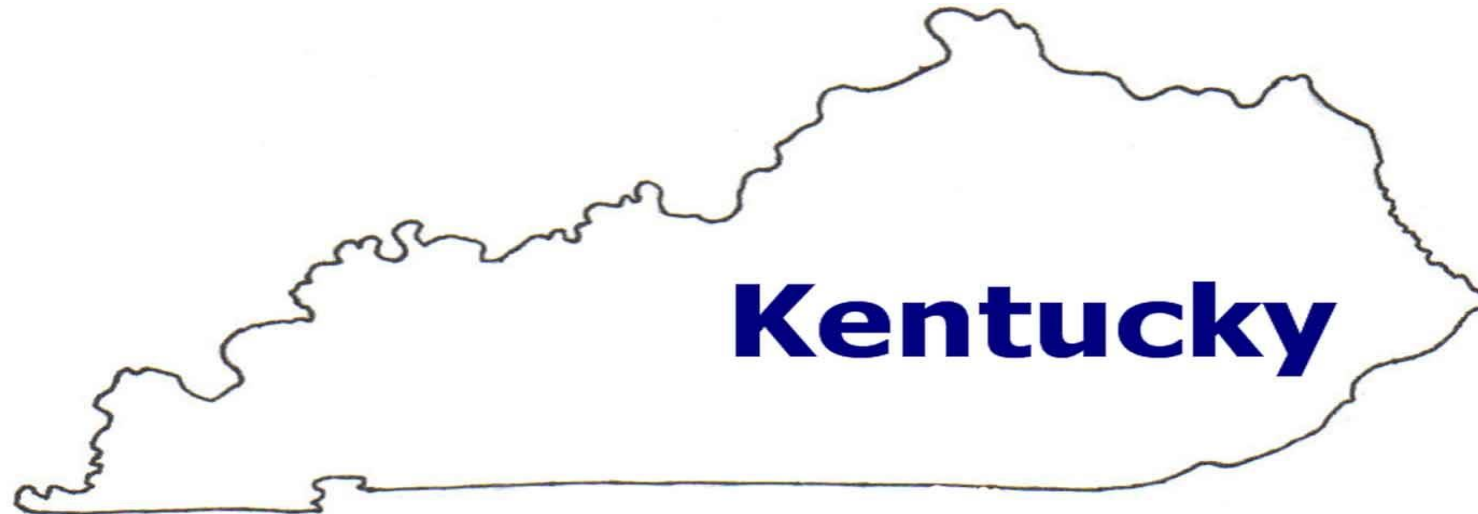


FINAL RULE COMPLIANCE PROCESS

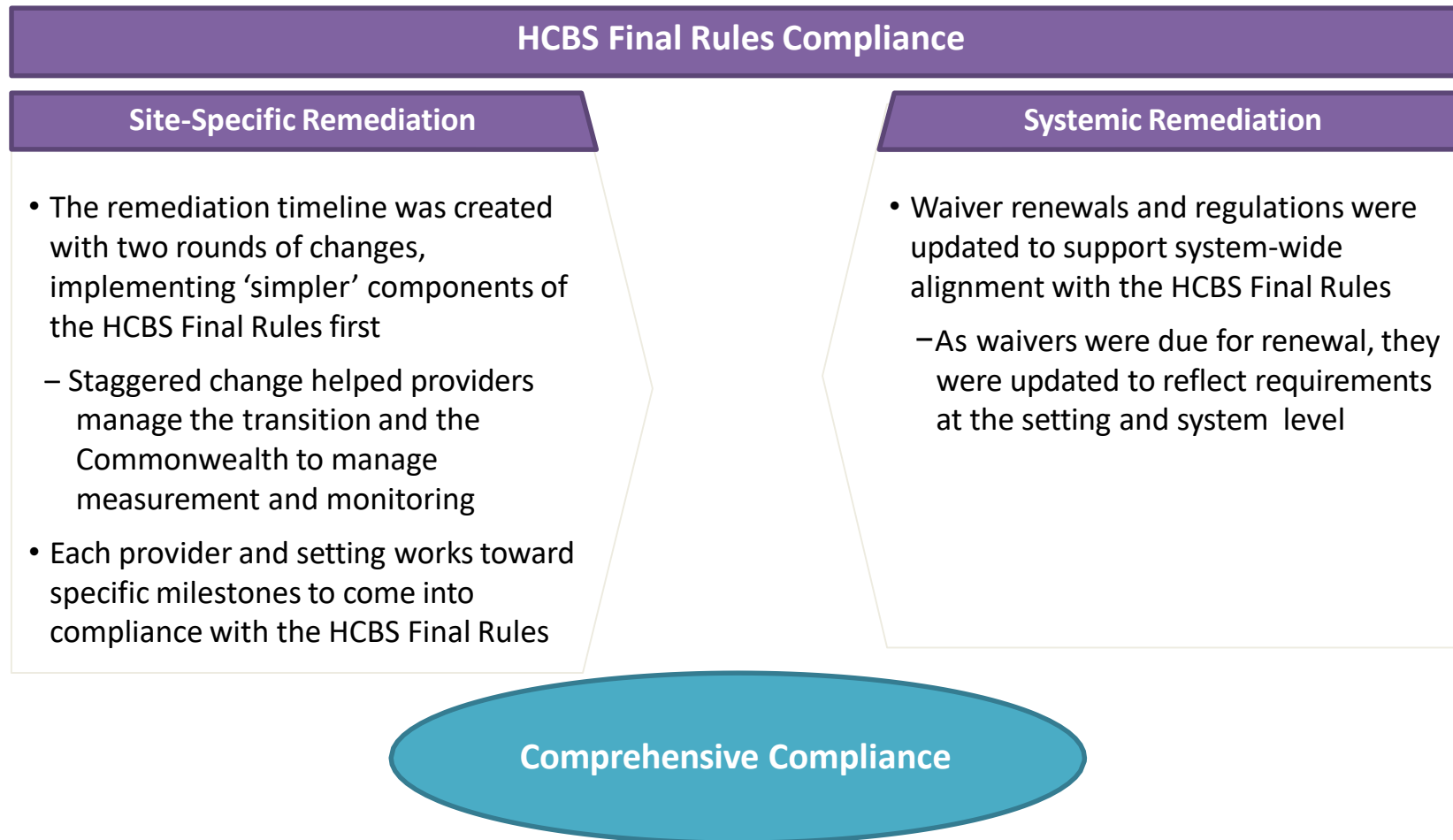


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**CMS Transition Plan
Approved June 13, 2017**

Aligning Systemic and Site-Specific Remediation

While working through the Transition Plan process, Kentucky aligned its waiver renewals, regulation revisions, and setting remediation to