)(b)(B)</a></li> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16 &amp; 6/28/16</p> |
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|  |   | <a href="#">OAR 411-318-0010(1)(i);(o)</a><br><a href="#">OAR 411-318-0010(3)</a> <ul style="list-style-type: none"> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities</li> </ul> <a href="#">OAR 411-345-0010(3);(4)(d)</a><br><a href="#">OAR 411-345-0020(2)</a><br><a href="#">OAR 411-345-0025(3);(5);(8)(e)(f)</a><br><a href="#">OAR 411-345-0025(10)(a)(A)(i)(iii);(a)(B);(b)(c);(c)(D)(F);(G)</a><br><a href="#">OAR 411-345-0140(2)(b)</a><br><a href="#">OAR 411-345-0160(5)(c)</a> <ul style="list-style-type: none"> <li>• Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services: <ul style="list-style-type: none"> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> </ul> </li> </ul> |              |   |
| 3. Are the individual's essential personal rights of privacy, dignity and respect, and freedom from coercion and restraint protected?<br>42 CFR 441.301(c)(4)(iii)<br>42 CFR 441.530(a)(1)(iii)<br>42 CFR 441.710(a)(1)(iii) | DD AFH: Yes<br><br>DD Group Homes: Yes<br><br>DD Certified Employment Services: Yes | <ul style="list-style-type: none"> <li>- Implement new Home and Community-Based Services and Settings rules protecting individual rights-</li> <li>- <a href="#">OAR 411-004-0020(1)(c); (2)</a></li> <li>- *Per CMS' request, amend overarching Home and Community-Based Services and Settings rule to allow application of individually-based limitations to the rule to an individual's right of freedom from</li> </ul>  | Align/Comply | HCBS rule created 1/1/16<br>*Amendment to 411-004-0020, and 411-004-0040 with an effective date of 01/01/2017 |

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|  | DD Certified<br>Day Services:<br>Yes | <p>restraint, in accordance with approved 1915(k), and existing ORS and OARs.</p> <ul style="list-style-type: none"> <li>- Update DD specific program, service and setting rules to further clarify and better reflect the protection of the individual's essential personal rights. Rules updated include:</li> <li>- Case Management Services<br/> <a href="#">OAR 411-415-0030(3)</a><br/> <a href="#">OAR 411-415-0070(1)(a);(f)</a><br/> <a href="#">OAR 411-415-0090(2)(b)(H)</a> </li> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/> <a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a> </li> <li>- Community Living Supports<br/> <a href="#">OAR 411-450-0050(8)(p)</a><br/> <a href="#">OAR 411-450-0060(5)(b)(B)</a> </li> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/> <a href="#">OAR 411-318-0010(1)(a)-(g)</a><br/> <a href="#">OAR 411-318-0010(3)</a> </li> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities<br/> <a href="#">OAR 411-345-0010(3);(4)(d)</a><br/> <a href="#">OAR 411-345-0025(3)</a> </li> </ul> |  | DD Specific<br>rules<br>updated<br>1/1/16 &<br>6/28/16 |
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|   |  | <a href="#">OAR 411-345-0140(2)(b)</a><br><a href="#">OAR 411-345-0160(5)(c)</a>  |              |   |
|   |  | <ul style="list-style-type: none"> <li>- Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:</li> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> <li>- <a href="#">ORS 443.738(9)</a></li> <li>- <a href="#">ORS 443.739(1), (4), (7), and (8)</a></li> </ul>  |              |   |
| <p>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?</p> <p>42 CFR 441.301(c)(4)(iv)<br/> 42 CFR 441.530(a)(1)(iv)<br/> 42 CFR 441.701(a)(1)(iv)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> <p>DD Certified Employment Services: Yes</p> <p>DD Certified Day Services: Yes</p> | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules protecting individual rights- <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(1), (3)(e),</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(b)(D), (1)(d), (1)(e), (2)(f), (2)(i)</a></li> <li>- <a href="#">OAR 411-004-0030(1)(c), (1)(h)</a></li> </ul> </li> <li>• Update DD specific program, service and setting rules to reflect initiative, autonomy, and independence are optimized. Rules updated include: <ul style="list-style-type: none"> <li>- Case Management Services</li> </ul> </li> </ul> <p><a href="#">OAR 411-415-0030(3)</a><br/> <a href="#">OAR 411-415-0070(1)(a);(f);(2)(i)(F)</a><br/> <a href="#">OAR 411-415-0080(3)</a><br/> <a href="#">OAR 411-415-0090(2)(b)(H)</a></p> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16 &amp; 6/28/16</p> |

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|                             |  | <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/> <a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a> </li> <li>- Community Living Supports<br/> <a href="#">OAR 411-450-0050(8)(p)</a><br/> <a href="#">OAR 411-450-0060(5)(b)(B)</a> </li> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/> <a href="#">OAR 411-318-0010(1)(o)-(s)</a><br/> <a href="#">OAR 411-318-0010(3)</a> </li> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities<br/> <a href="#">OAR 411-345-0010(3);(4)(d)</a><br/> <a href="#">OAR 411-345-0025(3);(8)(e)(f)</a><br/> <a href="#">OAR 411-345-0140(2)(b)</a><br/> <a href="#">OAR 411-345-0160(5)(c)</a> </li> <li>• Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:             <ul style="list-style-type: none"> <li>- <a href="#">ORS 427.007(1)(a)</a></li> <li>- <a href="#">ORS 427.007(4)</a></li> </ul> </li> </ul> |  |  |
| <b>RESIDENTIAL SETTINGS</b> |  |   |  |  |

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| <p>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? 42 CFR 441.301(c)(4)(vi)(A) 42 CFR 441.530(a)(1)(vi)(A) 42 CFR 441.710(a)(1)(vi)(A)</p> | <p>DD AFH and DD Group Homes: OARS have protections re: notice of exit which serve as eviction, but there is no legal residency agreement required</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules specifically requiring written residency agreements for provider-owned, controlled, or operated residential service settings- <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0010(18), (21)</a></li> <li><a href="#">OAR 411-004-0020(1)(b), (2)(c)</a></li> </ul> </li> <li>Most provider-owned or controlled settings in the DD system are exempt per statute from landlord tenant laws. DD settings rules reflect notice of exit requirements that are comparable to landlord tenant law eviction processes and protections.</li> <li>Update DD specific setting rules to reflect the requirement of a legally enforceable agreement that provides protections from eviction, process, and appeals. (Existing rules reflected conditions for exit notice, process, timelines, and appeal rights). Updated rules include: <ul style="list-style-type: none"> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> <p><a href="#">OAR 411-318-0010(4)</a></p> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16 &amp; 6/28/16</p> |
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|  |  | <ul style="list-style-type: none"><li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li><li>- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-325-0040(3)(c)</a><br/><a href="#">OAR 411-325-0030(1)</a></li><li>- Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-360-0050(4)(r)</a><br/><a href="#">OAR 411-360-0055(3)</a><br/><a href="#">OAR 411-360-0170(7)</a></li><li>- Supported Living Programs for Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-328-0625(3)</a></li><li>• Additional clarifying language will be added to program, service and setting administrative rules to more closely align with components of Oregon landlord tenant law, expanding timelines of notice requirements and allowing for the individual to remediate</li></ul> |  | Updates to occur 6/2017 |
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|  |   | the conditions upon which a notice of exit is issued.   |              |   |
| <p>6. Do individuals have privacy in their sleeping or living unit?</p> <p>42 CFR 441.301(c)(4)(vi)(B)</p> <p>42 CFR 441.530(a)(1)(vi)(B)</p> <p>42 CFR 441.710(a)(1)(vi)(B)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing privacy in personal quarters of the individual for provider-owned, controlled, or operated residential service settings- <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0010(21)</a></li> <li><a href="#">OAR 411-004-0020(1)(c), (2)(d)</a></li> </ul> </li> <li>Privacy is considered an essential right of all individuals regardless of setting. Privacy is addressed in DD specific rules. The following rules explicitly state the right to privacy of individuals or reference the home and community-based services and setting and/or individual rights rules:</li> </ul> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; 2/23/16; &amp; 6/28/16</p> |

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|  |  | <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035(1)(c);(3)(a);(4)(a)(B)</a></li> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(1)(g)</a><br/><a href="#">OAR 411-318-0010(3)</a></li> <li>- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-325-0300(2)</a></li> <li>- Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-360-0170(11)(a)(I);(J)</a><br/><a href="#">OAR 411-360-0170(11)(f);(g)</a></li> <li>- Supported Living Programs for Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-328-0720(1)</a></li> <li>- Foster Homes for Children with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-346-0190(2)</a></li> </ul> |  |  |
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| <p>7. Do units have lockable entrance doors, with appropriate staff having keys to doors?</p> <p>42 CFR 441.301(c)(4)(vi)(B)(1)</p> <p>42 CFR 441.530(a)(1)(vi)(B)(1)</p> <p>42 CFR 441.710(a)(1)(vi)(B)(1)</p> | <p>DD AFH: No</p> <p>DD Group Homes: No</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules requiring lockable doors on units in provider-owned, controlled, or operated residential service settings-<br/>- <a href="#">OAR 411-004-0020(2)(e)</a></li> <li>DD Program, service and setting rules required updates to specifically address the expectation of locks available to individuals. Rules were updated to align with the global HCBS rule as well as setting rules which express the expectation of locks (with clarification that such locks must be single-action release for safety). The following rule updates reflect the new requirement:</li> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(4)</a></li> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li> <li>24-Hour Residential Programs and Settings for Children and Adults with</li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; 2/23/16; &amp; 6/28/16</p> |
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|  |  | <p>Intellectual or Developmental Disabilities</p> <p><a href="#">OAR 411-325-0150(6)(d)</a><br/><a href="#">OAR 411-325-0430(7)(a)(C)</a></p> <ul style="list-style-type: none"><li>• Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities</li></ul> <p><a href="#">OAR 411-360-0130(4)(d)</a></p> <ul style="list-style-type: none"><li>• Supported Living Programs for Adults with Intellectual or Developmental Disabilities</li></ul> <p><a href="#">OAR 411-328-0625(4)(a)(C)</a></p> <ul style="list-style-type: none"><li>• DD Children's Foster Homes had substantive changes to the administrative rules to reflect the new HCBS requirements. The previous prohibition on locks on bedroom doors was removed and language addressing locking bedroom doors as an option for children was added. This is reflected in:</li><li>• Foster Homes for Children with Intellectual or Developmental Disabilities</li></ul> <p><a href="#">OAR 411-346-0200(3)(d)(C)</a></p> |  |  |
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| <p>8. If individuals share rooms, do they do so only at their choice?</p> <p>42 CFR 441.301(c)(4)(vi)(B)(2)</p> <p>42 CFR 441.530(a)(1)(vi)(B)(2)</p> <p>42 CFR 441.710(a)(1)(vi)(B)(2)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing choice in bedroom roommate for individuals sharing bedrooms in provider-owned, controlled, or operated residential service settings-</li> <li>- <a href="#">OAR 411-004-0020(2)(f)</a></li> <li>DD Program, service and setting rules required updated language to reflect that individuals have a choice in roommate for shared bedroom situations. The rule updates are reflected specifically in the following setting rules:</li> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(4)</a></li> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li> <li>24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities</li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |
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|  |   | <a href="#">OAR 411-325-0150(6)(c)</a><br><a href="#">OAR 411-325-0430(7)(a)(D)</a> <ul style="list-style-type: none"> <li>Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities</li> </ul> <a href="#">OAR 411-360-0130(4)(b)</a> <ul style="list-style-type: none"> <li>Supported Living Programs for Adults with Intellectual or Developmental Disabilities</li> </ul> <a href="#">OAR 411-328-0625(4)(a)(D)</a>   |              |  |
| <p>9. Do individuals have the freedom to furnish and decorate their sleeping or living units? 42 CFR 441.301(c)(4)(vi)(B)(3) 42 CFR 441.530(a)(1)(vi)(B)(3) 42 CFR 441.710(a)(1)(vi)(B)(3)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules specifying that individuals have the freedom and support to furnish and decorate units in provider-owned, controlled, or operated residential service settings- <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0020(2)(g)</a></li> </ul> </li> <li>DD Program, service and setting rules required updated language to reflect that individuals have a choice in roommate for shared bedroom situations. The rule updates are reflected specifically in the following setting rules: <ul style="list-style-type: none"> <li>- Individual Rights, Complaints, Notification of Planned Action, and</li> </ul> </li> </ul> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |

