



Home and Community Based Services Statewide Transition Plan

Draft ~~11~~12/23/2022

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Reference: Centers for Medicare & Medicaid Services, 2014 Rule 79 FR 2947 Page: 2947-3039 (93 pages) CFR: 42 CFR 430; 42 CFR 431; 42 CFR 435; 42 CFR 436; 42 CFR 440; 42 CFR 441; 42 CFR 447. Agency/Docket Numbers: CMS-2249-F; CMS-2296-F. RIN: 0938-AO53; 0938-AP61. Document Number: 2014-00487

Background

Medicaid is a joint federal-state program that pays for a broad range of medically necessary physical health, behavioral health, and long-term care services for certain low-income populations. The Montana Department of Public Health and Human Services (DPHHS) administers the Montana Medicaid program in partnership with the federal Centers for Medicare and Medicaid Services (CMS).

In 2014 CMS issued regulations that define the settings in which it is permissible for states to pay for Medicaid Home and Community-Based Services (HCBS). The purpose of these regulations is to ensure that individuals receive Medicaid HCBS in settings that are integrated in, and support full access to, the greater community. This includes opportunities to engage in community life, control personal resources, receive services in the community, and, when appropriate, seek employment and work in competitive and integrated settings to the same degree as individuals who do not receive HCBS.

The regulations aim to ensure that individuals have free choice of where they live and who provides services to them, as well as ensuring that individual rights are not restricted. While Medicaid HCBS has never been allowed in institutional settings, this regulation clarifies that payment for Medicaid HCBS services will not be allowed in settings that have the qualities of an institution.

To assist states, providers, and members in making this transition, CMS has published guidance to provide further information about settings in which HCBS may or may not be allowed. States must submit to CMS and receive approval of a transition plan describing the approach to assessment, transition, and ongoing monitoring. This document is the State Transition Plan (STP) for Montana Medicaid.

Questions and Answers

What is the federal HCBS Settings Final Rule?

In January 2014, U.S. Department of Health and Human Services' the Centers for Medicare & Medicaid Services (CMS) published rule 79 Fed. Reg. 2948 (published Jan. 16, 2014; effective March 17, 2014). (HCBS Settings Final Rule). In addition, CMS has issued a number of guidance documents to assist states and providers in understanding and adhering to the service requirements. The final regulation and guidance documents are available at: <https://www.medicare.gov/medicaid/home-community-based-services/guidance/home-community-based-services-final-regulation/index.html>. The goal of the HCBS Settings Final Rule and guidance documents is to improve Medicaid covered HCBS services and to maximize the opportunities for Medicaid members to receive services in fully integrated settings while maintaining the benefits and access to community living. The regulations also aim to ensure that individuals have a free choice of where they live and who provides services to them, as well as ensuring that individual rights are not restricted.

What Does the Rule Do?

The rule sets the expectations for settings in which HCBS can be provided. During the rule making process, and from the public comments received, CMS moved away from defining HCBS settings based on specific locations, geography, or physical characteristics to defining them by the nature and quality of the member's experiences. Although the HCBS Settings Final Rule deals largely with residential settings, CMS has stated it will apply to other settings where HCBS is provided, such as vocational or day program service settings. The overarching theme is stated in the rule: "The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive 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."

What is Required of a Medicaid covered HCBS Setting?

The rule requires that the setting:

- Is selected by the individual from options that include non-disability specific settings and options for private units. Individuals must also have choice regarding the services they receive and by whom the services are provided.
- Ensures the individual right of privacy, dignity and respect, and freedom from coercion and restraint.
- Optimizes independence and autonomy in making life choices without regimenting such things as daily activities, physical environment, and with whom the individual interacts.

When a residential setting is owned or controlled by a service provider, additional requirements must be met:

- At a minimum, the individual has the same responsibilities and protections from eviction that tenants have under state or local landlord/tenant laws; or when such laws do not apply, a lease, or other written residency agreement must be in place for each HCBS participant to provide protections that address eviction processes and appeals comparable to the applicable landlord/tenant laws.
- Each individual has privacy in their sleeping or living unit. This includes having entrance doors which can be locked by the individual with only appropriate staff having keys; individuals having a choice of roommates in shared living arrangements; and having the freedom to furnish and decorate their own sleeping or living areas.
- Individuals have the freedom and support to control their own schedules and activities, including having access to food and having visitors of their choosing.

These requirements may only be modified when an individual has a specific assessed need that justifies deviation from a requirement. In such cases, the need must be supported in the HCBS person-centered service plan.

When a residential setting is institutional in nature HCBS Medicaid payment is not permitted:

“Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS”. Any settings that fit this description are presumed to be

institutional in nature and HCBS services cannot be allowed in the setting unless the state can demonstrate to CMS that the setting does not have the qualities of an institution. Based on information submitted by the state and input from the public, CMS will determine whether a setting meets the qualities for being HCBS.

Why did CMS issue this rule?

'The purpose of these final regulations is to maximize the opportunities for participants receiving Medicaid HCBS under Section 1915(c), 1915(i), and 1915(k) of the Social Security Act, to receive services in integrated settings and realize the benefits of community living, including opportunities to seek employment and work in competitive integrated settings. The HCB settings requirements apply to both residential and non-residential settings for individuals who are receiving Medicaid funding for HCBS.'

What does the rule mean for people who receive public long-term services and supports?

While Medicaid HCBS has never been allowed in institutional settings, these new regulations clarify that HCBS will not be allowed in settings that have the qualities of an institution.

For example, the final rule requires that all HCBS settings meet specific criteria, including that the settings:

- Be integrated in and support full access to the greater community,
- Be selected by the participant from among setting options,
- Ensure individual rights of privacy, dignity, and respect, and freedom from coercion and restraint
- Optimize autonomy and independence in making life choices, and
- Facilitate choice regarding services and who provides them.

In addition, provider-owned or -controlled residential settings must meet additional criteria, including that the settings:

- Have a lease or other written agreement providing similar protections for the client that address eviction and appeals processes,
- Ensure privacy in the client's unit including lockable doors, choice of roommates, and freedom to furnish and decorate the unit,

- Ensure that individuals have freedom and support to control their own schedules and activities, and have access to food at any time,
- Protect individuals' ability to have visitors of their choosing at any time, and
- Be physically accessible.