ensure that all of its HCBS programs come into compliance with the HCBS Final Rules.



Kentucky's Heightened Scrutiny Process

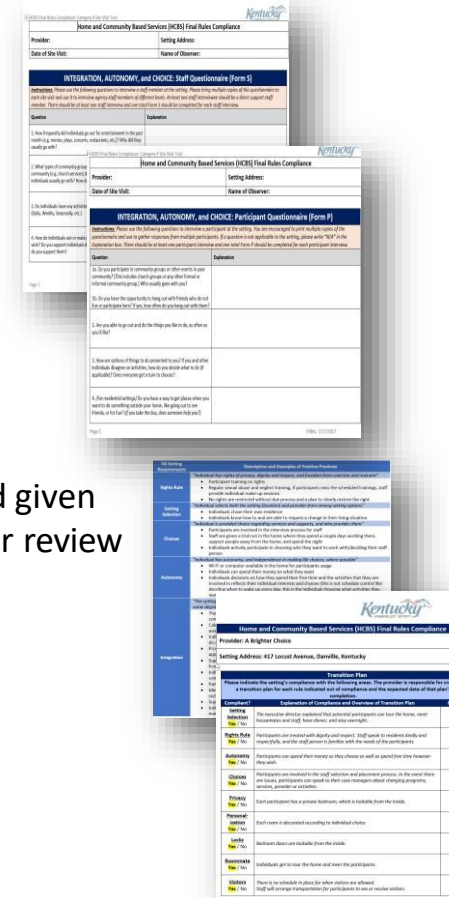
After site visits were conducted, Kentucky's HCBS work group reviewed collected evidence to identify which settings needed to develop transition plans to bring their policies and practices into full compliance with the HCBS Final Rules.