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|  |  | <p>Contested Case Hearings for Developmental Disabilities Services</p> <p><a href="#">OAR 411-318-0010(4)</a></p> <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> <p><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a></p> <p><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></p> <ul style="list-style-type: none"> <li>- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities</li> </ul> <p><a href="#">OAR 411-325-0220(2)</a></p> <p><a href="#">OAR 411-325-0430(7)(a)(E)</a></p> <ul style="list-style-type: none"> <li>- Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities</li> </ul> <p><a href="#">OAR 411-360-0055(3)(a)(B)</a></p> <p><a href="#">OAR 411-360-0130(4)(c)</a></p> <ul style="list-style-type: none"> <li>- Supported Living Programs for Adults with Intellectual or Developmental Disabilities</li> </ul> <p><a href="#">OAR 411-328-0625(4)(a)(E)</a></p> <ul style="list-style-type: none"> <li>- Foster Homes for Children with Intellectual or Developmental Disabilities</li> </ul> <p><a href="#">OAR 411-346-0200(3)(d)(H)</a></p> |  |  |
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| <p>10. Do individuals have the freedom and support to control their own schedules and activities?</p> <p>42 CFR 441.301(c)(4)(vi)(C)<br/> 42 CFR 441.530(a)(1)(vi)(C)<br/> 42 CFR 441.710(a)(1)(vi)(C)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules specifying that individuals have the freedom and support to control their own schedules and activities in provider-owned, controlled, or operated residential service settings- <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000(3)(e)</a></li> <li>- <a href="#">OAR 411-004-0010(14)</a></li> <li>- <a href="#">OAR 411-004-0020(1)(d), (2)(i)</a></li> </ul> </li> <li>Supporting self-direction and autonomy have been established concepts in Oregon's DD service system. Substantive rule changes were not necessary to address individual's freedom and support to control schedules and activities. The following rules reflect expectations that support the individual's freedom and support to control their own schedule and activities: <ul style="list-style-type: none"> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> <p><a href="#">OAR 411-318-0010(1)(o)-(r);(w)</a><br/> <a href="#">OAR 411-318-0010(4)</a></p> | <p>Align/Comply integration requirements</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |
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|  |   | <ul style="list-style-type: none"> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li> <li>24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-325-0300(2)</a><br/><a href="#">OAR 411-325-0430(7)(a)(F)</a></li> <li>Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-360-130(5)(c)</a><br/><a href="#">OAR 411-360-0170(5)(F)</a><br/><a href="#">OAR 411-360-0170(11)(f)(g)</a></li> <li>Supported Living Programs for Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-328-0625(4)(a)(F)</a></li> <li>Foster Homes for Children with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-346-0190(1)(a)-(e)</a></li> </ul> |              |                          |
| 11. Do individuals have access to food at any time?<br>42 CFR 441.301(c)(4)(vi)(C)<br>42 CFR 441.530(a)(1)(vi)(C)<br>42 CFR 441.710(a)(1)(vi)(C) | DD AFH and DD Group Homes: Not defined in OAR | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules specifying that individuals have the freedom and support to have access to food at any time in provider-owned,</li> </ul>  | Align/Comply | HCBS rule created 1/1/16 |

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|  |  | <p>controlled, or operated residential service settings-</p> <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0020(2)(j)</a></li> </ul> <ul style="list-style-type: none"> <li>• DD Specific program, setting, and service rules were updated to include more specific language addressing individual's freedom to have access to food at any time. Rule updates include:             <ul style="list-style-type: none"> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> <p><a href="#">OAR 411-318-0010(1)(m)</a><br/> <a href="#">OAR 411-318-0010(4)</a></p> <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> <p><a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035 (1)(c):(3)(a):(4)(a)(B)</a></p> <ul style="list-style-type: none"> <li>- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities</li> </ul> <p><a href="#">OAR 411-325-0130(1)</a><br/> <a href="#">OAR 411-325-0300(2)</a><br/> <a href="#">OAR 411-325-0430(7)(a)(A)</a></p> |  | DD Specific rules updated 1/1/16; 2/23/16; & 6/28/16 |
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|  |   | <ul style="list-style-type: none"> <li>- Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-360-0130(5)(a);(c)</a><br/><a href="#">OAR 411-360-0170(5)(A)</a></li> <li>- Supported Living Programs for Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-328-0625(4)(a)(F)</a><br/><a href="#">OAR 411-328-0640(4)</a></li> <li>- Foster Homes for Children with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-346-0190(6)(a)(B);(b)</a></li> </ul>  |              |   |
| <p>12. Are individuals able to have visitors of their choosing at any time?</p> <p>42 CFR 441.301(c)(4)(vi)(D)<br/>42 CFR 441.530(a)(1)(vi)(D)<br/>42 CFR 441.710(a)(1)(vi)(D)</p> | DD AFH and DD Group Homes: Not defined in OAR | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules specifying that individuals are able to have visitors of their choosing at any time in provider-owned, controlled, or operated residential service settings-<br/>- <a href="#">OAR 411-004-0020(2)(h)</a></li> <li>• Changes were necessary to some DD specific program, service and settings rules to address conflict or lack of specificity in addressing an individual's ability to have visitors of their choosing at any time. Rules that restricted to or allowed for the practice of specific visiting hours were repealed. The</li> </ul> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; 2/23/16; &amp; 6/28/16</p> |

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|  |  | <p>following rules were adopted to set the expectation that individuals are able to have visitors of their choosing at any time:</p> <ul style="list-style-type: none"> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(1)(g);(h)</a><br/><a href="#">OAR 411-318-0010(4)</a></li> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li> <li>- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-325-0300(2)</a><br/><a href="#">OAR 411-325-0430(7)(a)(B)</a></li> <li>- Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-360-0170(5)(B)</a><br/><a href="#">OAR 411-360-0170(11)(a)(J);(f)</a></li> <li>- Supported Living Programs for Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-328-0625(4)(a)(B)</a></li> </ul> |  |  |
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|   |   | <ul style="list-style-type: none"> <li>- Foster Homes for Children with Intellectual or Developmental Disabilities</li> </ul> <a href="#">OAR 411-346-0190(1)(g);(h)</a>  |              |   |
| <p>13. Is the setting physically accessible to the individual?</p> <p>42 CFR 441.301(c)(4)(vi)(E)</p> <p>42 CFR 441.530(a)(1)(vi)(E)</p> <p>42 CFR 441.710(a)(1)(vi)(E)</p> | <p>DD AFH: Yes***</p> <p>DD Group Homes: Yes***</p> | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules requiring provider-owned, controlled, or operated residential service settings be physically accessible to the individual-</li> <li>- <a href="#">OAR 411-004-0020(2)(b)</a></li> <li>• There were no specific non-compliance issues with DD specific program, service or settings rules, however, the DD system did take the opportunity to make changes to some administrative rules to better reflect the HCBS requirements that the setting be physically accessible to the individual. Rule changes are highlighted in the following: <ul style="list-style-type: none"> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> <a href="#">OAR 411-318-0010(4)</a> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; 2/23/16; &amp; 6/28/16</p> |

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|   |  | <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></li> <li>- 24-Hour Residential Programs and Settings for Children and Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-325-0140(2);(11)</a></li> <li>- Adult Foster Homes for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-360-0130(1)(c);(d);(i);(j);(k)</a></li> <li>- Supported Living Programs for Adults with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-328-0650(1)</a></li> <li>- Foster Homes for Children with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-346-0200(1)(a);(3)(b);(c);(g)(vi)</a></li> </ul> |  |  |
| 14. Is the residential setting located in a building: |  |   |  |  |

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| <p>a. That is also a facility that provides inpatient institutional treatment? 42 CFR 441.301(c)(5)(v) 42 CFR 441.530(a)(2)(v) 42 CFR 441.701(a)(2)(v)</p> | <p>DD AFH: No<br/>DD Group Homes: No</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing settings that are located in a building that provides inpatient institutional treatment: <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0020(7)(e)(A)(i)</a></li> </ul> </li> <li>Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for settings rules reference the Oregon HCBS rules: <ul style="list-style-type: none"> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035 (1)(c):(3)(a):(4)(a)(B)</a> <ul style="list-style-type: none"> <li>Community Living Supports<br/><a href="#">OAR 411-450-0050(8)(p)</a></li> </ul> </li> </ul> </li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |
| <p>b. On the grounds of or immediately adjacent to a public institution? 42 CFR 441.301(c)(5)(v) 42 CFR 441.530(a)(2)(v) 42 CFR 441.710(a)(2)(v)</p>       | <p>DD AFH: No<br/>DD Group Homes: No</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing settings that are on the grounds of or adjacent to a public institution: <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0020(7)(e)(A)(ii)</a></li> </ul> </li> <li>Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for</li> </ul>   | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated</p>                       |



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|  |   | <p><i>settings rules reference the Oregon HCBS rules:</i></p> <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> <p><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a></p> <ul style="list-style-type: none"> <li>- Community Living Supports</li> </ul> <p><a href="#">OAR 411-450-0050(8)(p)</a></p>   |              | 1/1/16; & 6/28/16  |
| <p>c. On the grounds of or immediately adjacent to disability-specific housing?</p> <p>42 CFR 441.301(c)(5)(v)<br/> 42 CFR 441.530(a)(2)(v)<br/> 42 CFR 441.710(a)(2)(v)</p> | <p>DD AFH: No</p> <p>DD Group Homes: No</p> | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules addressing settings that are on the grounds of or adjacent to disability-specific housing:</li> <li>- <a href="#">OAR 411-004-0020(7)(e), (7)(e)(A)(iii)</a></li> <li>• Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for settings rules reference the Oregon HCBS rules:</li> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> <p><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035(1)(c);(3)(a);(4)(a)(B)</a></p> <ul style="list-style-type: none"> <li>- Community Living Supports</li> </ul> <p><a href="#">OAR 411-450-0050(8)(p)</a></p> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |

| RESIDENTIAL SETTINGS -<br>System Questions  |   |   |                     |  |
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| <p>15. Is the setting selected by the individual from among all available alternatives and is identified in the person-centered service plan?</p> <p>42 CFR 441.301(c)(4)(ii)<br/>42 CFR 441.530(a)(1)(ii)<br/>42 CFR 441.710(a)(1)(ii)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing the setting is selected by the individual and is documented in the person-centered service plan: <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0020(1)(b), (1)(b)(D)</a></li> </ul> </li> <li>Choice has been a fundamental value and guiding principle in Oregon's DD system. The following administrative rules have been updated to better articulate expectations regarding individual choice of setting: <ul style="list-style-type: none"> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services<br/><a href="#">OAR 411-318-0010(1)(o)</a><br/><a href="#">OAR 411-318-0010(3)</a> <ul style="list-style-type: none"> <li>Case Management Services<br/><a href="#">OAR 411-415-0050(9)</a><br/><a href="#">OAR 411-415-0070(5)(f)</a><br/><a href="#">OAR 411-415-0080(1):(2):(3)</a><br/><a href="#">OAR 411-415-0110(1)(b)</a> <ul style="list-style-type: none"> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a></li> </ul> </li> </ul> </li> </ul> </li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |

|   |   |   |              |  |
|---|---|---|--------------|--|
|   |   | <a href="#">OAR 411-323-0035(1)(c);(3)(a);(4)(a)(B)</a>   |              |  |
| <p>16. <i>Is the individual choice regarding services and supports, and who provides them, facilitated?</i> 42 CFR 441.301(c)(4)(v) 42 CFR 441.530(a)(1)(v) 42 CFR 441.710(a)(1)(v)</p> | <p>DD AFH: Yes</p> <p>DD Group Homes: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing individual choice regarding services and supports: <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0020(1)(d), (1)(e)</a></li> <li><a href="#">OAR 411-004-0030(1)(h)</a></li> </ul> </li> <li>Choice has been a fundamental value and guiding principle in Oregon's DD system. The following administrative rules have been updated to better articulate expectations for facilitation of individual choice regarding services and supports and who provides them: <ul style="list-style-type: none"> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> <p><a href="#">OAR 411-318-0010(1)(o);(p);(q)</a></p> <p><a href="#">OAR 411-318-0010(3)</a></p> <ul style="list-style-type: none"> <li>Case Management Services</li> </ul> <p><a href="#">OAR 411-415-0050(9)</a></p> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |

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|---|---|---|--------------|---|
|   |   | <a href="#">OAR 411-415-0070(5)(f)</a><br><a href="#">OAR 411-415-0080(1):(2):(3)</a><br><a href="#">OAR 411-415-0110(1)(b)</a><br>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br><a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a><br><a href="#">OAR 411-323-0035(1)(c):(3)(a):(4)(a)(B)</a>   |              |   |
| <b>NON-RESIDENTIAL SETTINGS</b>   |   |   |              |   |
| <i>17. Is the setting:</i>  |   |   |              |   |
| <i>a. Located in a building that provides inpatient institutional treatment?</i><br>42 CFR 441.301(c)(5)(v)<br>42 CFR 441.530(a)(2)(v)<br>42 CFR 441.710(a)(2)(v) | DD Certified Employment Services: No<br><br>DD Certified Day Services: No | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing settings that are located in a building that provides inpatient institutional treatment:</li> <li>- <a href="#">OAR 411-004-0020(7)(e)(A)(i)</a></li> <li>Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for settings rules reference the Oregon HCBS rules:</li> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/> <a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035 (1)(c):(3)(a):(4)(a)(B)</a><br/>           - Community Living Supports<br/> <a href="#">OAR 411-450-0050(8)(p)</a> </li> </ul> | Align/Comply | HCBS rule created 1/1/16<br><br>DD Specific rules updated 1/1/16; & 6/28/16 |

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|   |  | <ul style="list-style-type: none"> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities</li> </ul> <a href="#">OAR 411-345-0010(4)(d)</a>   |              |  |
| <p><i>b. Located in a building on the grounds of or immediately adjacent to a public or private institution?</i></p> <p>42 CFR 441.301(c)(5)(v)</p> <p>42 CFR 441.530(a)(2)(v)</p> <p>42 CFR 441.710(a)(2)(v)</p> | <p>DD Certified Employment Services: No</p> <p>DD Certified Day Services: No</p> | <ul style="list-style-type: none"> <li>• Implement new Home and Community-Based Services and Settings rules addressing settings that are on the grounds of or adjacent to a public institution: <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0020(7)(e)(A)(ii)</a></li> </ul> </li> <li>• Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for settings rules reference the Oregon HCBS rules: <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> </li> </ul> <p><a href="#">OAR 411-323-0030(1)(b):(3):(4)(a)(C)</a></p> <p><a href="#">OAR 411-323-0035 (1)(c):(3)(a):(4)(a)(B)</a></p> <ul style="list-style-type: none"> <li>- Community Living Supports</li> </ul> <p><a href="#">OAR 411-450-0050(8)(p)</a></p> <ul style="list-style-type: none"> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities</li> </ul> <p><a href="#">OAR 411-345-0010(4)(d)</a></p> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |

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|---|--|---|---------------------|--|
| <p>18. Does the setting have the effect of isolating individuals receiving Medicaid HCBS from the broader community?</p> <p>42 CFR 441.301(c)(5)(v)<br/>42 CFR 441.530(a)(2)(v)<br/>42 CFR 441.710(a)(2)(v)</p> | <p>DD Certified Employment Services: No*</p> <p>DD Certified Day Services: No*</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing settings that have the effect of isolating individual receiving Medicaid HCBS from the broader community: <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000</a></li> <li>- <a href="#">OAR 411-004-0020(1), (7), (7)(e)(A)(iii), (7)(e)(B)</a></li> </ul> </li> <li>Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for settings rules reference the Oregon HCBS rules: <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings<br/><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/><a href="#">OAR 411-323-0035(1)(c);(3)(a);(4)(a)(B)</a></li> <li>- Community Living Supports<br/><a href="#">OAR 411-450-0050(8)(p)</a><br/><a href="#">OAR 411-450-0060(5)(b)(B)</a></li> <li>- Employment Services for Individuals with Intellectual or Developmental Disabilities<br/><a href="#">OAR 411-345-0010(4)(d)</a><br/><a href="#">OAR 411-345-0025(10)(G)(H)</a></li> </ul> </li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |
|---|--|---|---------------------|--|

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|--|--|--|---------------------|--|
| <p>19. Is the setting physically accessible to the individuals using it? 42 CFR 441.301(c)(4)(vi)(E)42 CFR 441.530(a)(vi)(E)42 CFR 441.710(a)(vi)(E)</p> | <p>DD Certified Employment Services: Yes</p> <p>DD Certified Day Services: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules requiring provider-owned, controlled, or operated service settings be physically accessible to the individual- <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0000</a></li> <li><a href="#">OAR 411-004-0020(2)(b)</a></li> </ul> </li> <li><i>Oregon's global HCBS rules which mirror the federal regulations articulate this concept. DD specific licensing for settings rules reference the Oregon HCBS rules:</i> <ul style="list-style-type: none"> <li>Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> </li> </ul> <p><a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a><br/> <a href="#">OAR 411-323-0035(1)(c);(3)(a);(4)(a)(B)</a></p> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |
| <p><b>NON-RESIDENTIAL SETTINGS - System Questions</b></p>  |  |  |                     |  |

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| <p>20. Is the non-residential service setting selected by the individual from among setting options that include non-disability specific settings and are the setting options identified and documented in the person-centered service plan?</p> <p>42 CFR 441.301(c)(4)(ii)<br/>42 CFR 441.530(a)(1)(ii)<br/>42 CFR 441.710(a)(1)(ii)</p> | <p>DD Certified Employment Services: Yes</p> <p>DD Certified Day Services: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing the setting is selected by the individual and is documented in the person-centered service plan: <ul style="list-style-type: none"> <li>- <a href="#">OAR 411-004-0000</a></li> <li>- <a href="#">OAR 411-004-0020(1), (1)(b)</a></li> </ul> </li> <li>Choice has been a fundamental value and guiding principle in Oregon's DD system. The following administrative rules have been updated to better articulate expectations regarding individual choice of setting: <ul style="list-style-type: none"> <li>- Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> <a href="#">OAR 411-318-0010(1)(o)</a><br/> <a href="#">OAR 411-318-0010(3)</a> <ul style="list-style-type: none"> <li>- Case Management Services</li> </ul> <a href="#">OAR 411-415-0030(3)</a><br/> <a href="#">OAR 411-415-0050(9)</a><br/> <a href="#">OAR 411-415-0070(1)(a);(2)(i)(F);(5)(f)</a><br/> <a href="#">OAR 411-415-0080(1);(3)</a><br/> <a href="#">OAR 411-415-0110(1)(b)</a> <ul style="list-style-type: none"> <li>- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings</li> </ul> <a href="#">OAR 411-323-0030(1)(b);(3);(4)(a)(C)</a> </li> </ul> | <p>Align/Comply</p> | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |
|--|--|---|---------------------|--|



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|---|--|---|--------------|--|
|   |  | <a href="#">OAR 411-323-0035 (1)(c);(3)(a);(4)(a)(B)</a>  |              |  |
| <p>21. Does the setting facilitate individual choice regarding services and supports, and who provides them?</p> <p>42 CFR 441.301(c)(4)(v)<br/> 42 CFR 441.530(a)(1)(v)<br/> 42 CFR 441.710(a)(1)(v)</p> | <p>DD Certified Employment Services: Yes</p> <p>DD Certified Day Services: Yes</p> | <ul style="list-style-type: none"> <li>Implement new Home and Community-Based Services and Settings rules addressing individual choice regarding services and supports: <ul style="list-style-type: none"> <li><a href="#">OAR 411-004-0010(17)</a></li> <li><a href="#">OAR 411-004-0020(1)(d)(D), (1)(e), (2)</a></li> <li><a href="#">OAR 411-004-0030(2)(c)(H), (2)(c)(P)</a></li> </ul> </li> <li>Choice has been a fundamental value and guiding principle in Oregon's DD system. The following administrative rules have been updated to better articulate expectations for facilitation of individual choice regarding services and supports and who provides them : <ul style="list-style-type: none"> <li>Individual Rights, Complaints, Notification of Planned Action, and Contested Case Hearings for Developmental Disabilities Services</li> </ul> </li> </ul> | Align/Comply | <p>HCBS rule created 1/1/16</p> <p>DD Specific rules updated 1/1/16; &amp; 6/28/16</p> |

[OAR 411-318-0010\(1\)\(o\):\(p\):\(q\)](#)

[OAR 411-318-0010\(3\)](#)

- Case Management Services

[OAR 411-415-0030\(3\)](#)

[OAR 411-415-0050\(9\)](#)

[OAR 411-415-0070\(2\)\(i\)\(D\)\(F\):\(F\):\(5\)\(f\)](#)

[OAR 411-415-0080\(1\):\(3\)](#)

[OAR 411-415-0110\(1\)\(b\)](#)

- Agency Certification and Endorsement to Provide Developmental Disabilities Services in Community-Based Settings

[OAR 411-323-0030\(1\)\(b\):\(3\):\(4\)\(a\)\(C\)](#)

[OAR 411-323-0035 \(1\)\(c\):\(3\)\(a\):\(4\)\(a\)\(B\)](#)

- Community Living Supports

[OAR 411-450-0050\(8\)\(p\)](#)

[OAR 411-450-0060\(5\)\(b\)\(B\)](#)

- Employment Services for Individuals with Intellectual or Developmental Disabilities

[OAR 411-345-0010\(3\):\(4\)\(d\)](#)

[OAR 411-345-0025\(3\):\(8\)\(e\)\(f\)](#)

[OAR 411-345-0140\(2\)\(b\)](#)

[OAR 411-345-0160\(5\)\(c\)](#)

- Oregon Revised Statutes (ORS) provides additional requirements to reinforce HCBS standards for individuals receiving services:
  - [ORS 427.007\(1\)\(a\)](#)

|  |  |                                  |  |  |
|--|--|----------------------------------|--|--|
|  |  | - <a href="#">ORS 427.007(4)</a> |  |  |
|--|--|----------------------------------|--|--|

\* 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. Additionally, further assessment is needed to determine whether Oregon is in compliance in its implementation and practice of these laws and regulations.

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

## Appendix F: Oregon's STP Public Notice Process, Comments and State Responses

Oregon's public notice and request for comment process includes release of information in electronic and non-electronic formats. Public notice and relevant materials are provided electronically/posted to:

- Oregon's HCBS Transition Plan webpage: <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Transition-Plan.aspx>
- The DHS news release page: <http://www.oregon.gov/DHS/DHSNEWS/Pages/News-Releases.aspx>
- The OHA news release page: <https://www.oregon.gov/OHA/ERD/Pages/News-Releases.aspx>
- FlashAlert service: a service the state subscribes to, [www.flashnews.net](http://www.flashnews.net). FlashAlert® collects emergency messages and news releases from 1,760 organizations in the Portland/Salem/SW Washington area and provides it to the news media via a continuously updated website and e-mails. It automatically places this information into the websites of participating stations and newspapers. It sends our press releases to several hundred news media sites throughout Oregon.
- Oregon, DHS's Twitter account.
- Oregon, DHS's "GovDelivery" system whereby anyone who has signed up for notifications about HCBS will receive an email when the DHS HCBS website(s) have been changed.
- Oregon, DHS, ODDS' Facebook page.
- OHA, HSD's email distribution list.
- Oregon, OHA's Facebook page
- Oregon, OHA's Twitter account.

Public input is requested during meetings with program staff and stakeholders prior to submission of the STP. Local field offices serving APD, HSD and ODDS consumers are required to post public notice in their offices and make paper versions of the STP materials available to members of the public. Interested parties may submit comments via email to

[hcbs.oregon@state.or.us](mailto:hcbs.oregon@state.or.us), via the HCBS website at <http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Resources-Oregon.aspx> or via first class mail to HCBS Transition Plan Comments, 500 Summer Street NE E-09, Salem, OR 97301.

The state commenced public notice and a request for comment on the 2018 version of the STP on 11/15/2018 using the process described above. The public was given until 12/17/2018 to provide comments. A summary of the public comments received and responses by the state as part of the public notice period are:

***2018 STP Comments related to HSD, APD, and ODDS:***  
**Public Comments Received on Oregon's Nov 2018 Draft Statewide Transition Plan (STP)**  
**on Home and Community-Based Services (HCBS) and Settings**

**Comments 1 – 12 are for all three of Oregon's Program Areas**, which are the Department of Human Services (DHS), Aging and People with Disabilities (APD) and the Office of Developmental Disabilities Services (ODDS), as well as the Oregon Health Authority (OHA) Health Systems Division (HSD).

Comments 1 - 12 were submitted by the Eastern Oregon Center for Independent Living's (EOCIL) Institute for Disability Studies and Policies [also referred to as "Issuer" and IDSP (Institute for Disability Studies and Policy)]

Comment 1\_The IDSP does not find the public comment timeframe adequate for generating input from communities most impacted, specifically individuals with disabilities. The public comment timeframe, which encompassed federal holidays, does not adequately allow enough time for review, research, and analysis that would result in diagnostic input. The lack of time provided for meaningful participation is a systemic barrier to access for individuals with disabilities.

**Oregon Response:**

The DHS/OHA public notice and comment period adheres to Federal requirements under 42 CFR Part 441, governing the public comment timelines for plan submission. The plan put forward represents over 4 years of public work, including state-wide public forums and presentations. In order to reach the ideals that the HCBS regulations envision, it is acknowledged that work must continue beyond CMS approval of the HCBS Transition plan. These HCBS changes represent a major cultural shift and we continue to welcome SILC/CIL and others continued involvement in bringing about necessary change. As part of the ongoing stakeholder meeting and input process we welcome further discussion about how best to proceed. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**The IDSP recommends** the DHS-OHA use a widespread survey process to garner input. The following link provides information regarding a successful mini grant process previously used by DHS-OHA.

(<https://www.oregon.gov/oha/PH/ABOUT/Documents/ship/mini-grant.pdf>).

**Oregon Response:**

Thank you for your recommendation. As stated in the response above, the DHS/OHA public notice and comment period adheres to the public comment timelines approved by the Federal Centers for Medicare and Medicaid Services (CMS). The plan put forward represents over four years of public work, including statewide public forums, presentations and public comment opportunities. In order to reach the ideals that the HCBS regulations require, it is acknowledged that work must continue beyond CMS approval of Oregon's HCBS Transition plan. These HCBS changes represent a major cultural shift and we continue to welcome continued involvement by SILC/CIL and others in bringing about necessary change. As part of the ongoing stakeholder meetings and input process we welcome further discussion about how best to proceed. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**Comment 2**

After reviewing the HCBS Statewide Transition Plan, the IDSP is not aware of any interagency coordination. To achieve its goals and comply with Centers for Medicare & Medicaid Services (CMS) directives, DHS-OHA must effectively integrate the innovative approaches of multiple agencies. Specifically, it does not appear that DHS and OHA meaningfully engage the Governor's State Independent Living Council (SILC), who is responsible for developing the State Plan for Independent Living (SPIL) for Oregon **or** Oregon's Centers for Independent Living (CILs). It does not appear that DHS and OHA reviewed Oregon's SPIL, or other interagency state plans, to ensure development, implementation, and evaluation of HCBS Statewide Transition Plan incorporated existing interagency approved priorities.

**The IDSP recommends** that DHS and OHA complete a full analysis.

**The IDSP recommends** that the SILC and CILs be convened immediately and included in future stakeholder meetings to advise and assist in the HCBS settings statewide transition process and any other program design, implementation, and evaluation.

**Oregon Response:**

Stakeholder meetings have had continued invitation and attendance of SILC/CIL representatives since HCBS Transition planning began in 2014. We welcome continued participation as planning and work continues past the anticipated CMS approval of Oregon's HCBS Transition plan. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**Comment 3**

Page 23 of 239 – Paragraph "The Oregon Administrative Rule 411-450-0060(5)(b)(B) requires that facility-based non-residential community living supports that occur in a provider-controlled setting "must, at minimum, provide ongoing opportunities and encouragement to individuals to go out into the broader community." While Oregon's regulations align/comply with the HCBS regulation..."

Oregon's Home and Community-Based Services (HCBS) Transition Progress by setting based on Consumer National Core Indicator Survey indicated that only 56% of individuals are as active in the community as they would like. Oregon should not be complacent with regulations aligning/complying with the HCBS regulation. Furthermore, Oregon should not expect providers, which have an economic interest, to be responsible for providing ongoing opportunities and encouragement to access in the broader community. Opportunities and accessing the broader community must be consumer-driven and solely based on individual choice.

**The IDSP recommends** Oregon ensure that communities most impacted, specifically individuals with disabilities, be made aware of CILs and have access to CILs for the purpose of developing their person-centered independent living plans that reflect individual choice for accessing their broader community and identifying supports required.

**Oregon Response:**

The person-centered service planning process and resulting Person-Centered Service Plans (PCSP) are conducted in accordance with federal regulations. All DHS/OHA programs are required to have conflict of interest-free Case Management adhering to the person-centered planning requirements outlined in OAR 411-004-0030, to assist with developing the Person-Centered Plan. Individuals are free to seek guidance from any and all sources, including SILC/CIL.