(Reference: Americans with Disabilities Act of 1990; Nursing Home Reform Act of 1987 [42 CFR 483.10])

Introduction

Statewide Plan Development CMS required that each state submit a “Statewide Transition Plan” by March 17, 2015. The Statewide Transition Plan outlines how the state will come into conformance and compliance with the HCBS Rule settings requirements. States must come into full compliance with the HCBS Rule requirements by March 17, 2022, as detailed in the Informational Bulletin released on May 9, 2017, extending the transition period an additional three years from the original date of March 17, 2019. CMS extended the transition period for one additional year to March 17, 2023, due to the public health emergency as detailed in the July 14, 2020, letter to state Medicaid directors

The goal of Montana’s STP implementation is to facilitate, for all HCBS participants, maintained access to the greater community, engagement in community life, control of personal resources, and respected individual life choices all to the same degree as individuals not receiving Medicaid HCBS. As required by CMS, this draft statewide transition plan, available at <https://dphhs.mt.gov/hcbs>, addresses the areas of assessment, remediation, and public input. DPHHS will partner with Medicaid members, providers and provider associations, advocates, and other stakeholders throughout this process to allow for input into the process and to assure that members and providers have access to needed information to assist with transition activities. The outcome will be that Medicaid members will be served in a way that will enable them to live and thrive in integrated community settings.

Public Input: The CMS rule requires that states seek input from the public in the development of the transition plan. DPHHS is making the draft final transition plan available for public comment from November 23, 2022, through December 26, 2022. The plan will be posted on the DPHHS website at: <http://dphhs.mt.gov/> along with an electronic form for public comment. Upon request, the State will distribute the transition plan to consumers and families, providers, provider associations, consumer advocacy organizations, and other potentially interested stakeholders. A virtual public meeting is being held December 8, 2022. Additional information on the public virtual meeting is available here [Home and Community Based Services \(mt.gov\)](#). All comments will be reviewed, summarized, and responses developed. The state will incorporate appropriate suggestions into the transition plan and will post responses to public comments on the DPHHS website.

DPHHS will take a series of steps to guide providers in making the transition to full compliance with HCBS settings, such as informational letters, updates to the Administrative Rules of Montana and provider manuals, and other targeted communications. For settings that are found not to be in compliance, the provider will be required to submit a corrective action plan to DPHHS that describes the steps to be taken and expected timelines to achieve compliance. Consideration of corrective action plans by the State will take into account the scope of the transition to be achieved and the unique circumstances related to the setting in question.

In order to continue to receive federal Medicaid funds for waiver services, Montana must comply with the “settings” requirements. If a provider is unable or unwilling to remediate a setting, it may be necessary to transition an individual to a compliant setting. In any instance where an individual would need to move to an alternate setting, the individual will be given timely notice and afforded a choice of alternative providers through the person-centered planning process.

Montana Medicaid Programs

Program Mission:

The Montana Medicaid Program's mission is to assure necessary medical care is available to all eligible Montanans within available funding resources.

Goals:

- Improve health outcomes by emphasizing primary care
- Improve access to services for underserved and vulnerable populations
- Promote appropriate utilization of preventive and other necessary services
- Reduce the number of uninsured people

Specific Goals:

- Provide community-based services as an alternative to institutional care
- Ensure cost effectiveness in the delivery of health care services by using efficient management practices and maximizing revenue opportunities
- Assure the integrity and accountability of the Medicaid health care delivery system
- Implement measures that will constrain the growth in Medicaid expenditures while improving services

The HCBS Settings Rule currently affects the following Montana HCBS waivers:

- Waiver for Severe and Disabling Mental Illness: The SDMI HCBS waiver provides Medicaid reimbursement for community-based services for adults with SDMI who meet criteria for nursing home level of care.
- Individuals with Developmental Disabilities Waiver: The DD (028) HCBS waiver provides a wide range of services for people with Developmental Disabilities (DD): ~~children's case management~~, residential habilitation, employment, respite, retirement services, private duty nursing, environmental modifications/~~adaptive equipment~~, and day supports/activities.
- Montana Big Sky Waiver (Aged, Blind, Physically Disabled): The Big Sky HCBS Waiver supports independent living of elderly (age 65 and older) and people with physical disabilities; candidates must be financially eligible for Medicaid and meet the program's level of care requirements in a nursing facility or hospital

The waivers are operated from the DPHHS Senior and Long-Term Care (SLTC) Division and the Behavioral Health and Developmental Disabilities (BHDD) Division.

Montana Services

Under the waivers identified above, the following settings are affected:

- Adult Foster Care Homes
- Assisted Living Facilities
- Group Homes
- Residential Habilitation
- Supported Employment
- Supported Living
- Vocational Services

Public Input and Submission

The DPHHS engagement process included public notices online and in newspapers, medical advisory committee and HCBS stakeholder communications, a virtual public meeting, tribal consultation, and the use of a dedicated webpage during the creation, submission, and approval of the Initial Montana Statewide Transition Plan. The same engagement approaches will be used for the creation, submission and requested approval of the Final Montana Statewide Transition Plan. The timelines and milestones for both cycles are provided below.

Timelines and Milestones:

Public Input – Initial Submissions				
Action Item	Start Date	End Date	Status	STP Supporting Detail and Comments
Provider/stakeholder letter of introduction	09/03/2014	10/01/2014	Completed	
Tribal Consultation	10/06/2014	11/10/2014	Completed	
Public Input	10/10/2014	11/10/2014	Completed	
<ul style="list-style-type: none"> Public Notice sent to interested parties and stakeholders 	09/03/2014	10/10/2014	Completed	
<ul style="list-style-type: none"> Public Notice published in newspapers 	10/10/2014	n/a	Completed	
<ul style="list-style-type: none"> Public Notice included on webpage 	10/08/2014	n/a	Completed	
<ul style="list-style-type: none"> Public meeting in person and via webinar 	10/28/2014	n/a	Completed	
<ul style="list-style-type: none"> Public comment in writing, via public meeting, or web page. 	10/10/2014	11/10/2014	Completed	
Review public comments and update STP	11/11/2014	12/03/2014	Completed	
Submit Final STP to CMS	12/12/2014		Completed	
Public comment in writing, via public meeting, or web page.	08/03/2016	09/02/2016	Completed	Initial CMS feedback included and added comprehensive details.
STP Initial Approval		12/23/2016	Completed	

The format of the final Statewide Transition Plan has been modified to improve clarity and promote understanding and feedback.