Evidence Review

- Each setting's evidence of home and community based characteristics was reviewed internally with a focus on participant interviews, staff interviews, and site observations
- During review, each setting was assessed individually to determine if they had sufficient evidence to overcome the presumption of being isolating (institution- like)

Transition Plan Development

- If the setting is not fully compliant with any of the HCBS Final Rules, the provider is notified and given an opportunity to submit a transition plan before their evidence package undergoes stakeholder review
- The transition plan must address all areas of non-compliance
- The transition plan is then included in the evidence package, which is shared with stakeholders for review prior to submission to CMS



Kentucky's Heightened Scrutiny Process

After transition plans were collected, a stakeholder group consisting of self-advocates, family members, advocates, and provider representatives reviewed evidence packages before Kentucky submitted them to CMS for heightened scrutiny.

1

Pilot Submission Stakeholder Review Session

- 30 evidence packages were blinded so that the provider and setting were not known to the reviewer
- Stakeholders included self-advocates, families, advocates, and provider representatives
- The group reviewed the evidence packages and determined if each setting had sufficient evidence of home and community-based characteristics to be sent to CMS for heightened scrutiny
- Settings that did not have sufficient evidence then entered into the site-specific remediation process, which includes specific technical assistance

2

Second Submission Stakeholder Review Session

- 50 evidence packages were selected, blinded, and divided into groups of 10
- Stakeholders included self-advocates, families, advocates, and provider representatives (the provider representatives invited to the review are not associated with the settings under review)
- Stakeholders were assigned to groups where they reviewed 10 summaries in the morning and a different set of 10 summaries in the afternoon
- Settings that did not have sufficient evidence then entered into the site-specific remediation process, which includes specific technical assistance

Setting Remediation Strategies

Kentucky is working to provide technical assistance to its providers as areas requiring remediation are identified. Technical assistance includes suggested activities based on positive practices other providers or settings within the Commonwealth are currently using.

Developing Positive Practice Suggestions



- Positive practices were identified during review of collected setting evidence
 - Reviewers noted positive practices like including participants in new staff interviews when making hiring decisions or staff helping participants coordinate arrangements to see family or friends



- Positive practices are categorized by each component of the HCBS Final Rules for greater ease of use



- Any provider receiving TA gets a series of slides, during a DMS site visit, that identify current activities, areas where the transition plan is insufficient, and examples of positive practices to bring their setting(s) into compliance



- Ongoing monitoring includes DMS site visits, during which staff and participants are interviewed to determine compliance with HCBS Final Rules. Areas of non-compliance are noted and brought to DMS attention for ongoing TA

Implementation of Final Rule Systemic Changes

- Final Rule language incorporated into waiver program regulations
- Recertification Reviews include monitoring providers for compliance with those rules
- Provider trainings modified to ensure Final Rule information is included
- Participant and staff surveys related to life experiences reflecting outcomes associated with Final Rule requirements are utilized by waiver staff during visits to residential and day training locations

ONGOING ASSESSMENT OF COMPLIANCE

KY waiver staff now include in their certification reviews, a residential and a non-residential questionnaire for agency staff and for waiver participants.