**Comment 4**

Page 33 of 239 – Paragraph “DHS, APD: DHS, APD convened focus groups for consumers to inform them of the changes resulting from the HCBS requirements and to elicit their feedback and insights. Additionally, APD convened program specific stakeholder group to advise and assist in the HCBS settings statewide transition process. Stakeholders include advocacy groups such as the Long-Term Care Ombudsman, Disability Rights Oregon, Alzheimer's Association, AARP, Brain Injury Alliance of Oregon, and provider groups such as the Oregon Health Care Association, LeadingAge Oregon, Oregon Rehabilitation Assoc, and the Independent Adult Care Home Association. Training and collaboration have been provided during the transition



period with both consumer and provider advocacy organizations and State/County regulatory groups. The goal is to engage all interested parties in assisting APD in reaching full compliance with HCBS and in identifying areas of concern and gaps in current services.

**The IDSP recommends** that the SILC and CILs be included in future stakeholder meetings to advise and assist in the HCBS settings statewide transition process and any other program design, implementation, and evaluation.

The SILC, CILs, and Designated State Unit (Oregon Vocational Rehabilitation Services (OVRS) are federally mandated to jointly develop, implement, and evaluate Oregon's 3-year State Plan for Independent Living (SPIL). The 3-year plan is submitted to, and approved by, the Administration of Community Living (ACL). The SPIL specifically identifies the SILC, CILs and APD will collaborate to benefit people with disabilities in Oregon.

Furthermore, CILs are required to provide the following services to Oregonians with disabilities:

- Information and referrals,
- peer-counseling,
- independent living skills training,
- individual advocacy
- systems advocacy
- transitioning services (services that facilitate from nursing homes and other institutions to the community, provide assistance to those at risk of entering institutions, and facilitate the transition of youth);

Centers also may provide, among other services: psychological counseling, assistance in securing housing or shelter, personal assistance services, transportation referral and assistance, physical therapy, mobility training, rehabilitation technology, recreation, and other services necessary to improve the ability of individuals with significant disabilities to function independently in their family or community and/or to continue employment.

**SYNOPSIS OF OREGON CILs:**

Oregon has 7 CILs providing five core services in 22 counties:

- Abilitree (Deschutes, Crook and Jefferson Counties);
- EOCIL (Baker, Gilliam, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa and Wheeler Counties);
- HASL (Jackson and Josephine Counties);
- ILR (Multnomah, Washington and Clackamas Counties);
- LILA (Lane County);
- SPOKES (Klamath Falls and Lake)
- UVDN (Douglas County).

Oregon's CILs provide limited ADRC contract specific services in 14 counties:

- EOCIL (Hood River, Sherman and Wasco Counties);
- HASL (Curry County);
- ILR (Clatsop, Columbia, Tillamook Counties);
- LILA (Benton, Lincoln, Linn, Marion, Yamhill and Polk Counties);
- UVDN (Coos County).

CILs are under the federal umbrella of the Administration for Community Living (ACL). CILs are authorized in the Rehabilitation Act of 1973 as amended by WIOA, TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES:

PART A—GENERAL PROVISIONS SEC. 701. PURPOSE. The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual

and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society...;

(2) CENTER FOR INDEPENDENT LIVING.—The term “center for independent living” means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency for individuals with significant disabilities (regardless of age or income) that— (A) is designed and operated within a local community by individuals with disabilities; and (B) provides an array of independent living services, including, at a minimum, independent living core services as defined in section 7(17);

(3) CONSUMER CONTROL. —The term “consumer control” means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities, in terms of the management, staffing, decision making, operation, and provisions of services, of the center.

The Centers for Independent Living Program are consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies who provide Independent Living (IL) services. At a minimum, centers are federally mandated to provide the following IL core services:

- Information and referral;
- IL skills training;
- Peer counseling;
- Individual and **systems advocacy**; and
- Services that facilitate transition from nursing homes and other institutions to the community, provide assistance to those at risk of entering institutions, and facilitate the transition of youth.

### **Oregon Response:**

Stakeholder meetings have had continued invitation and attendance of SILC/CIL representatives since HCBS Transition planning began in 2014. We welcome continued participation as planning and work continues past the anticipated CMS

approval of Oregon's HCBS Transition plan. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

### **Comment 5**

Page 34 of 239 – Paragraph “**DHS, ODDS: Non-Residential Settings:** “...ODDS coordinates meetings on a regular basis with a targeted provider group (the largest employment and residential providers, with the largest number of individuals served in a Sheltered Workshop setting) to discuss HCBS and Lane v. Brown compliance requirements as well as to help develop transformation plans. Oregon funds training and technical assistance for providers who wish to transform their services through WiSE and Living Opportunities (a current Oregon service provider) which include strategic assessments of provider organizations, full transformation and training plans, as well as interim and final reports regarding transformation. Oregon DHS has issued 35 grants. ODDS employs five Regional Employment Specialists whose job description includes providing training and technical assistance regarding HCBS compliance to case managers as well as Provider Organizations. These Regional Employment Specialists have provided targeted training to all case management entities (CME) regarding HCBS requirements, and during the assessment/on-site visits with providers are also providing technical assistance as requested, or as determined *Oregon's Home and Community Based (HCB)* by ODDS to be needed. This includes review of the assessment, review of individualized service plans and Career Development Plans, training regarding required transformation or adaptation plans, technical assistance regarding provider score cards and verification of service delivered. Regarding employment, DHS is currently funding a “Peer to Peer” program, run by the DD Council and Self-Advocacy Coalition, which is designed to help provide peer training to individuals who are interested in seeking competitive integrated employment with a focus on individuals who wish to leave a Sheltered Workshop setting and transition to HCBS compliant settings. DHS hosts monthly Employment Policy meetings which include self-advocates and family advocate groups to discuss the transformation taking place in Oregon and the best way to reach individuals and their families. Additionally, ODDS has developed a Supported Employment page which includes Fact Sheets and Pow Toons designed to help individuals and families understand the changes and their options for supported employment services and HCBS compliant settings moving forward (<https://www.oregon.gov/DHS/SENIORS-DISABILITIES/DD/Pages/Supported-Employment.aspx>).

At least monthly, DHS, Employment First (EF) releases messages regarding employment related changes that include increasing HCBS compliance. These messages include training opportunities, success stories, and policy changes. These messages are designed to be written in a way that individuals and families can understand. These messages can be found on the EF website (<http://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENTFIRST/Pages/messages.aspx>). DHS, Employment First also operates a Facebook page, as it has been reported that social media also helps reach individuals and their families. DHS (Employment First with ODDS) provide a community seminar called "Meet at the Mountain." For 2017, the target audience for this seminar was families and individuals. In 2015, "Meet at the Mountain" had more than 300 people in attendance and approximately 400 in 2017. Additionally, ODDS partners with other seminars and trainings which are operated by and target individuals and families such as Breaking Barriers (a local training in central Oregon), APSE and other local initiatives."

The IDSP is not aware of any effort to engage the SILC or CILs or make communities most impacted, specifically individuals with disabilities, aware of opportunities to meaningfully participate in this process.

**The IDSP recommends** that the SILC and CILs be included in future convening of meetings for program design, implementation, and evaluation. Furthermore, information regarding the SILC and CIL services be disseminated and opportunities for communities most impacted, specifically individuals with disabilities, to connect with CILs receive priority.

The SILC, CILs, and Designation State Unit (Oregon Vocational Rehabilitation Services (OVRs) are federally mandated to jointly develop, implement, and evaluate Oregon's 3-year State Plan for Independent Living (SPIL). The 3-year plan is submitted to, and approved by, the Administration of Community Living (ACL). The SPIL specifically identifies the SILC, CILs and APD will collaborate to benefit people with disabilities in Oregon.

Furthermore, CILs are required to provide the following services to Oregonians with disabilities:

- Information and referrals,
- peer-counseling,

- independent living skills training,
- individual advocacy
- systems advocacy
- transitioning services (services that facilitate transition from nursing homes and other institutions to the community, provide assistance to those at risk of entering institutions, and facilitate transition of youth to postsecondary life);

Centers also may provide, among other services: psychological counseling, assistance in securing housing or shelter, personal assistance services, transportation referral and assistance, physical therapy, mobility training, rehabilitation technology, recreation, and other services necessary to improve the ability of individuals with significant disabilities to function independently in their family or community and/or to continue employment.

#### **SYNOPSIS OF OREGON CILs:**

Oregon has 7 CILs providing five core services in 22 counties:

- Abilitree (Deschutes, Crook and Jefferson Counties);
- EOCIL (Baker, Gilliam, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa and Wheeler Counties);
- HASL (Jackson and Josephine Counties);
- ILR (Multnomah, Washington and Clackamas Counties);
- LILA (Lane County);
- SPOKES (Klamath Falls and Lake)
- UVDN (Douglas County).

Oregon's CILs provide limited ADRC contract specific services in 14 counties:

- EOCIL (Hood River, Sherman and Wasco Counties);
- HASL (Curry County);
- ILR (Clatsop, Columbia, Tillamook Counties);

- LILA (Benton, Lincoln, Linn, Marion, Yamhill and Polk Counties);
- UVDN (Coos County).

CILs are under the federal umbrella of the Administration for Community Living (ACL). CILs are authorized in the Rehabilitation Act of 1973 as amended by WIOA, TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES:

PART A—GENERAL PROVISIONS SEC. 701. PURPOSE. The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society...;

(2) CENTER FOR INDEPENDENT LIVING.—The term “center for independent living” means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency for individuals with significant disabilities (regardless of age or income) that— (A) is designed and operated within a local community by individuals with disabilities; and (B) provides an array of independent living services, including, at a minimum, independent living core services as defined in section 7(17);

(3) CONSUMER CONTROL. —The term “consumer control” means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities, in terms of the management, staffing, decision making, operation, and provisions of services, of the center.

The Centers for Independent Living (CILs) Program are consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies who provide Independent Living (IL) services. At a minimum, centers are required to provide the following IL core services:

- Information and referral;
- IL skills training;

- Peer counseling;
- Individual and systems advocacy; and
- Services that facilitate transition from nursing homes and other institutions to the community, provide assistance to those at risk of entering institutions, and facilitate transition of youth to postsecondary life.

**Oregon Response:**

Stakeholder meetings have had continued invitation and attendance of SILC/CIL representatives since HCBS Transition planning began in 2014. We welcome continued participation as planning and work continues past the anticipated CMS approval of Oregon's HCBS Transition plan. We do not think the current HCBS transition plan creates barriers for consumers wishing to access SILC/CIL or other Advocacy services. We would welcome additional stakeholder work on how to provide non-biased information on various advocacy groups and their roles. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**Comment 6**

Page 36 of 239 – Paragraph “**Residential Settings:**

Regarding provider owned, controlled or operated residential settings, ODDS has conducted extensive trainings in local communities, including participants such as case management entities, providers, community partners, and individuals and families. Trainings are offered with each wave of HCBS implementation as well as upon request by the ODDS community. ODDS intends to provide continuous training and outreach efforts to its service community. These trainings will be offered based on implementation of new expectations, policy clarification, and identified trends. Trainings will also be provided to local communities upon request.

Additionally, ODDS has continued to offer technical assistance and support to case management entities, providers, community partners, and individuals and families. Trainings in addition to the ones identified below are made available upon request by provider organizations, case management entities, and community advocacy groups.”



The IDSP is not aware of any effort to engage the SILC or CILs or make communities most impacted, specifically individuals with disabilities, mindful of the SILC and CILs or the role of communities most impacted.

**The IDSP recommends** that the SILC and CILs be included in training redesign, implementation, and evaluation. Further, information regarding SILC and CILs services should be included in all training materials and information that is disseminated.

**Oregon Response:**

Stakeholder meetings have had continued invitation and attendance of SILC/CIL representatives since HCBS Transition planning began in 2014. We welcome continued participation as planning and work continues past the anticipated CMS approval of Oregon's HCBS Transition plan. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**Comment 7**

Page 37 of 239 – Paragraph “**Phase III. Provider Self-Assessment, Individual Experience Assessment, and Validation Activities (July 2015 – June 2019)**

***Provider Self-Assessment Tool (July 2015 – February 2016)*** ... In consultation with Stakeholders and partners, DHS and OHA developed a Provider Self-Assessment Tool (PSAT) for provider-owned, controlled, or operated residential settings and a separate assessment for non-residential settings. To initially assess residential settings, DHS and OHA utilized an existing contract held by OHA to conduct the Provider Self-Assessment Tool (PSAT) survey and the Individual Experience Assessment survey described below. Non-residential Provider Self-Assessment Surveys for ODDS were conducted by the ODDS program.”

The IDSP is not aware of any effort to engage the SILC or CILs or make communities most impacted, specifically individuals with disabilities, mindful of the SILC and CILs or the role of communities most impacted.

**The IDSP recommends** that the SILC and CILs be consulted on the current tool and included in any redesign, implementation, and evaluation. Further, information regarding the SILC and CILs services be included in all materials and information, as well as include opportunities for communities most impacted to connect with CILs.

**Oregon Response:**

Stakeholder meetings have had continued invitation and attendance of SILC/CIL representatives since HCBS Transition planning began in 2014. We welcome continued participation as planning and work continues past the anticipated CMS approval of Oregon's HCBS Transition plan. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**Comment 8**

Page 37 – 43 of 239 – Paragraph “***Individual Experience Assessment (July 2015 – February 2016)*** DHS and OHA did not assume any of the individual HCBS sites met the HCBS requirements. In consultation with Stakeholders, DHS and OHA developed and conducted the Individual Experience Assessment (IEA) for individuals receiving Medicaid-funded HCBS services in provider-owned, controlled, or operated residential settings and non-residential settings.”

The IDSP does not believe an OHA-HSD 25%, OHA-APD 30%, and OHA-DDS 35% and 34% return rate from communities most impacted, specifically individuals with disabilities, is acceptable to determine policy.