Public Engagement – Final Submission				
Action Item	Start Date	End Date	Status	STP Supporting Detail and Comments
Tribal Consultation	11/22/2022	12/26/2022	Ongoing	
Public Input	11/23/2022	12/26/2022	Ongoing	
<ul style="list-style-type: none"> Public Notice sent to interested parties and stakeholders 	11/23/2022	n/a	Completed	
<ul style="list-style-type: none"> Public Notice published in newspapers 	11/23/2022	n/a	Completed	
<ul style="list-style-type: none"> Public Notice included on webpage 	11/23/2022	n/a	Completed	
<ul style="list-style-type: none"> Draft Final STC included on webpage 	11/23/2022	n/a	Completed	
<ul style="list-style-type: none"> Public meeting via webinar 	12/08/2022	n/a	Upcoming	
<ul style="list-style-type: none"> Public comment in writing, via public meeting, or web page. 	11/24/2022	12/26/2022	Ongoing	
Review public comments and update STP	12/26/2022	12/31/2022	Upcoming	STP will be updated to include a summary of public concerns, a full array of comments, a summary of modifications to the STP, and a discussion of determinations different than public comment.
Submit Final STP to CMS	12/31/2022		Upcoming	

Public Engagement Final Submission- Summary of Public Concerns

This section is intentionally left blank. It will be completed following the completion of the public comment and tribal consultation phases.

Public Engagement Final Submission- Full Array of Public Comments

This section is intentionally left blank. It will be completed following the completion of the public comment and tribal consultation phases.

Public Engagement Final Submission- Discussion of Determinations Different than Public Comment

This section is intentionally left blank. It will be completed following the completion of the public comment and tribal consultation phases.

Assessments and Validation - Initial

States are required to review and analyze all settings in which Medicaid HCBS are delivered and settings in which individuals receiving Medicaid HCBS services reside, and to report the results to CMS. Montana has completed the assessment phase and continues to improve on assessment tools and processes covering the following areas:

- Services and Type of Settings
- State Standards Requirements and Practices
- Individual Settings
- Member Assessment Tools
- Monitoring and Oversight Tools

The tools developed will address questions recommended by CMS as part of the assessment process and, as such, are based on the nature and quality of the experience of individuals supported by that agency/facility. Each of these assessments will help determine which programs/settings are in compliance, provide means of validating provider assertions, lead to the development of provider corrective plans when necessary, and permit efficient and effective ongoing monitoring.

Assessment of Services and Types of Settings

DPHHS completed an assessment of all existing HCBS services provided by Montana Medicaid to identify which services may be delivered in settings that must comply with the HCBS Settings Final Rule. The services identified are:

- Adult Foster Care Homes
- Assisted Living Facilities
- Day Habilitation and Day Supports
- Adult Day Care
- Group Homes
- Residential Habilitation-Other
- Supported Employment
- Supported Living
- Therapeutic Group Homes
- Vocational Services

In addition to identifying the services, DPHHS completed assessment of the settings where the services may be provided. This stage did not identify specific providers or locations, but rather identified general categories of settings that are likely in compliance and settings that could become compliant.

- Congregate living homes
- Day activities sites
- Work program sites
- Supported living homes

Future service and/or settings development will be evaluated against the HCBS Final Settings rule. Waiver changes are internally reviewed and approved by program staff, HCBS settings experts, Division Administrators, and the Medicaid Director to ensure HCBS Settings and other regulatory compliance.

Assessment of State Standards

DPHHS completed a comprehensive review of the state standards governing HCBS services in the Montana Medicaid program. Phase 1 was to identify and document all state standards. See Section 4a for inventory of all administrative rules, waivers, and state plans establishing the state standards each service and setting. Phase 2 included a review of each current administrative rules, policies, and manuals by program managers. The program managers identified potential changes necessary for compliance with the HCBS settings requirements. See Section 4b for HCBS Settings Final Rule requirements cross walked with the state standards. Each state standard was then documented as *met*, *partially met*, *silent*, or *did not meet*. Phase 3 is the final state in the assessment and remediation of state standards. During this phase DPHHS reviewed potential resolution options for improved alignment of the Medicaid policy and/or State licensing rules with the HCBS Settings Final Rule. The options considered included a) amending licensing rules, 2) amending all HCBS Medicaid service rules, 3) amending overarching HCBS Medicaid service rules, or 4) a combination. DPHHS has determined that amending overarching HCBS Medicaid services rules will provide clarity of service and setting requirements efficiently, effectively and without unnecessary redundancies. In the following months DPHHS will propose amendments to the administrative rules to complete the assessment of state standards phase.

All future proposed changes to state standards for HCBS services will be reviewed for alignment with the HCBS Final Settings rule. Administrative rule changes are internally reviewed and approved by program staff, HCBS settings experts, department legal counsel, Division Administrators, the State

Medicaid Director, and the Department Directory to ensure HCBS Settings and other regulatory compliance. All administrative rule proposals include a public hearing, legislative oversight, and a public comment period providing robust comment and feedback opportunities.

Assess Individual Settings

DPHHS drafted a provider self-assessment (PSA) tool to assess and estimate the level of individual HCBS settings compliance. Updates to the PSA have been and will continue to be made in accordance with CMS direction, Montana state laws, and DPHHS program priorities. Each iteration of the PSA will be routed to CMS for awareness and feedback.

Providers were required to complete self-assessments for each discrete setting operated by the provider. DPHHS program officers and/or quality assurance specialists then performed an evaluation of PSAs via desk reviews, provider follow-up, member survey information and on-sight reviews. On site reviews were completed for all HCBS providers over the course of several years.