STAFF QUESTIONS - RESIDENTIAL

Question
1. Integration <ul style="list-style-type: none">a. How do you support and encourage individuals going out into the community to do the things they like to do?b. How often do individuals go out?c. How do they get there?
2. Setting Selection/Choice <ul style="list-style-type: none">a. Can individuals come and visit before choosing this setting?b. How do individuals pick their staff?c. If an individual wanted to make a change to their service or provider, how would they do that?
3. Privacy <ul style="list-style-type: none">a. Where can individuals go to have privacy?
4. Autonomy/Schedule Control <ul style="list-style-type: none">a. How do individuals choose their daily schedule (when to wake up, eat, etc.)?b. What happens if an individual wants to stay home during the day?c. Are there any activities the individuals are required to attend?
5. Visitors <ul style="list-style-type: none">a. Are there any limitations on visitors?b. How do you support individuals having visitors of their choosing at any time?
6. Roommates <ul style="list-style-type: none">a. How do individuals pick new housemates?b. What happens if an individual was unhappy and wanted to change their housemates?

STAFF QUESTIONS – NON-RESIDENTIAL

Question
1. Integration <ul style="list-style-type: none">a. What activities in the community do individuals have the option to participate in as part of this day program?b. How often do individuals go out?
2. Setting Selection/Choice <ul style="list-style-type: none">a. Can individuals come and visit before choosing this setting?b. How do individuals pick their staff?c. If an individual wanted to make a change to their service or provider, how would they do that?
3. Privacy <ul style="list-style-type: none">a. Where can individuals go to have privacy?
4. Autonomy <ul style="list-style-type: none">a. How do individuals choose their activities when they are here?

Ongoing Assessment of Compliance

Question

1. Integration

- a. What activities in the community do you take part in when you are here?
- b. How often do you usually go out in the community?
- c. When you go out in the community, do you go out by yourself or with other people?
- d. Are you offered opportunities to work or volunteer if you want to do so?

2. Setting Selection/Choice

- a. How did you pick this place?
- b. If you want to change your staff, what do you do?

3. Rights/Privacy

- a. Are you treated with respect here?
- b. Where do you go if you want privacy or want to have private conversations?

4. Autonomy

- a. Who decides your activities when you are here?

5. Miscellaneous

- a. Does your case manager get you what you need? (Y/N)

Participant Questions Non-Residential Settings

Ongoing Assessment of Compliance

Participant Questions Residential Settings

Question
1. Integration <ul style="list-style-type: none">a. What do you do for fun out in the community (away from your home)?b. How often do you usually go out in the community?c. When you go out in the community, do you go out by yourself or with other people?d. Are you offered opportunities to work or volunteer if you want to do so?
2. Setting Selection/Choice <ul style="list-style-type: none">a. How did you pick this home?b. If you want to change your staff, what do you do?
3. Rights/Privacy <ul style="list-style-type: none">a. Are you treated with respect here?b. Where do you go if you want privacy or want to have private conversations?
4. Autonomy/Schedule Control <ul style="list-style-type: none">a. Who decides what you do during the day and during free time (like when to wake up, eat, etc.)?b. What happens if you want to stay home during the day?c. Who decides what or when you eat?d. Who decides how you spend your own money?
5. Visitors <ul style="list-style-type: none">a. Are you able to have visitors at any time?
6. Roommates <ul style="list-style-type: none">a. How did you get to know your housemates before you moved in?b. If you're unhappy with your housemates and want to change, what do you do?c. Do you feel safe with your housemates?
7. Miscellaneous <ul style="list-style-type: none">a. Does your case manager get you what you need? (Y/N)

Ongoing Challenges

- Kentucky is struggling with how to track new waiver settings to ensure compliance.
- Medicaid sent a letter to all providers to let them know that any new setting is subject to all Final Rule requirements; KY regulations will not include all elements of the rule until 2019.
- Facilitating a culture change to think about how people can live a full life in their community



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