**The IDSP recommends** DHS-OHA access peer based CILs to assist with completing future Individual Experience Assessments to ensure optimum participation from communities most impacted, specifically individuals with disabilities.

**Oregon Response:**

DHS/OHA plans to use a variety of methods to assure initial and ongoing compliance with HCBS regulations including varied methods of assessing consumers experience, including but not limited to: Conflict-Free Case Management providing person-centered support at the individual level, NCI-DD and NCI-AD, surveys, ongoing public comments and compliant review and

follow-up, Stakeholder feedback (including SILC/CIL) and individual advocacy work. We welcome discussions regarding future work together. As detailed in the plan, we will continue to work with stakeholders throughout the transition period. HSD is currently working with OHA's Director of Consumer Activities to develop a process to involve peers within the Licensing and Certification site review process. This process includes an assessment of HCBS compliance for HSD's AFH's, RTH's and RTF's. SRTF's are not funded through 1915i services; however, they will also be included in peer review implementation.

### **Comment 9**

Page 47 of 239 – Paragraph “DHS and OHA are leveraging existing organizational partners such as the Governor's Advocacy Office, adult protective service staff, licensing staff and case managers to assist in validation of assessment results and ongoing provider compliance as described in Phase V. below. Staff from these entities will report concerns or areas of inconsistency. The reports from these staff members will allow the centralized State HCBS team to compare complaints, issues and allegations against providers.

DHS and OHA continue to publicize and provide ongoing opportunities for the public to submit feedback on providers' initial and ongoing compliance and/or progress. As a key component, DHS and OHA ask advocacy organizations, such as the Oregon Long Term Care Ombudsman, to inform DHS and OHA if the Ombudsmen and/or other advocates express concerns about providers' attestations and residents' perception regarding HCBS compliance.”

The IDSP is not aware of any effort to engage the SILC or CILs or make communities most impacted, specifically individuals with disabilities, aware of the SILC and CILs role within the communities.

**The IDSP recommends** that the SILC and CILs be included in future convening of meetings to assist in validation of assessment results and ongoing provider compliance.

**Oregon Response:**

DHS/OHA plans to use a variety of methods to assure initial and ongoing compliance with HCBS regulations including varied methods of assessing consumers experience, including but not limited to: Conflict-Free Case Management providing person-centered support at the individual level, NCI-DD and NCI-AD, surveys, ongoing public comments and compliant review and follow-up, Stakeholder feedback (including SILC/CIL) and individual advocacy work. We welcome discussions regarding future work together. As detailed in the plan, we will continue to work with stakeholders throughout the transition period. HSD is currently working with OHA's Director of Consumer Activities to develop a process to involve peers within the Licensing and Certification site review process. This process includes an assessment of HCBS compliance for HSD's AFH's, RTH's and RTF's. SRTF's are not funded through 1915i services; however, they will also be included in peer review implementation. HSD will offer SILC and CILs information to the Director of Consumer Activities for involvement in the planning process for peer site reviews within HCBS sites.

**Comment 10**

Page 51 - 82 of 239 – Paragraph “**Phase IV. Heightened Scrutiny Process – Initial and Ongoing (October 2014 – Ongoing) State's Review and Process for Heightened Scrutiny Submission to CMS (October 2014 – Ongoing)** Throughout Phases III and IV of the Transition Plan, DHS and OHA will assess each site to determine if it meets the HCBS settings requirements or requires CMS's Heightened Scrutiny.

With the August 2017 STP submission, the state submitted evidence to CMS for heightened scrutiny for sites meeting the criteria below:

1. Any setting that is located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment, or in a building located on the grounds of, or immediately adjacent to, a public institution, which the state believes overcomes the institutional presumption and meets the requirements of a home and community-based setting.
2. Any setting regardless of location that has the effect of isolating individuals receiving Medicaid home and community-based services (HCBS) from the broader community....”

The IDSP is extremely alarmed of DHS-OHA's complete failure to include CILs and/or SILC in the Heightened Scrutiny Process – Initial and Ongoing. The ACL emphasizes CIL participation and mandates five core services including individual advocacy and transition services. The IDSP is not aware of any DHS-OHA effort to engage CILs or the SILC in this vital process or ensuring communities most impacted, specifically individuals with disabilities, have access to CIL independent living services.

**The IDSP recommends** that CILs and SILC be convened immediately to determine CIL/SILC role representing communities most impacted, specifically individuals with disabilities.

**Oregon Response:**

The SILC/CIL roles are already defined as put forward in IDSP's comments.

**The IDSP highly recommends** any individual prescribed individually-based limitations receive immediate referral to a CIL for assistance with developing and revising his/her plan to achieve least restrictive independent living.

**Oregon Response:**

The person-centered service planning process and resulting Person-Centered Service Plans (PCSP) are conducted in accordance with federal regulations. All DHS/OHA programs are required to have conflict of interest-free Case Management adhering to the person-centered planning requirements outlined in OAR 411-004-0030, to assist with developing the Person-Centered Plan. Individuals are free to seek guidance from any and all sources, including SILC/CIL.

There should be no "prescribed individually-based limitations" (IBL) as they must be consented to by the individual or their representative prior to being implemented. IBLs are addressed through the person-centered planning process. Discussion about IBL's should also be in consultation with the individual's Person-Centered Service Plan Coordinator (i.e., Case Manager, Independent and Qualified Agent, etc.) and documented in their PCSP.

**Comment 11**

Page 90 – 92 of 239 – Paragraph “**Individual and Privately-Owned Homes:**

While Oregon presumes that individual and privately-owned homes meet the requirements to be considered home and community based, ODDS has taken a multi-faceted approach to monitoring HCBS compliance in these settings. Oregon's DD system has an established culture which promotes integration, independence, and self-direction for individuals. The individual rights language in Oregon Administrative Rules addresses these concepts. Oregon's DD system has a strongly established person-centered planning process which supports individuals to direct their planning and services...”

The IDSP is not aware of any effort to engage ODDS consumers with their SILC or CILs. Communities most impacted, specifically individuals with disabilities, are not aware of the SILC and CILs and the role that these communities have in the cross-disability independent living movement.

The IDSP is extremely alarmed of ODDS' complete failure to include the CILs and/or SILC. ACL emphasizes CIL participation and mandates five core services including individual advocacy and transition services. The IDSP is not aware of any ODDS effort to engage CILs or the SILC in this vital process or ensuring communities most impacted, specifically individuals with disabilities, have access to CIL independent living services.

**The IDSP recommends** that CILs and SILC be convened immediately to determine CIL/SILC role representing communities most impacted, specifically individuals with disabilities.

**Oregon Response:**

The SILC/CIL roles are already defined as put forward in IDSP's comments.

**The IDSP highly recommends** any individual prescribed individually-based limitations receive immediate referral to a CIL for assistance with developing/revising his/her plan to achieve least restrictive independent livings.

**Oregon Response:**

The person-centered service planning process and resulting Person-Centered Service Plans (PCSP) are conducted in accordance with federal regulations. All DHS/OHA programs are required to have conflict of interest-free Case Management adhering to the person-centered planning requirements outlined in OAR 411-004-0030, to assist with developing the Person-Centered Plan. Individuals are free to seek guidance from any and all sources, including SILC/CIL.

There should be no “prescribed individually-based limitations” (IBL) as they must be consented to by the individual or their representative prior to being implemented. IBLs are addressed through the person-centered planning process. Discussion about IBL’s should also be in consultation with the individual’s Person-Centered Service Plan Coordinator (i.e., Case Manager, Independent and Qualified Agent, etc.) and documented in their PCSP.

**The IDSP recommends** that ODDS evaluate systemic barriers and the alienation that the current system creates with the cross-disability independent living movement and immediately include the SILC and CILs in its culture.

**Oregon Response:**

The HCBS regulations demand a culture shift for the entire HCBS Long-Term Services and Supports network of policy-makers, providers, and advocates. We agree that this work extends beyond the CMS approval of the HCBS transition plan. SILC/CIL will continue to be a welcome partner in this transformational work. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**The IDSP recommends** that when ODDS engage in extensive efforts to conduct community forums that the SILC and CILs be included.

**Oregon Response:**

As detailed in the plan, we will continue to work with stakeholders throughout the transition period.

**Comment 12**

Page 98 – 99 of 239 – Paragraph “**Ongoing Stakeholder Engagement:**

Throughout the transition period, DHS and OHA will continue to engage Stakeholders and utilize other avenues to evaluate progress, identify areas of concern, and propose solutions. This transition process will be transparent to Stakeholders and the broader public and ensure progress towards successful implementation of the activities identified in the to assure lasting compliance. On a regular basis, the statewide stakeholder committee (described in the “Statewide Transition Plan Preparation” section above) is convened and an in-person meeting is held. Each service delivery system convenes a sub-group of program-specific stakeholders in the months when the statewide stakeholder committee is not meeting. The statewide committee and program-specific committees are comprised of individuals, individual-advocate groups, providers, provider-advocate groups, contractors, service delivery system personnel and state staff.

The IDSP is not aware of any effort to engage the SILC or CILs to discuss issues related to the communities most impacted, specifically the disability community.

**The IDSP recommends** that the SILC and CILs be included as members of the statewide stakeholder committee and sub-group of program-specific stakeholders.

**Oregon Response:**

Stakeholder meetings have had continued invitation and attendance of SILC/CIL representatives since HCBS Transition planning began in 2014. We welcome continued participation as planning and work continues past the anticipated CMS approval of Oregon's HCBS Transition plan. As detailed in the plan, we will continue to work with stakeholders throughout the transition period.



**APD General Comment**

**Comment 13**

I disagree with the plan because it attempts to conceal the fact that Oregon receives funding from CMS for 1915(j) programs such as the Independent Choices Program by failing to mention it at all. It's misleading and indicates that the ICP will be excluded from the future state plans altogether. And if that occurs, marital/familial discrimination will likely ensue and many clients needs will increase. What is the plan for ICP clients? Will they be forced into I institutions?

Thanks  
Anonymous

**Oregon Response:**

Thank you for reviewing and commenting on the HCBS Transition Plan. We take all comments seriously and try to respond to all.

We are sorry that the reading of the plan led to concern about the 1915(j) services. HCBS is directed at programs that may have institutional qualities. Since the program you reference is self-directed and assumed non-institutional it is not subject to the HCBS regulations. Oregon has long valued supporting independence and there are no plans to eliminate this program as you speculate. We are sorry that reading the plan gave you that impression. We will include your comments with others that come in to help all understand our intent.

## **ODDS Employment-Related Comments**

### **Comment 14**

Three comments submitted expressed concern about sheltered workshops closing as part of Oregon's HCBS transition plan.

### **Oregon Response:**

ODDS appreciate the feedback stakeholders have provided regarding individual experiences during this transformation. We agree the changes have been significant and not always easy. ODDS is continuing to work with individuals and families to develop individualized plans consistent with both the person's goals and requirements for ODDS and Medicaid-funded Home and Community-Based Services.

### **Comment 15**

One commenter who was concerned about sheltered workshops closing stated that small group services are not significantly different than sheltered work services.

### **Oregon Response:**

Unlike sheltered work settings, Oregon's small group supported employment services occur in general community business settings and provide opportunities for individuals to participate in the general workforce. Individuals working in Oregon's small group settings earn minimum wage or better. The optimal and expected outcome of small group services remains individual integrated employment in competitive integrated employment settings. The setting commented on was visited by ODDS and CMS representatives, and the work setting met requirements for ODDS and Medicaid funded Home and Community-Based Services.

## **ODDS General Comments**

### **Comment 16**

The Eastern Oregon Center for Independent Living's Institute for Disability Studies and Policy (EOCIL) expressed concern about being engaged in the development and implementation of Oregon's Statewide HCBS Transition Plan. The EOCIL's comments also express a particularized concern regarding compliance in facility-based non-residential community living supports and recommends that Oregon collaborate with the Centers for Independent Living (CILs) to ensure people with disabilities are aware of and have access to CILs for the purpose of developing person-centered independent living plans.

### **Oregon Response:**

ODDS looks forward to ongoing and future partnership with stakeholders including the EOCIL and the CILs.

### **Comment 17**

To Whom it May Concern,

I find it very disturbing that while OHA/DHS is submitting this Transition Plan for HCBS, OHA/DHS is also submitting Notice of Proposed Rulemaking, Filing Caption: ODDS: Oregon Needs Assessment, Home and Community-Based Services, and Abuse Reporting (Senate Bill 243) and Proposed Rulemaking, Filing Caption: ODDS: Adjustment, Suspension, or Termination of Payment for Developmental Disabilities Adult Foster Homes (AFH-DD). Both Proposed Rulemaking requests violate this very Transition Plan for HCBS. Please explain why you are doing this.

I also found that OHA/DHS submits the State Plan and Waivers to CMS with specific operational features to get approval, and then intentionally violate the plan by changing the limits on amount, frequency and duration. Can you explain why OHA/DHS is not going through the Amendment process with CMS for these changes?

Please give me the direct contact information for the person in charge of this review at CMS so I can share my concerns.

Thank you,  
Shirley Carter

**Oregon Response:**

Oregon has conducted a thorough systemic review of its Medicaid HCBS State Plan and Waiver authorities, Oregon Revised Statutes and Oregon Administrative Rules (OARs) to assure that those authorities comply with the Federal HCBS settings requirements. An initial statewide transition plan (STP) was submitted to CMS detailing Oregon's systemic compliance with the regulations and CMS has given initial approval of that STP. All OAR revisions are reviewed by DHS Medicaid Policy Analysts and designated staff of the Oregon Health Authority to assure continued compliance with the HCBS settings regulations prior to finalization and implementation. Any comments and concerns related to proposed OARs may be submitted and addressed through the public rulemaking process.

It is unclear from this comment what are the specific concerns related to this STP.