Table: Comprehensive Summary of Completed Site Assessments and Validations– Developmental Disabilities

Results	Non-Residential Settings		Residential Settings				Total
	Day Supports and Activities/Vocational/ Retirement Services	Supported Employment	Group Home	Supported Living	Assisted Living	Adult Foster	
Fully Compliant	43	6	73	26	1	2	149
Do not comply, but could with modifications	15		48	10		4	77
Cannot comply					1		
Will submit evidence for the application of HS							
Total	58	6	121	36	1	4	226

Table: Comprehensive Summary of Completed Site Assessments and Validations – Big Sky Waiver*

Results	Non-Residential Settings		Residential Settings				Total
	Day Supports and Activities/Vocational/Retirement Services	Supported Employment	Group Home	Supported Living	Assisted Living	Adult Foster	
Fully Compliant	7	4	0	2	230	2	245
Do not comply, but could with modifications							
Cannot comply	3				1		4
Will submit evidence for the application of HS							
Total	10	4	0	2	231	2	249

Table: Comprehensive Summary of Completed Site Assessments and Validations – SDMI Waiver*

Results	Non-Residential Settings		Residential Settings				Total
	Day Supports and Activities/Vocational/Retirement Services	Supported Employment	Group Home	Supported Living	Assisted Living	Adult Foster	
Fully Compliant			24			2	26
Do not comply, but could with modifications							
Cannot comply							
Will submit evidence for the application of HS							
Total			24			2	26

*The Big Sky Waiver and the SDMI Waiver share certain providers and settings. All shared settings are included in the Big Sky Waiver counts only to avoid duplication.

vSettings Needing Heightened Scrutiny

DPHHS process for determination of settings needing a Heightened Scrutiny (HS) review began with the provider supplied information on the PSA. During the desk review process HCBS staff identified providers who indicated they met one of three presumptively institutional definitions:

- 1) in a building that is also a publicly or privately operate facility that provides institutional care,
- 2) located on the grounds of, or immediately adjacent to, a public institution, or
- 3) have the effect of isolating individuals receiving HCBS from the broader community.

Thirteen settings were initially identified as meeting one or more of these criteria. Additional research performed by DPHHS staff, additional guidance and clarity provided by CMS, facility closures, and changes in services delivered by providers has decreased number of settings presumptively institutional and requiring a Heightened Scrutiny evaluation and submission to five.

Settings no longer on Montana's HS list:

- 2 settings were erroneously identified as presumptively institutional
- 2 providers no longer exist
- 1 provider no longer provides HCBS covered services
- 3 providers no longer provide HCBS day program services within a residential setting

Settings remaining on Montana's HS list.

- 1 setting has been submitted to CMS following public comment
- 4 settings remain identified as presumptively institutional and require a heightened scrutiny evaluation and submission.

The Future Milestones section of this report includes next steps and timelines related to heightened scrutiny efforts.

Member Assessment Tools

DPHHS drafted a member experience survey to compile information on their satisfaction with HCBS setting. To date the survey has been shared with all members in 2015 and verbally completed with members during site visits. When distributed to all HCBS members, DPHHS sends letter to providers describing the self-assessment tool with the website to access the tool online. DPHHS then mails letter and survey to members. Member survey results are considered additional evidence as they inform the assessment and validation processes.

Validation

DPHHS created a validation tool to be used by program officers, quality assurance specialists, and licensing specialists. Submitted with the initial State Transition Plan was a ranked approach to onsite validation based on the identification of noncompliance in the PSA. Due to a lack of staffing resources, financial resources, and manual setting case tracking solutions DPHHS was unable to implement this approach. Instead between 2017 and 2022 all HCBS settings received an in person or video conference validation visit. The validation visits were completed by licensing staff or program officers.

Training

DPHHS has incorporated a number of approaches to educate members, stakeholders, and providers. During new enrollment, potential providers are provided HCBS information and one on one training to set a quality path. Case management teams have been trained on the HCBS settings final rule and their role in providing continual oversight and transition team support. Providers and associations have participated in collaborative meetings, group trainings, and presentation forums. State communications and CMS materials have been provided directly to providers and via a dedicated HCBS webpage.

Going forward DPHHS plans to increase the materials available on the DPHHS webpage, provide additional training opportunities to providers, and disseminate materials for a broader awareness of the quality expectations of HCBS services in the Medicaid program. The Future Milestones section of this report includes next steps and timelines.

Remediation:

DPHHS has and will continue to take a series of steps to guide providers in making the transition to full compliance with HCBS settings, such as informational letters, training sessions and, and other targeted communications. For settings that are found not to be in compliance, the provider will be required to submit a corrective action plan to DPHHS that describes the steps to be taken and expected timelines to achieve compliance. Consideration of corrective action plans by the State will take into account the scope of the transition to be achieved and the unique circumstances related to the setting in question.

Each non-compliant provider setting must provide DPHHS a detailed remediation plan that includes: 1) Area that needs remediation; 2) How the setting proposes to correct the area of noncompliance for each member affected in the setting; 3) Explanation of data/evidence that the setting provides DPHHS that show remediation has occurred; 4) Date that remediation will be completed; and 5) Contact information (e.g., who at the setting will be coordinating with DPHHS staff on the remediation plan. Consideration of corrective action plans by the State will consider the scope of the transition to be achieved and the unique circumstances related to the setting in question. Remediation actions that are individual in nature and not setting specific must be recorded in the care plan/service plan of the member.

DPHHS staff review, analyze, and communicate approval/non-approval of remediation plans. DPHHS staff verify compliance through various methods which may include onsite review, documentation review or other ways to determine that compliance has been achieved in accordance with the remediation plan. Technical assistance will be provided via telephone calls, letters, and other methods as appropriate. DPHHS notifies the setting (by letter) when evidence of compliance is reached.

To continue to receive federal Medicaid funds for waiver services, Montana must comply with the “settings” requirements. If a provider is unable or unwilling to remediate a setting, it may be necessary to transition an individual to a compliant setting. In any instance where an individual would need to move to an alternate setting, the individual will be given timely notice and afforded a choice of alternative providers through the person-centered planning process.

Ongoing Setting Assessment, Validation, Monitoring and Oversight

Ongoing Assessment

DPHHS will continue to use the PSA as a primary feature of the ongoing oversight process. All providers will be required to complete a new PSA at least once every five years for each distinct setting. Each new PSA cycle will initiate an PSA desk review with provider follow-up as needed.

In early 2023 Montana will deploy an electronic assessment and case tracking solution. This efficiency step will allow providers and the department to work effectively using provider completed assessments, discrete site level documentation, document storage and routing, and documented follow-up and results tracking. Future iterations of the solution will assist in identifying high risk settings for more frequent re-validations and/or site visits.

Using the electronic assessment and case tracking solution, DPHHS will monitor for trends and outliers in assessment results. This information will be used to continuously improve the assessment>validation>oversight process, inform training needs, and provide quality control over the entire cycle.

Ongoing Member Feedback

Member feedback is a critical component of our ongoing monitoring and validation efforts. Members will be able to provide feedback in several ways including site specific member surveys, member interviews, or member-initiated feedback. The site-specific feedback will inform assessment desk reviews and validation visits. All member surveys will include contact information of program officers available to assist them in completing the survey. When appropriate member feedback may initiate a mid-cycle monitoring visit to identify potential areas of noncompliance and/or weaknesses in the assessment and validation cycle.

Ongoing Validation

In late 2023 DPHHS plans to integrate the existing validation tool into an electronic case tracking solution. This approach will retain the existing validation tool and process while making the results readily available to program officers, quality assurance personnel and Licensure Bureau staff. The ability to efficiently review current assessment responses, past validation results, and attach member feedback will provide a robust oversight system.

Full validations of ongoing compliance will occur every one to three years. Validation visits will be performed by a program officer or licensure staff at the discrete setting. The electronic case tracking solution will allow all staff visibility into the last full validation and the risk assessment of the site. The results of the validation will be loaded into the case tracking solution and available to the HCBS program officer for follow-up.

Onsite evaluations by the DPHHS Licensure Bureau are conducted for licensed providers at an interval not to exceed 3 years. Follow up visits are conducted to ensure compliance ranging from weekly to quarterly depending on the circumstances. Follow up visits are generally conducted onsite. The DPHHS Licensure Bureau is authorized to conduct on site visits at any time just cause is present. Just cause is defined as a referral, a complaint, or any reason where credible evidence requires an investigation. The validation tool will be completed by the licensing staff at each 3-year visit unless a validation was completed within the most recent year.

Ongoing Monitoring

Monitoring of ongoing compliance will be a continuous process by several state and contracted staff. HCBS Program Officers and HCBS Case Management Teams provide oversight of member health and safety, community integration, and member satisfaction on an ongoing basis and in response to critical incidents. Potential HCBS Setting compliance risks will be noted as part of the visit documentation. These monitoring notes will be followed up on by HCBS program officers, may lead to an increase site risk assessment, and will initiate a full validation visit if appropriate.

Member communications will be evaluated by HCBS program officers for indications of potential HCBS Setting non-compliance. As part of the follow-up to surveys, member interviews, or member-initiated feedback, HCBS case management staff and/or HCBS program officers may request a validation visit along side other health and safety follow-up.

Licensure Bureau staff will monitor for potential HCBS setting compliance risks during referral, complaint, or other credible evidence investigations. When a monitoring risk is identified the licensure staff will be noted as part of the investigation documentation. These investigation notes will be followed up on by HCBS program officers, may lead to an increase site risk assessment, and will initiate a full validation visit if appropriate.

Ongoing Remediation:

DPHHS will continually provide oversight to HCBS providers to ensure they remain in full compliance with HCBS settings, such as informational letters, training sessions and, and other targeted communications. For settings that are found not to be in compliance, the provider will be required to submit a corrective action plan to DPHHS that describes the steps to be taken and expected timelines to achieve compliance.

DPHHS a detailed remediation plan that includes: 1) Area that needs remediation; 2) How the setting proposes to correct the area of noncompliance for each member affected in the setting; 3) Explanation of data/evidence that the setting provides DPHHS that show remediation has occurred; 4) Date that remediation will be completed; and 5) Contact information (e.g., who at the setting will be coordinating with DPHHS staff on the remediation plan. Remediation actions that are individual in nature and not setting specific may be recorded in the care plan/service plan of the member.

DPHHS staff review, analyze, and communicate approval/non-approval of remediation plans. DPHHS staff verify compliance through various methods which may include onsite review, documentation review or other ways to determine that compliance has been achieved in accordance with the remediation plan. Technical assistance will be provided via telephone calls, letters, and other methods as appropriate. DPHHS notifies the setting (by letter) when evidence of compliance is reached.

To continue receiving federal Medicaid funds for HCBS waiver services, Montana must comply with the “settings” requirements. If a provider is unable or unwilling to remediate a setting, it may be necessary to transition an individual to a compliant setting. In any instance where an individual would need to move to an alternate setting, the member transition plan will be invoked.

Member Transition Plan

If any setting remains noncompliant after all validation and remediation strategies are exhausted, or the heightened-scrutiny process determines a setting is institutional in nature, DPHHS will carry out the following transition plan

- DPHHS will issue letters via certified mail notifying people who receive services, legal representatives, and providers of a setting’s anticipated inability to meet compliance.
- The notices will include contact information for the HBCS Program, the LTC Ombudsman Office, the HCBS transition website and the HCBS specific email box.

- The HCBS case manager will facilitate team transition planning for affected people using Person-Centered Planning.
- Information on alternative services and setting choices, including non-disability specific settings be provided to the member.
- A priority of the member transition plan process will be providing sufficient communication and support to the member.
- Transition team will work with members and newly selected setting support staff to assure that critical services/supports are in place in advance of the individual's transition.
- DPHHS will issue a second notice via email and certified mail, no later than 60 days before the transition to notify: The provider of the intent to transition people from their current service(s) and/or setting.
- The HCBS program will provide each member and their legal representatives appeal rights information.
- Members are transitioned to compliant settings and services of their choosing.

As of November 2022, all providers identified and unable to comply by the close of the transition period have discontinued service. Therefore, Montana has no members estimated to need a transition plan at this time.