**Comment 18**

To Whom it May Concern,

My questions are: Can clients, providers and all interested parties be assured that OHA/DHS/ODDS will follow this plan as stated for approval? Can we be assured that OHA/DHS/ODDS will be following the existing plans already approved by CMS? Can we be assured that OHA/DHS/ODDS will not enforce OARs, Policies, Standard and Procedures, or Transmittals that violate this Transition Plan until OHA receives approval from CMS through the amendment process?

Thank you,  
Jon Orton

**Oregon Response:**

All individuals and interested parties, including providers, can be assured that Oregon is following and will continue to follow the terms set forth in the Statewide Transition Plan (STP). Oregon has conducted a thorough systemic review of its Medicaid HCBS State Plan and Waiver authorities, Oregon Revised Statutes and Oregon Administrative Rules (OARs) to assure that those authorities comply with the Federal HCBS settings requirements. An STP was submitted to CMS detailing Oregon's systemic compliance with the regulations and CMS has given initial approval of that STP. No amendments to the Medicaid HCBS State Plan and Waiver authorities are currently necessary.

All OAR revisions are reviewed by DHS Medicaid Policy Analysts and designated staff of the Oregon Health Authority to assure continued compliance with Federal Medicaid requirements and approved Medicaid HCBS authorities, including the HCBS settings regulations, prior to finalization and implementation OARs. Any comments and concerns related to proposed OARs may be submitted and addressed through the public rulemaking process. Oregon will continue to enforce all Medicaid HCBS authorities, ORSs, OARs, Policies and Procedures.

**Comment 19**

To Whom it May Concern,

Your current rule making, File Caption ODDS: Adjustments, Suspension, or Termination of Payment for Developmental Disabilities Adult Foster Homes (AFH-DD) is to limit travel with services to 30 days at one time and a maximum of 45 days in a year. Clearly this is a violation of this current HCBS Plan and it violates what you have already submitted in SPA #13-0016-MM5, indicating the state does not have a definition of "Temporary Absence". This clearly is a definition for temporary absence. Have you and/or are you going through the amendment process with the CMS for this current rule making to be in compliance with your HCBS Plan?

Thank you,  
Jon Orton

**Oregon Response:**

The State Plan Amendment referenced (#13-0016-MMF) is not germane to the HCBS authorities, or this HCBS STP, as it asserts the state's non-financial Medicaid eligibility requirements. The Oregon Administrative Rule (OAR) referenced above, and the HCBS STP, do not govern nor dictate the state's Medicaid non-financial or financial eligibility requirements.

Federal Medicaid regulations allow states the authority to set the qualifications for its providers of Medicaid services. The state, in its Medicaid authorities, identifies the qualifications and the Centers for Medicare and Medicaid Services (CMS) approves those qualifications. ODDS, Adult Foster Home (AFH) provider qualifications are described by the state and approved by CMS in the 1915(k) Community First Choice State Plan Option. The CMS-approved K Plan describes provider qualifications requirements for AFH providers as, "**Adult Foster Care-** Licensing requirements at OAR 411-050-0600 – 0690 OAR 309-040-0030 through 309-040-0330; and 411-360-0010 through 411-360-0310. Local CDDPs, Branch offices, DHS Central Office, and OHA/HSD are responsible for verification of provider qualifications upon initial license and annual renewal." ODDS Licensing is required to license/certify settings in accordance with the approved Medicaid authorities and OARs cited in the approved authorities.

The OAR referenced in the comment asserts the state's policy on payment to AFH providers when an individual receiving services is absent from the AFH for a period longer than 30 days. States are required by Federal regulations to assure the health and welfare of individuals receiving HCBS (42 CFR 441.570). States are given the latitude by the Federal government to determine how best to assure the health and welfare of individuals receiving HCBS. The state has determined that it cannot adequately monitor an individual's health, welfare and delivery of services by an AFH provider if an individual and his/her provider are absent from the licensed/certified AFH setting for longer than 30 days.

All OAR revisions are reviewed by DHS Medicaid Policy Analysts and designated staff of the Oregon Health Authority to assure continued compliance with Federal Medicaid requirements and approved Medicaid HCBS authorities, including the HCBS settings regulations, prior to finalization and implementation OARs. Any comments and concerns related to proposed OARs may be submitted and addressed through the public rulemaking process. Oregon will continue to enforce all Medicaid HCBS authorities, ORSs, OARs, Policies and Procedures.

**HSD Program Comments and Responses:****Comment 20**

The Plan is discussing the Person Centered-Service Plan managed by the case managers employed by the HSD's independent and qualified agent. It looks like some PCS plans are developed, however we also observe situations when the PCS plans are not developed or the Providers are not informed they have been completed or the content of the plans. What is the current structure for PCS plans developments in MH RTH/F?

**Oregon Response:**

The person-centered service planning process and resulting Person Centered Service Plans conducted in accordance with Federal regulations are contractual requirements of HSD's IQA. HSD is aware of and is currently addressing concerns through contract administration activities, including, but not limited to, contract amendments to further clarify procedural responsibilities. Once these activities are finalized, HSD will commit to send a memo to all providers outlining the clarified process and all parties' responsibilities related to the person-centered service planning process and plan.

**Comment 21**

The Transition Plan does not refer to Kepro as the entity managing Individually-Based Limitations for MH RTH/F. Just checking if Kepro is still identified entity tasked with managing IBLs?

**Oregon Response:**

Yes, Kepro is HSD's contracted independent and qualified agent tasked with managing the IBL process.

**Comment 22**

The Transition Plan identifies that HCBS rules requirement may be limited due to health & safety risks; however, the limitations will not be used without an individual's informed consent. I am requesting that the educational materials and trainings to the Residential Providers and local mental health authorities, address the risk area for the Providers constellated by the responsibility to monitor health & safety issues at the Programs and simultaneously adhere to & monitor individuals' freedoms and rights as outlined by the HCBS rules, when IBL may not be implemented due to no consent. The Providers need more discussion, examples, and resolution of issues resulting from fulfilling these two set of responsibilities, when no consent is given to implement IBL.

**Oregon Response:**

HSD is required to comply with Federal requirements for HCBS settings under its approved 1915(i) HCBS Medicaid State Plan program. This program allows individuals receiving services in mental health residential facilities to have the same rights and protections as those who do not reside in mental health residential facilities such as the right to privacy, independence and choice. Though providers monitor clients' safety, they are also responsible to ensure each person's Federal rights and freedoms are protected and supported.

HSD recommends that providers convene a leadership meeting to discuss how to address and mitigate safety risks while still protecting and honoring each residents' rights under HCBS, and provide appropriate training for staff.

The Federal Centers for Medicare and Medicaid Services (CMS) has advised states to follow its own state's guardianship statutes when attempting to obtain informed consent from individuals receiving HCBS for the purpose of implementing an individually based limitation to the rule (IBL). HSD also recommends that providers review the guardianship statute (ORS Chapter 125). Oregon's HCBS website also contains information on IBLs which may be beneficial to providers. HSD



recommends that providers review not only HSD's subpage, but also APD's and ODDS's. Though there are differences across the three program areas, the information regarding HCBS requirements are often pertinent across programs.

HSD will commit to provide further discussion, examples and resolution of issues for facilities specific to mental health residential services.

**Comment 23**

To provide to the Residential Providers education and trainings tailored in served population, with providing specific examples.

**Oregon Response:**

There is an effort to increase education and training tailored for specific populations served by facilities licensed with HSD, such as with the PSRB. HSD is currently working with the PSRB to develop informational documentation and tools for providers who serve PSRB clients. More information will be disseminated over the next few months and at the PSRB conference in April 2019.

HSD will look to increase education and training for other specific populations serviced by HSD's adult mental health facilities.

**Comment 24**

To Provide training and education to the Adult Protective Services teams on HCBS.

**Oregon Response:**

HSD will commit to meeting with the Office of Training and Investigations (OTIS) to review HCBS and provide any information to providers as applicable.

**2017 STP Comments related to HSD, APD, and ODDS:**

The state indicates that it will post and allow public comments on each service site that has been determined to require CMS' heightened scrutiny. The state has indeed posted heightened scrutiny evidence packages for each program area (ODDS, APD, and HSD). Crucially, the STP does not appear to include any mechanism for residents, stakeholders, or the general public to comment on or "red flag" a setting that the state has not identified as requiring heightened scrutiny. The state appears to be over-reliant on provider self-reporting and site visits. The state asserts that "ODDS will also receive and respond to reports from stakeholders of homes or operations that are perceived to be institution-like or have the effect of isolating individuals." (p. 77). The state does not appear to have a clear mechanism for stakeholders to make such reports. Furthermore, this ongoing invitation to comment, such as it is, only appears for the ODDS program area, not APD or HSD.

*HSD's Response: By September 1, 2017, HSD will develop an HCBS Heightened Scrutiny Identification Worksheet (HSIW) for residents, stakeholders, and the general public to "red flag" a setting that the state has not identified, but may require heightened scrutiny. By September 15, 2017, this worksheet will be sent to each provider and uploaded to the HSD sub-page of Oregon's HCBS website for use by the public. A mechanism for residents to receive this worksheet will be discussed internally and a process approved and implemented. Additionally, this worksheet will be disseminated and discussed with HSD's HCBS Stakeholder Group, each county's residential specialists and sent to Community Mental Health Providers to post for general public consumption.*

*On an ongoing basis, when HSD receives an HCBS HSIW, the assigned licensor will investigate the information to confirm whether or not the setting requires CMS' heightened scrutiny. The investigation information will then be reviewed by HSD leadership to make the final determination. If HSD leadership determines that heightened scrutiny is not required, that corrective actions will suffice, HCBS compliance activities by that setting will continue using the process described in this STP. If the determination is that CMS' heightened scrutiny is required, an evidence package will be developed and submitted to CMS and the HSD Provider Status Report on the website will be updated to reflect the change in status. A response letter will be sent to the submitter of the HSIW letting them know that their worksheet has been received, that HSD is looking into their concern,*

*and that the HSD Provider Status Report, located on Oregon's HCBS website, will reflect any change in the provider's status on a quarterly basis.*

*This information has been added to the STP.*

*APD's Response: APD greatly values input from consumers, stakeholders and the public regarding the identification of providers who have institutional qualities, such as isolating individuals from the broader community. There are multiple methods for communicating concerns, including phone, email, website, etc. As such, a visual illustration showing how APD invites comments by the public is attached in Appendix G of this STP.*

*This information has been added to the STP.*

*ODDS' Response: ODDS has maintained communication with stakeholders and the community through forums and the maintenance of the HCBS email box to receive reports of concerning situations, including those that may be considered isolating and requiring heightened scrutiny. Stakeholders and other community members are able to report to ODDS at any time about settings that are of concern.*

### **ODDS-related STP Comments Only:**

#### ***Facility-based Employment Path Service Settings***

In a July 6 Director's Message, the ODDS director indicated: "All employment services providers must achieve full compliance by July 1, 2020." Other public statements and a draft HCBS extension timeline also indicated a July 1, 2020 final deadline for full compliance. The ODDS Employment and Day Service Settings section indicates that full compliance must be achieved by

July 1, 2020. (p. 86). However, the ODDS Licensed/Certified Non-Residential Sites and Capacity section indicates: "All [Facility-based Employment Path Service] providers must achieve full compliance by July 1, 2021, and any variances granted may not extend past that date." (p. 21). The state should correct this discrepancy and ensure clear guidance on compliance dates. The rule or policy for granting a variance to a Facility-based Employment Path Service provider is not included in the STP. DRO would appreciate the opportunity to review any proposed criteria for granting a variance.

*ODDS' Response: Thank you for your feedback regarding the timelines for employment and day service settings. The proposed date for full compliance for employment and day service settings is July 1, 2021. The STP has been changed to reflect the correct date and ODDS will assure any related correspondence reflects the correct compliance date.*

*Regarding stakeholder involvement with developing criteria for approving a variance and thereby permitting additional time for an employment or day service provider to transform, ODDS has and will continue to work with stakeholders on the development of this and any related criteria.*

### **Heightened Scrutiny**

ODDS' existing heightened scrutiny criteria – the presence of magnetic locking or secure fencing serving as a delayed egress system – do not address all facilities that should fall into the heightened scrutiny category. DRO is concerned that there are settings in the state that tend to isolate individuals with disabilities that have not fallen into the state's narrowly designed criteria for heightened scrutiny. There are some settings, such as some of the SACU homes, which do have magnetic locks and secured fencing. DRO is concerned that these facilities do not appear in the heightened scrutiny list. Also, there are settings co-located and operationally related that do not appear on the heightened scrutiny list. These include clusters of group homes that may also be near other disability-specific settings.