Assessment Results – State Standards

Table: Program Administration - Administrative Rules of Montana (ARM)

Program Administration - Administrative Rules of Montana (ARM)			
HCBS Services	Program	Service Setting(s)	Administrative Rules of Montana, Policy Manuals
Adult Foster Care	0208 DD 1915(c) Waiver	Licensed Foster Care Home	37.34.929
	0148 SLTC 1915(c) Waiver	Licensed Foster Care Home	37.100.101 - 37.100.175
	0455 SDMI 1915(c) Waiver	Licensed Foster Care Home	37.90.406, 37.90.455
	Licensing		37.106.2004-37.106.2048
Group Home	0208 DD 1915(c) Waiver	Licensed Group Home	37.34.621, 37.34.706, 37.100.301 - 37.100.340
	0148 SLTC 1915(c) Waiver	Licensed Group Home	37.100.401 - 37.100.440
	0455 SDMI 1915(c) Waiver	Licensed Group Home	37.90.406
	Licensing		37.106.1938
Assisted Living Facilities	0208 DD 1915(c) Waiver	Licensed Assisted Living Home	37.34.930
	0148 SLTC 1915(c) Waiver	Licensed Assisted Living Home	37.40.1435
	Licensing		37.106.2801-37.106.2889H
Pre-vocational, Vocational	0208 DD 1915(c) Waiver	provider site, community	37.34.947, 37.34.950, 37.34.980- 37.34.986
	0148 SLTC 1915(c) Waiver	provider site, community	37.90.406, 37.40.1448
	0455 SDMI 1915(c) Waiver	provider site, community	37.90.435
Day Programs	0208 DD 1915(c) Waiver	provider site, community	37.34.938, 37.34.974, 37.34.978
	0148 SLTC 1915(c) Waiver	provider site, community	37.40.1448, 37.40.1451, 37.40.1445, 37.40.1446
	0455 SDMI 1915(c) Waiver	provider site, community	37.90.406, 37.90.430
	Licensing		37.106.2601 - 37.106.2621
Residential Habilitation, Supported Living	0208 DD 1915(c) Waiver	Group Home, Congregate Homes, Natural Homes, Community	37.34.972, 37.34.712, 37.34.713

		Residential	
	0148 SLTC 1915(c) Waiver		37.40.1438
	0455 SDMI 1915(c) Waiver		37.90.406, 37.90.451, 37.90.452, 37.90.453, 37.90.454, 37.90.460, 37.90.461
	Licensing		37.100.101 - 37.100.175, 37.106.1938, 37.106.2801 - 37.106.2898

Administrative Rules of Montana (ARMs) Crosswalk with Federal Regulations

- Each setting, administrative rule, and HCBS Final rule regulation are compared in the following tables. For clarity each table contains an identification of the purpose of the evaluated administrative rule: Service Definition, Provider Requirements, Setting Licensure, and/or Plan of Care.
- Federal Regulations are summarized in the table headings; however, all subsections of regulations are included in the determination of compliance with state rules and regulations with Federal Regulations

- Assessment Key:

F = Full

P = Partial

S = Silent

N/A = Not Applicable

- Remedy Key:

N = No remediation of the rule is required

N1 = DPHHS has determined that amending overarching HCBS Medicaid services rules will provide clarity of service and setting requirements efficiently, effectively and without unnecessary redundancies. Therefore, no changes will be made to licensing rules that are silent, partially or fully in compliance.

A1 = DPHHS will amend overarching rule 37.34.702 'Performance Requirements' to include all HCBS Settings Final Rule requirements.

A2 = DPHHS will amend overarching rule 37.40.1407 'General Requirements' to include all HCBS Settings Final Rule requirements.

A3 = DPHHS will amend overarching rule 37.90.146 'General Requirements' to include all HCBS Settings Final Rule requirements.

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(i)

Service: Residential Habilitation, Supported Living									
Federal Regulation: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	P	A1	37.40.1435	F	N	37.90.451	S	A3
	37.34.712	F	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(iii)

Service: Residential Habilitation, Supported Living									
Federal Regulation: Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint (42 C.F.R § 441.301(c)(4)(iii)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	S	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(iv)

Service: Residential Habilitation, Supported Living									
Federal Regulation: 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. (42 C.F.R § 441.301(c)(4)(iv))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	F	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(v)

Service: Residential Habilitation, Supported Living									
Federal Regulation: Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	F	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N
Plan of Care	37.34.918	C	N	37.40.1420	C	N	37.90.412	C	N

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(vi)(A)

Service: Residential Habilitation, Supported Living									
Federal Regulation: 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 (42 C.F.R § 441.301(c)(4)(vi)(A))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	P	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(vi)(B)

Service: Residential Habilitation, Supported Living									
Federal Regulation: Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	S	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	S	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(vi)(C)

Service: Residential Habilitation, Supported Living									
Federal Regulation: Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	P	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(vi)(D)

Service: Residential Habilitation, Supported Living									
Federal Regulation: Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	S	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	S	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N

Table: Analysis of Residential Habilitation and 42 C.F.R § 441.301(c)(4)(vi)(E)

Service: Residential Habilitation, Supported Living									
Federal Regulation: The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	S	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.100.101 - 37.100.175 , 37.106.2801 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.2801 - 37.106.2898	P	N	37.100.101 - 37.100.175 , 37.106.1938 , 37.106.2801 - 37.106.2898	P	N

Table: Analysis of Residential Habilitation and 42 CFR 441.301(c)(4)(vi)(F)

Service: Residential Habilitation, Supported Living									
Federal Regulation: Any modification of the additional conditions, under 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered plan. (42 CFR 441.301(c)(4)(vi)(F))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.972	S	A1	37.40.1435	P	A2	37.90.451	S	A3
	37.34.712	S	A1	37.40.1438	S	A2	37.90.452	S	A3
							37.90.453	S	A3
							37.90.454	S	A3
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure	37.106.2801-37.106.2898	S	N	37.100.101 - 37.100.175, 37.106.2801-37.106.2898	S	N	37.100.101 - 37.100.175, 37.106.1938, 37.106.2801-37.106.2898	S	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(i)