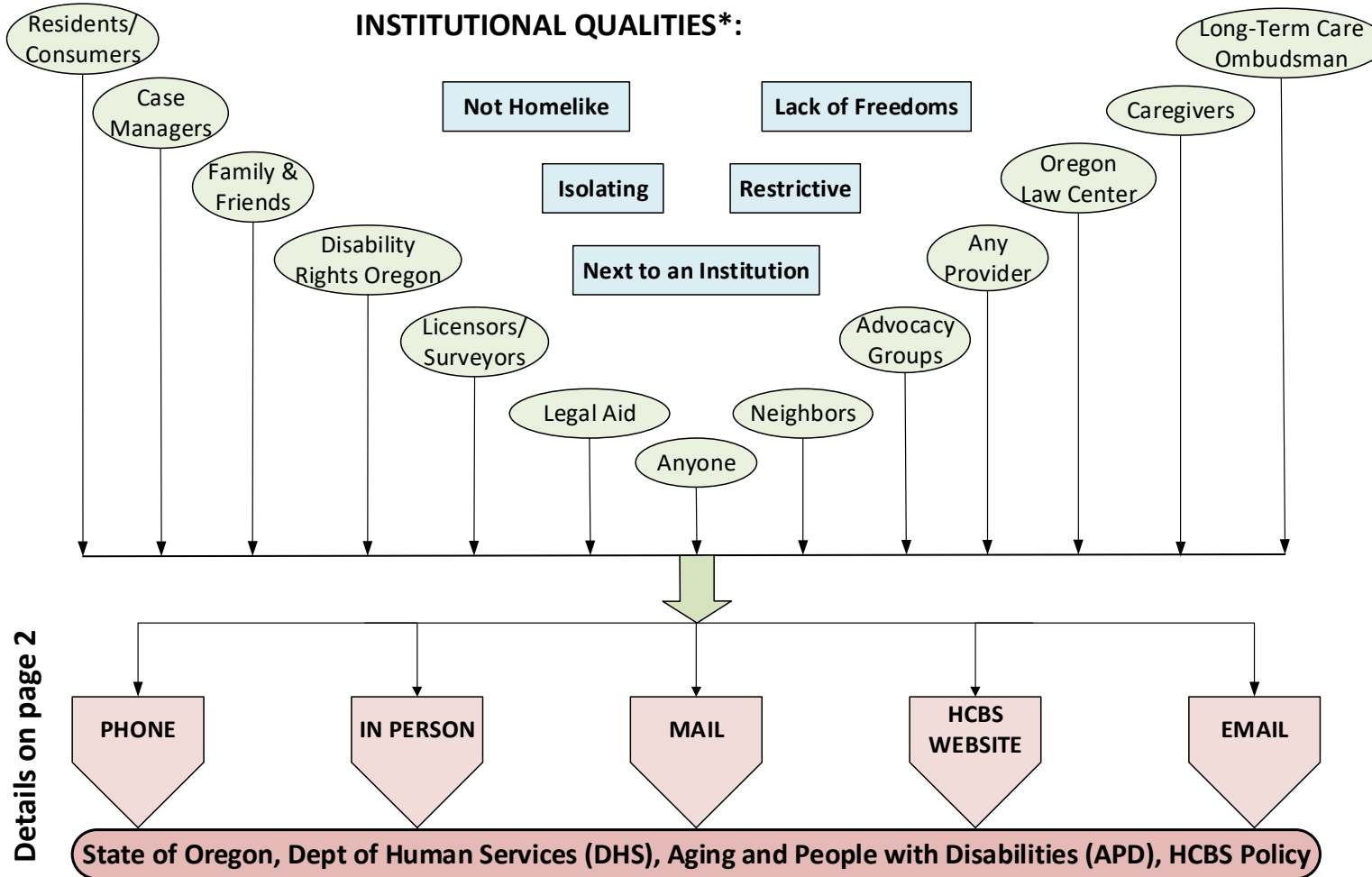
*ODDS' Response: ODDS will continue to work with stakeholders in refining the criteria and process used to determine settings that do not meet the Heightened Scrutiny expectations. This includes residential as well as private homes.*

*The commentary calls out SACU homes (24-hour residential homes that are operated by ODDS). These homes are licensed under the 24-hour residential program setting rules and are held to the same standards as all other 24-hour residential homes. This means that it is the expectation that SACU homes are compliant with HCBS, therefore making heightened scrutiny specifically correlated to SACU an unnecessary consideration.*

*As part of the transition process, ODDS has been and continues to engage with stakeholders to identify characteristics that may impact an individual's opportunity to experience community integration. This continued exploration includes plans to identify features of planned communities or settings where housing and services may be clustered together. It is the intention of ODDS to identify criteria which can be used to evaluation if settings require heightened scrutiny based on the operations or layout of a particular setting.*

## Appendix G: APD Illustration of HCBS Public Reporting Process

Anyone can report any Home and Community-Based Service (HCBS) related concern at any time, as illustrated here.



**Use one of these methods to contact the State of Oregon, DHS, APD HCBS Policy group:**

|                     |   |  |  |
|---------------------|---|--|--|
| <b>PHONE</b>        | Chris Angel at 503-945-7034 or Bob Weir at 971-600-7876; or call a local Licensur or Surveyor   |  |  |
| <b>IN PERSON</b>    | Any local Aging and People with Disabilities (APD) or Area Agency on Aging (AAA) office, or any Licensur/Surveyor   |  |  |
| <b>MAIL</b>         | DHS APD HCBS, 500 Summer St NE E10, Salem, OR 97301   |  |  |
| <b>HCBS WEBSITE</b> | Comment on the "HCBS Feedback Form" on this website:<br><a href="http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Resources-Oregon.aspx">http://www.oregon.gov/DHS/SENIORS-DISABILITIES/HCBS/Pages/Resources-Oregon.aspx</a> |  |  |
| <b>EMAIL</b>        | <u>General Concerns:</u><br>HCBS.Oregon@state.or.us   | <u>Adult Foster Home-Related:</u><br>APD.AFHTeam@state.or.us | <u>Community-Based Care-Related:</u><br>CBC.Team@state.or.us |

**DEFINITIONS**

Isolating: There is limited access to people or places in the broader community.

Lack of Freedom: Individual's preferences are not honored or considered. The setting may be overly controlling with rigid and inflexible rules.

Next to an Institution: Home/setting is attached or next to an institution, like a state hospital.

Not Homelike: Access to the kitchen, dining room, living/family room, bedroom, or bathroom, is limited or unavailable. Individuals cannot easily talk with those outside the setting, or have visitors or food when they want. Ability to have privacy or private time when wanted may not be possible.

Restrictive: Residents cannot determine or control their own schedules. Rules or artificial barriers may limit choices.

## Appendix H: Forums and Trainings Dates and Attendance

### **DHS and OHA Joint Regional Forums:**

Adults: 20 forums (*two at each of the following locations*) with 746 attendees (332 providers who received CLE credit; 414 others):

- Astoria (9/30/15) – 14 attended [*7 providers who received CLE credit & 7 others*]
- Bend (08/31/15) – 47 attended [*22 providers who received CLE credit & 25 others*]
- Coos Bay (09/23/15) – 37 attended [*26 providers who received CLE credit & 11 others*]
- Eugene (09/28/15) – 107 attended [*54 providers who received CLE credit & 53 others*]
- Hillsboro (09/03/15) – 71 attended [*25 providers who received CLE credit & 46 others*]
- Salem/Keizer (09/02/15) – 104 attended [*28 providers who received CLE credit & 76 others*]
- Medford (09/22/15) – 162 attended [*87 providers who received CLE credit & 75 others*]
- Ontario (09/14/15) – 26 attended [*6 providers who received CLE credit & 20 others*]
- Pendleton (09/10/15) – 44 attended [*16 providers who received CLE credit & 28 others*]
- Portland (10/01/15) – 134 attended [*61 providers who received CLE credit & 73 others*]

Children (conducted by ODDS) 14 forums (*2 times each day in 7 locations*):

- Medford (10/28/15)- 7 attended
- Eugene (10/27/15)- 11 attended
- Gresham (10/19/15)- 10 attended
- Hillsboro (11/4/15) - 9 attended
- Salem (10/23/15) - 14 attended
- Bend (10/26/15) - 4 attended
- Pendleton (11/5/15) - 4 attended



**HSD-Specific Trainings:**

As per the information provided in [Phase II](#) above, HSD has conducted the following trainings.

HSD has met with its program-specific stakeholder group on the dates listed:

- 7/27/16
- 9/21/16
- 11/29/16
- 1/25/17
- 3/21/17
- 5/24/17
- 7/18/17
- 9/20/17
- 11/14/17
- 3/8/18
- 7/10/18
- 10/30/18

HSD provided HCBS training for the various entities on the dates and at locations listed:

- 5/6/15 – Washington County
- 8/2/15 – Salem
- 8/3/15 – Portland
- 9/6/15 – Pendleton
- 9/22/15 - Medford
- 6/7/16 – Multnomah County Residential Programs

- 7/1/16 – KEPRO Webinar - Salem
- 7/28/16 – Multnomah County Non-Provider Owned RTF/RTH
- 12/1/16 – Multnomah County Residential Programs
- 12/6/16 – HSD AFH Webinar
- 12/7/17 – HSD RTH/RTF Webinar
- 2/7/17 – Luke-Dorf Programs
- 6/1/17 – Multnomah County Residential Programs
- 3/21/18 – Multnomah County Residential Program Managers
- 4/5/18 – Multnomah County Residential Programs
- 9/12/18 – Multnomah County Residential Program Managers

#### **APD-Specific Training:**

As per the information provided in [Phase II](#) above, APD has conducted the following trainings.

APD provided HCBS training for the following entities on the dates listed:

| Date       | Training                            | Location | Audience   |
|------------|-------------------------------------|----------|--|
| 6/17/2015  | Oregon Health Care Association      | Portland | Assisted Living Facilities (ALF) & Residential Care Facilities (RCF) Providers |
| 10/15/2015 | LeadingAge Oregon Conference        | Portland | ALF/RCF Providers  |
| 12/10/2015 | Provider Self-Assessment Survey Q&A | (phone)  | All APD Residential Provider Types   |
| 12/11/2015 | Provider Self-Assessment Survey Q&A | (phone)  | All APD Residential Provider Types   |
| 1/11/2016  | HCBS 101                            | Salem    | Long Term Care Ombudsman's Office  |

| Date       | Training  | Location     | Audience                           |
|------------|---|--------------|------------------------------------|
| 2/2/2016   | LeadingAge Oregon HCB Setting Rules                 | Tigard       | ALF/RCF Providers                  |
| 4/27/2016  | 2016 Lutheran Services in America Annual Conference | MN           | (panelist)                         |
| 5/19/2016  | OR Dietetics in Health Care Community               | Wilsonville  | Dieticians                         |
| 9/20/2016  | Oregon Health Care Association 2016 Convention      | Portland     | ALF/RCF Providers                  |
| 9/22/2016  | Independent Adult Care Home Association Conference  | Clackamas    | AFH Providers                      |
| 10/6/2016  | Independent Adult Care Home Association Conference  | Medford      | AFH Providers                      |
| 2/6/2017   | Enhanced Care Providers                             | Salem        | AFH Providers                      |
| 3/9/2017   | Oregon Health Care Association Spring Conference    | Salem        | ALF/RCF Providers                  |
| 5/23/2017  | LeadingAge Oregon Conference                        | Redmond      | ALF/RCF Providers                  |
| 5/25/2017  | HCBS 201  | Hillsboro    | AFH Licensors & Providers          |
| 6/22/2017  | Independent Adult Care Home Association Conference  | Medford      | AFH Providers                      |
| 7/31/2017  | HCBS Q&A  | Portland     | ALF Provider                       |
| 8/2/2017   | Adult Foster Home Conference                        | Jacksonville | AFH Providers                      |
| 9/19/2017  | Oregon Health Care Association Fall Conference      | Portland     | ALF/RCF Providers                  |
| 10/26/2017 | Clackamas Provider Association Conference           | Clackamas    | All APD Residential Provider Types |
| 10/30/2018 | Adult Care Home Conference                          | Portland     | AFH Providers                      |

Trainings for the APD service delivery system occurred:

| Date                          | Training                              | Location    | Audience                                  |
|-------------------------------|---------------------------------------|-------------|---|
| 10/6/2015                     | Case Manger Essentials                | Salem       | Case Managers (CM)                        |
| 10/28/2015                    | HCBS 101                              | The Dalles  | Adult Foster Home (AFH) Licensors         |
| 11/10/2015                    | HCBS 101                              | Hillsboro   | AFH Licensors                             |
| 11/15/2015                    | HCBS 101                              | Eugene      | AFH Licensors                             |
| 11/5/2015                     | Case Manger Essentials                | Salem       | CM  |
| 1/14/2016                     | Case Manger Essentials                | Salem       | CM  |
| 2/23/2016                     | Person-Centered Service Planning      | Salem       | CM  |
| 4/7/2016                      | Case Manger Essentials                | Salem       | CM  |
| 5/11/2016                     | HCBS 101/201                          | Salem       | APD District and AAA Program Managers     |
| 5/24/2016                     | Person-Centered Service Planning      | Salem       | CM  |
| 5/25/2016                     | HCBS 101/201                          | Salem       | AFH Licensing Supervisors                 |
| 7/18/2016                     | HCBS 201                              | Wilsonville | Community-Based Care (CBC) Surveyors      |
| 7/21/2016                     | Case Manger Essentials                | Salem       | CM  |
| 8/17/2016                     | Person-Centered Thinking and Planning | Salem       | CM  |
| 9/21/2016                     | HCBS 201                              | Salem       | AFH Licensing Complaint Unit              |
| 9/21/2016                     | HCBS 201                              | Salem       | Community-Based Care (CBC) Complaint Team |
| 10/20/2016                    | Case Manger Essentials                | Salem       | CM  |
| 10/31/2016<br>-<br>12/15/2016 | Regional Case Manager Training        | (various)   | CM  |
| 12/20/2016                    | HCBS 201                              | Salem       | CBC Surveyors and Complaint Team          |
| 1/26/2017                     | Case Manger Essentials                | Salem       | CM  |

| Date      | Training                  | Location  | Audience                   |
|-----------|---------------------------|-----------|----------------------------|
| 1/26/2017 | CBC News Hour             | Salem     | CBC Surveyors              |
| 4/6/2017  | Case Manger Essentials    | Salem     | CM                         |
| 5/25/2017 | HCBS 201                  | Clackamas | AFH Licensors & Providers  |
| 6/14/2017 | HCBS Webinar              | (online)  | CM                         |
| 6/21/2017 | HCBS Webinar              | (online)  | CM                         |
| 6/29/2017 | HCBS Webinar              | (online)  | CM                         |
| 7/27/2017 | Case Manger Essentials    | Salem     | CM                         |
| 8/9/2017  | HCBS Q&A                  | (phone)   | CM                         |
| 8/23/2017 | HCBS Q&A                  | (phone)   | CM                         |
| 9/5/2017  | APS Specialist Power Hour | Salem     | APS Specialists            |
| 9/5/2017  | HCBS Q&A                  | (phone)   | CM                         |
| 9/27/2017 | HCBS 201                  | Salem     | APS Supervisors            |
| 9/27/2017 | HCBS 201                  | Salem     | AFH Licensor's Supervisors |
| 10/5/2017 | Case Manger Essentials    | Salem     | CM                         |
| 4/12/2018 | Case Manger Essentials    | Salem     | CM                         |
| 7/19/2018 | Case Manger Essentials    | Salem     | CM                         |

### **ODDS Specific Training:**

As per the information provided in [Phase II](#) above, ODDS conducted the following trainings.