Service: Day Services									
Federal Regulation: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	P	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	P	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(iii)

Service: Day Services									
Federal Regulation: Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint (42 C.F.R § 441.301(c)(4)(iii)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	S	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(iv)

Service: Day Services									
Federal Regulation: 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. (42 C.F.R § 441.301(c)(4)(iv))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	S	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(v)

Service: Day Services									
Federal Regulation: Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	S	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(vi)(A)

Service: Day Services									
Federal Regulation: 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 (42 C.F.R § 441.301(c)(4)(vi)(A))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	Not applicable			Not applicable			Not applicable		

Table Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(vi)(B)

Service: Day Services									
Federal Regulation: Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	Not applicable			Not applicable			Not applicable		

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(vi)(C)

Service: Day Services									
Federal Regulation Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	P	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(vi)(D)

Service: Day Services									
Federal Regulation Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	S	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Day Services and 42 C.F.R § 441.301(c)(4)(vi)(E)

Service: Day Services									
Federal Regulation The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	S	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Day Services and 42 CFR 441.301(c)(4)(vi)(F)

Service: Day Services									
Federal Regulation Any modification of the additional conditions, under 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered plan. (42 CFR 441.301(c)(4)(vi)(F))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.978	S	A1	37.40.1451	S	A2	37.90.430	S	A2
	37.34.974	S	A1	37.40.1448	S	A2	37.90.438	S	A2
	37.34.938	S	A1	37.40.1445	S	A2			
				37.40.1446	S	A2			
Provider Requirements	37.34.912	S	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(i)

Service: Adult Foster Care									
Federal Regulation: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(iii)

Service: Adult Foster Care									
Federal Regulation: Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint (42 C.F.R § 441.301(c)(4)(iii)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(iv)

Service: Adult Foster Care									
Federal Regulation: 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. (42 C.F.R § 441.301(c)(4)(iv))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(v)

Service: Adult Foster Care									
Federal Regulation: Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(vi)(A)

Service: Adult Foster Care									
Federal Regulation: 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 (42 C.F.R § 441.301(c)(4)(vi)(A))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N

Table Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(vi)(B)

Service: Adult Foster Care									
Federal Regulation: Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(vi)(C)

Service: Adult Foster Care									
Federal Regulation Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(vi)(D)

Service: Adult Foster Care									
Federal Regulation Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N

Table: Analysis of Adult Foster Care and 42 C.F.R § 441.301(c)(4)(vi)(E)

Service: Adult Foster Care									
Federal Regulation The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N

Table: Analysis of Adult Foster Care and 42 CFR 441.301(c)(4)(vi)(F)

Service: Adult Foster Care									
Federal Regulation Any modification of the additional conditions, under 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered plan. (42 CFR 441.301(c)(4)(vi)(F))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.90.455	S	A3
Provider Requirements	37.34.929	S	A1	37.40.1435	S	A2	37.90.406 , 37.106.2004 - 37.106.2048	S	A3
Setting Licensure	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N	37.100.101 - 37.100.175	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(i)

Service: Group Home									
Federal Regulation: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301- 37.100.340 ,	P	N	37.100.401- 37.100.440	P	N	37.106.1938	P	N

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(iii)

Service: Group Home									
Federal Regulation: Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint (42 C.F.R § 441.301(c)(4)(iii)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301-37.100.340 ,	P	N	37.100.430	F	N	37.106.1938	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(iv)

Service: Group Home									
Federal Regulation: 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. (42 C.F.R § 441.301(c)(4)(iv))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301 - 37.100.340 ,	P	N	37.100.401 - 37.100.440	P	N	37.106.1938	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(v)

Service: Group Home									
Federal Regulation: Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301 - 37.100.340 ,	P	N	37.100.401 - 37.100.440	P	N	37.106.1938	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(vi)(A)

Service: Group Home									
Federal Regulation: 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 (42 C.F.R § 441.301(c)(4)(vi)(A))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301-37.100.340 ,	P	N	37.100.401-37.100.440	P	N	37.106.1938	P	N

Table Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(vi)(B)

Service: Group Home									
Federal Regulation: Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301 - 37.100.340 ,	P	N	37.100.401 - 37.100.440	P	N	37.106.1938	P	N

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(vi)(C)

Service: Group Home									
Federal Regulation Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301-37.100.340 ,	P	N	37.100.401-37.100.440	P	N	37.106.1938	P	N

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(vi)(D)

Service: Group Home									
Federal Regulation Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301 - 37.100.340 ,	P	N	37.100.401 - 37.100.440	P	N	37.106.1938	P	N

Table: Analysis of Group Home and 42 C.F.R § 441.301(c)(4)(vi)(E)

Service: Group Home									
Federal Regulation The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1				37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301 - 37.100.340 ,	P	N	37.100.401 - 37.100.440	P	N	37.106.1938	P	N

Table: Analysis of Group Home and 42 CFR 441.301(c)(4)(vi)(F)

Service: Group Home									
Federal Regulation Any modification of the additional conditions, under 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered plan. (42 CFR 441.301(c)(4)(vi)(F))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.621	P	A1	37.40.1448	S	A2	37.90.452	P	A3
	37.34.706	P	A1				37.90.453 ,	P	A3
							37.90.454	P	A3
Provider Requirements	37.34.621	P	A1	37.40.1435	S	A2	37.90.406 ,	P	A3
	37.34.706	P	A1				37.90.452 ,	P	A3
							37.90.453 ,	P	A3
							37.90.454	P	A3
Setting Licensure	37.100.301-37.100.340 ,	P	N	37.100.401-37.100.440	P	N	37.106.1938	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(i)

Service: Assisted Living Facilities									
Federal Regulation: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(iii)

Service: Assisted Living Facilities									
Federal Regulation: Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint (42 C.F.R § 441.301(c)(4)(iii)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(iv)

Service: Assisted Living Facilities									
Federal Regulation: 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. (42 C.F.R § 441.301(c)(4)(iv))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(v)

Service: Assisted Living Facilities									
Federal Regulation: Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(vi)(A)

Service: Assisted Living Facilities									
Federal Regulation: 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 (42 C.F.R § 441.301(c)(4)(vi)(A))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N

Table Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(vi)(B)

Service: Assisted Living Facilities									
Federal Regulation: Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(vi)(C)

Service: Assisted Living Facilities									
Federal Regulation Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(vi)(D)

Service: Assisted Living Facilities									
Federal Regulation Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N

Table: Analysis of Assisted Living Facilities and 42 C.F.R § 441.301(c)(4)(vi)(E)

Service: Assisted Living Facilities									
Federal Regulation The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N

Table: Analysis of Assisted Living Facilities and 42 CFR 441.301(c)(4)(vi)(F)

Service: Assisted Living Facilities									
Federal Regulation Any modification of the additional conditions, under 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered plan. (42 CFR 441.301(c)(4)(vi)(F))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.930	P	A1	37.40.1435	F	N	37.90.451	S	A3
Provider Requirements	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Setting Licensure				37.106.2801-37.106.2898	P	N	37.106.2801-37.106.2898	P	N
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(i)

Service: Pre-Vocational and Vocational									
Federal Regulation: The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community (42 C.F.R § 441.301(c)(4)(i)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(iii)

Service: Pre-Vocational and Vocational									
Federal Regulation: Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint (42 C.F.R § 441.301(c)(4)(iii)).									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Pre-Vocational/ Vocational and 42 C.F.R § 441.301(c)(4)(iv)

Service: Pre-Vocational and Vocational									
Federal Regulation: 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. (42 C.F.R § 441.301(c)(4)(iv))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Pre-Vocational/ Vocational and 42 C.F.R § 441.301(c)(4)(v)

Service: Pre-Vocational and Vocational									
Federal Regulation: Facilitates individual choice regarding services and supports, and who provides them. (42 C.F.R § 441.301(c)(4)(v))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Table: Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(vi)(A)

Service: Pre-Vocational and Vocational									
Federal Regulation: 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 (42 C.F.R § 441.301(c)(4)(vi)(A))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3

Table Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(vi)(B)

Service: Pre-Vocational and Vocational									
Federal Regulation: Each individual has privacy in their sleeping or living unit (42 C.F.R § 441.301(c)(4)(vi)(B))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(vi)(C)

Service: Pre-Vocational and Vocational									
Federal Regulation Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. (42 C.F.R § 441.301(c)(4)(vi)(C))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(vi)(D)

Service: Pre-Vocational and Vocational Federal Regulation Individuals are able to have visitors of their choosing at any time. (42 C.F.R § 441.301(c)(4)(vi)(D))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Pre-Vocational/Vocational and 42 C.F.R § 441.301(c)(4)(vi)(E)

Service: Pre-Vocational and Vocational Federal Regulation The setting is physically accessible to the individual. (42 C.F.R § 441.301(c)(4)(vi)(E))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3

Table: Analysis of Pre-Vocational/Vocational and 42 CFR 441.301(c)(4)(vi)(F)

Service: Pre-Vocational and Vocational									
Federal Regulation Any modification of the additional conditions, under 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered plan. (42 CFR 441.301(c)(4)(vi)(F))									
	DD			Big Sky			SDMI		
Rule Type	Rule	Assess	Remedy	Rule	Assess	Remedy	Rule	Assess	Remedy
Service Definition	37.34.947	F	N	37.40.1448	P	A2	37.90.435		
	37.34.950	S	A1						
	37.34.980-37.34.986	S	A1						
Provider Requirements	37.34.912			37.40.1407	S	A2	37.90.406		
							37.90.435		
Setting Licensure	37.34.912	P	A1	37.40.1407	S	A2	37.90.406	P	A3
Plan of Care	37.34.918	P	B	37.40.1420	P	B	37.90.412	P	B

Future Milestones

STP Area	Milestone	Description	Due Date
Assessment	Proof of Concept Scope	Approve the proof-of-concept scope for a Setting Case Tracking solution.	12/01/2022
Assessment	Proof of Concept System Design	Approve the proof-of-concept system design for a Setting Case Tracking solution.	01/15/2023
Assessment	System Scope – Phase 1 Assessments	Approve Phase 1 – Assessments system scope	03/15/2023
Assessment	System Design – Phase 1 Assessments	Approve Phase 1 – Assessments system design	03/15/2023
Assessment	System Rollout – Phase 1 Assessments	Begin staff and provider training for Phase - 1 Assessments	04/01/2023
Validation	System Scope – Phase 2 Validations	Approve Phase 1 – Validations system scope	05/01/2023
Validation	System Design – Phase 2 Validations	Approve Phase 1 – Validations system design	07/01/2023
Validation	System Rollout– Phase 2 Validations	Begin staff and contractor training for Phase - 1 Validations	07/15/2023
Monitoring	System Scope – Phase 1 Monitoring	Approve Phase 1 – Monitoring system scope	03/15/2023
Monitoring	System Design – Phase 1 Monitoring	Approve Phase 1 – Monitoring system design	03/15/2023
Monitoring	System Rollout – Phase 1 Monitoring	Begin staff and provider training for Phase - 1 Monitoring	04/01/2023
Education	Website Refresh	Update HCBS website with CMS and state developed materials	01/31/2023
Education	Provider Trainings	Provide 3 provider refresher trainings on the scope and importance of the HCBS settings requirements	02/28/2023
Education	Targeted Provider Notice	Issue a HCBS provider specific notice explicitly stating that providers must comply with HCBS settings requirements to receive Medicaid reimbursement	02/15/2023
Administrative Rules	Update Administrative Rules	Submit proposed administrative rule changes to the Secretary of State.	12/31/2022
Remediations	Provider Remediations – Jan 15	Receive status reports from all providers with outstanding remediation plans. Assess outstanding issues for prioritized provider technical assistance.	01/15/2023
Remediations	Provider Remediations – Feb 15	Receive status reports from all providers with outstanding remediation plans. Assess outstanding issues for prioritized provider technical assistance.	02/15/2023
Heightened Scrutiny	HS Assessment	Complete HS assessment and documentation	02/01/2023
Heightened Scrutiny	HS Assessment Public Comment	Post HS assessments for public comment	02/01/2023
Heightened Scrutiny	HS Assessment Submission	Submit HS evidentiary package to CMS for review	03/10/2023