ODDS conducted trainings for Adult Foster Home and 24-hour residential services providers. Participation ranged from 20-65 participants in each session except for Coos Bay where there were about 15 participants:

- Salem (10/13/15)
- Gold Beach (10/29/15)
- Salem (11/19/15)
- Portland (12/18/15)

- Albany (1/19/16)
- Coos Bay (1/27/15)
- Grants Pass (1/28/15)
- Eugene (2/25/15)
- Dallas (3/22/15)

Trainings were presented to provider groups in the following locations:

- Roseburg (7/6/15)- 17 attended
- Coos Bay (7/6/15)- 5 attended
- Klamath Falls (7/7/15)- 15 attended
- Medford (7/8/15)- 31 attended
- Salem (7/13/15)- 51 attended
- Portland (7/14/15)- 14 attended
- Hillsboro (7/15/15)- 25 attended
- Portland (7/16/15)- 50 attended
- McMinnville (7/17/15)- 11 attended
- Portland (7/20/15)- 26 attended
- Dallas (7/21/15)- 13 attended
- Oregon City (7/22/15)- 27 attended
- Tillamook (7/23/15)- 10 attended
- Astoria (7/24/15)- 5 attended
- St. Helens (7/24/15)- 8 attended
- Portland (7/27/15)- 12 attended
- LaGrande (7/28/15)- 24 attended
- Bend (7/29/15)- 26 attended

- Eugene (7/30/15)- 44 attended
- Albany (8/5/15)- 13 attended
- Salem (8/20/15)
- Salem (12/7/15)
- Bend (12/8/15)
- Pendleton (12/10/15)
- Hillsboro (12/14/15)
- Salem (12/15/15)
- Medford (12/17/15)

HCBS training sessions were provided at the annual ODDS case management conferences which were held 8/26/15 through 8/27/15, 8/9/16 through 8/10/16, 06/29/17 through 06/30/17, and 06/19/18 through 06/20/18.

Additional training sessions occurred via technical assistance call-ins offered weekly in June 2017 and July 2017. Bi-weekly sessions were offered in August 2017.

ODDS has provided the following in-person local trainings to CMEs and service providers focused on HCBS requirements and the application of Individually-Based Limitations (IBLs) in residential settings. The trainings were open to all participants, however, most participation was by case management entities and licensed providers. In most locations 2 sessions per day were offered to allow flexibility and reach the greatest capacity for participation:

- Ontario (10/4/16)
- Baker City (10/5/16)
- John Day (10/6/16)
- Lakeview (10/11/16)
- Klamath Falls (10/12/16)
- Medford (10/13/16)

- Madras (10/17/16)
- Bend (10/24/16)
- Pendleton (10/25/16)
- La Grande (10/26/16)
- Prineville (10/27/16)
- Brookings (11/2/16)
- Coos Bay (11/3/16)
- Grants Pass (11/8/16)
- Roseburg (11/9/16)
- Eugene (11/10/16)
- Hood River (11/15/16)
- Salem (11/16/16)
- Newport (11/29/16)
- Tillamook (11/30/16)
- Astoria (12/1/16)
- McMinnville (12/5/16)
- Corvallis (12/6/16)
- Albany (12/7/16)
- Portland (12/12/16)
- Oregon City (12/13/16)
- Dallas (12/20/16)
- Portland (12/22/16)
- McMinnville (2/9/17)
- Salem (2/16/17)
- St. Helen's (2/21/17)



- Hillsboro (2/23/17)
- Roseburg (2/28/17)
- Portland (3/23/17)

ODDS recently developed and implemented training specific to the use of the Individually-Based Limitations (IBL) process to be applied when the use of restraints (as safeguarding interventions or safeguarding equipment) are identified in the individual's person-centered service plan. ODDS delivered regionally-based trainings open to all parties involved in DD services. In most locations 2 sessions per day were offered to allow flexibility and reach the greatest capacity for participation:

- Bend (4/20/17)
- La Grande (4/25/17)
- Salem (4/28/17)
- Oregon City (5/1/17)
- Dallas (5/2/17)
- Eugene (5/9/17)
- Medford (5/10/17)
- Portland (5/12/17)
- Woodburn (5/16/17)
- Webinar (5/17/17)
- Webinar (5/18/17)
- Salem (5/22/17)
- Portland (5/25/17)

**Trainings for Employment and non-residential day services:**

## HCBS &amp; Settlement Training:

| Date      | Location          | Audience                  |
|-----------|-------------------|---------------------------|
| 1/19/2016 | Baker City        | Providers                 |
| 2/10/2016 | Salem             | Case Management           |
| 2/23/2016 | Salem             | Case Management           |
| 3/22/2016 | McMinnville       | Case Management           |
| 3/24/2016 | Salem             | Employment First Agencies |
| 5/16/2016 | Pendleton         | Providers                 |
| 5/18/2016 | Linn County       | Case Management           |
| 6/1/2016  | Portland          | Providers                 |
| 6/8/2016  | Hermiston         | Providers                 |
| 6/15/2016 | Ontario           | Case Management           |
| 8/24/2016 | Eugene            | Case Management           |
| 9/20/2016 | Washington County | Providers                 |
| 9/21/2016 | Baker City        | Providers                 |

| Date      | Location      | Audience        |
|-----------|---------------|-----------------|
| 1/19/2016 | Bend          | Case Management |
| 1/20/2016 | Bend          | Case Management |
| 1/21/2016 | UCP brokerage | Case Management |
| 1/25/2016 | LaGrande      | Case Management |
| 2/24/2016 | LaGrande      | Case Management |
| 3/1/2016  | Dallas        | Case Management |
| 3/2/2016  | Corvallis     | Case Management |
| 3/9/2016  | Eugene        | Case Management |
| 3/9/2016  | Eugene        | Case Management |

| Date       | Location              | Audience                      |
|------------|-----------------------|-------------------------------|
| 3/14/2016  | Phone                 | Case Management               |
| 3/21/2016  | Columbia County       | Case Management               |
| 3/29/2016  | Inclusion             | Case Management               |
| 3/30/2016  | Linn County           | Case Management               |
| 4/21/2016  | Hood River            | Case Management and Providers |
| 5/4/2016   | Linn County           | Case Management               |
| 5/10/2016  | LaGrande              | Case Management and Providers |
| 5/11/2016  | Baker City            | Case Management and Providers |
| 5/12/2016  | Ontario               | Case Management and Providers |
| 7/5/2016   | Hood River The Dalles | Case Management               |
| 8/23/2016  | Central Oregon        | Case Management and Providers |
| 8/24/2016  | Central Oregon        | Case Management and Providers |
| 8/25/2016  | Bend                  | Case Management               |
| 9/13/2016  | Roseburg              | Case Management and Providers |
| 9/14/2016  | Roseburg              | Case Management and Providers |
| 9/22/2016  | Lincoln County        | Case Management and Providers |
| 10/21/2016 | La Grande             | Case Management and Providers |

| Date       | Location    | Audience                      |
|------------|-------------|-------------------------------|
| 10/26/2016 | Grants Pass | Case Management and Providers |
| 10/27/2016 | Medford     | Case Management and Providers |
| 10/28/2016 | Coos Bay    | Case Management and Providers |
| 11/15/2016 | Baker City  | Employment First Agencies     |
| 11/17/2016 | Ontario     | Employment First Agencies     |
| 11/30/2016 | Portland    | Employment First Agencies     |
| 12/1/2016  | Clackamas   | Employment First Agencies     |
| 12/6/2016  | Pendleton   | Employment First Agencies     |
| 12/7/2016  | La Grande   | Employment First Agencies     |
| 2/3/2017   | Marion/Polk | Employment First Agencies     |

## Career Development Planning (Person Centered Planning requirements):

| Date      | Location              | Audience                      |
|-----------|-----------------------|-------------------------------|
| 1/19/2016 | Bend                  | Case Management               |
| 1/20/2016 | Bend                  | Case Management               |
| 1/21/2016 | UCP brokerage         | Case Management               |
| 1/25/2016 | LaGrande              | Case Management               |
| 2/24/2016 | LaGrande              | Case Management               |
| 3/1/2016  | Dallas                | Case Management               |
| 3/2/2016  | Corvallis             | Case Management               |
| 3/9/2016  | Eugene                | Case Management               |
| 3/9/2016  | Eugene                | Case Management               |
| 3/14/2016 | Phone                 | Case Management               |
| 3/21/2016 | Columbia County       | Case Management               |
| 3/29/2016 | Inclusion             | Case Management               |
| 3/30/2016 | Linn County           | Case Management               |
| 4/21/2016 | Hood River            | Case Management and Providers |
| 5/4/2016  | Linn County           | Case Management               |
| 5/10/2016 | LaGrande              | Case Management and Providers |
| 5/11/2016 | Baker City            | Case Management and Providers |
| 5/12/2016 | Ontario               | Case Management and Providers |
| 7/5/2016  | Hood River The Dalles | Case Management               |

| Date       | Location       | Audience                      |
|------------|----------------|-------------------------------|
| 8/23/2016  | Central Oregon | Case Management and Providers |
| 8/24/2016  | Central Oregon | Case Management and Providers |
| 8/25/2016  | Bend           | Case Management               |
| 9/13/2016  | Roseburg       | Case Management and Providers |
| 9/14/2016  | Roseburg       | Case Management and Providers |
| 9/22/2016  | Lincoln County | Case Management and Providers |
| 10/21/2016 | La Grande      | Case Management and Providers |
| 10/26/2016 | Grants Pass    | Case Management and Providers |
| 10/27/2016 | Medford        | Case Management and Providers |
| 10/28/2016 | Coos Bay       | Case Management and Providers |
| 11/15/2016 | Baker City     | Employment First Agencies     |
| 11/17/2016 | Ontario        | Employment First Agencies     |
| 11/30/2016 | Portland       | Employment First Agencies     |
| 12/1/2016  | Clackamas      | Employment First Agencies     |
| 12/6/2016  | Pendleton      | Employment First Agencies     |
| 12/7/2016  | La Grande      | Employment First Agencies     |
| 2/3/2017   | Marion/Polk    | Employment First Agencies     |

## Employment Services and HCBS Requirements:

| Date      | Location         | Audience                  |
|-----------|------------------|---------------------------|
| 1/7/2016  | Pendleton        | Case Management           |
| 1/14/2016 | Eugene           | Employment First Agencies |
| 1/14/2016 | Multnomah County | Employment First Agencies |
| 1/27/2016 | Bend             | Employment First Agencies |
| 1/28/2016 | Grants Pass      | Employment First Agencies |
| 1/28/2016 | Bend             | Providers                 |
| 2/3/2016  | Clackamas County | Employment First Agencies |
| 2/19/2016 | Hood River       | Employment First Agencies |
| 3/10/2016 | Columbia County  | Employment First Agencies |
| 3/15/2016 | Baker City       | Providers                 |
| 3/15/2016 | Baker            | Providers                 |
| 3/18/2016 | Midland          | Providers                 |
| 3/31/2016 | Harney County    | Employment First Agencies |
| 4/1/2016  | Baker City       | Providers                 |
| 4/13/2016 | Salem            | Case Management           |
| 4/13/2016 | Ontario          | Case Management           |
| 4/13/2016 | Ontario          | Providers                 |
| 4/14/2016 | Salem            | Employment First Agencies |
| 4/28/2016 | Baker City       | Employment First Agencies |
| 5/10/2016 | Multnomah        | Employment First Agencies |
| 5/12/2016 | Redmond          | Employment First Agencies |

| Date       | Location  | Audience                      |
|------------|---|-------------------------------|
| 5/17/2016  | Eugene  | Employment First Agencies     |
| 5/17/2016  | Mentor  | Case Management               |
| 5/23/2016  | Pendleton   | Providers                     |
| 6/1/2016   | Clackamas   | Employment First Agencies     |
| 6/3/2016   | Marion/Mid-Valley   | Case Management and Providers |
| 6/8/2016   | Lane County   | Case Management and Providers |
| 6/13/2016  | Coos Bay  | Employment First Agencies     |
| 6/16/2016  | Roseburg  | Employment First Agencies     |
| 6/17/2016  | Hillsboro   | Employment First Agencies     |
| 6/21/2016  | Klamath Falls   | Employment First Agencies     |
| 6/28/2016  | Eugene  | Employment First Agencies     |
| 6/29/2016  | Lincoln County  | Employment First Agencies     |
| 6/30/2016  | Salem   | Employment First Agencies     |
| 7/28/2016  | Ontario   | Case Management and Providers |
| 8/17/2016  | Medford   | Employment First Agencies     |
| 9/6/2016   | Yamhill County  | Case Management               |
| 9/18/2016  | La Grande   | Providers                     |
| 9/22/2016  | Multnomah County  | Case Management               |
| 9/28/2016  | Olympia   | Employment First Agencies     |
| 9/28/2016  | Olympia   | Employment First Agencies     |
| 9/30/2016  | Salem   | Case Management and Providers |
| 10/4/2016  | Salem   | Employment First Agencies     |
| 10/11/2016 | Scappoose, St Helens,<br>Vernonia, Clatskanie<br>School Districts | Employment First Agencies     |
| 10/18/2016 | Baker City  | Case Management               |



| Date      | Location       | Audience                  |
|-----------|----------------|---------------------------|
| 11/2/2016 | Central Oregon | Providers                 |
| 1/5/2017  | Webinar        | Employment First Agencies |
| 1/27/2017 | Hillsboro      | Employment First Agencies |
| 2/17/2017 | Portland       | Employment First Agencies |
| 2/21/2017 | Springfield    | Employment First Agencies |