

OHIO DEPARTMENT OF MEDICAID

To: ALL CLEARANCE REVIEWERS
From: Kim Donica, Chief, Bureau of Long-Term Care Services and Supports
Date: April 18, 2016
Subject: **ODM Form #10173: HCBS Setting Verification Checklist**

In January 2014, the federal Centers for Medicare and Medicaid Services (CMS) released new requirements for Home and Community-Based Services (HCBS) waivers administered by states. Essentially, the rule says federal Medicaid funds cannot be used to pay for waiver services offered in an institutional setting, or settings adjacent to institutions or other settings having the effect of isolating people who are receiving HCBS. All new 1915(c) waivers and **new 1915(i) state plan options** must meet the new requirements in order to be approved. The rule became effective March 17, 2014.

To ensure full compliance with the new CMS requirements, the Ohio Department of Medicaid (ODM) will propose OAC Rule 5160-44-01 governing Ohio's Medicaid-funded HCBS programs, including the Specialized Recovery Services Program. OAC 5160-44-01 has an estimated effective date of July 1, 2016.

In addition, ODM will propose OAC Rule 5160-43-02, to establish the eligibility criteria for Ohio's Specialized Recovery Services Program. OAC 5160-43-02 has an estimated effective date of July 1, 2016.

ODM Form #10173: *HCBS Settings Verification Checklist* will be used across the nursing-facility based level of care delivery system to ensure an individual enrolled on the Specialized Recovery Service Program or a 1915(c) waiver resides in an HCBS compliant setting.

The HCBS Settings Verification Checklist will be used by Specialized Recovery Services Program Recovery Managers and by waiver case managers (Assisted Living, Ohio Home Care, and PASSPORT) and waiver service coordinators (My Care Ohio).

The proposed OAC 5160-43-02 establishes the eligibility criteria for enrollment in the Specialized Recovery Services Program (SRSP). The completion of ODM Form # 10173, will be one component of the eligibility determination process for individuals seeking enrollment in the Specialized Recovery Services Program. If the individual does not reside in an HCBS compliant setting, enrollment in the SRSP will not be recommended. For individuals enrolled on the SRSP who experience a change of residence, the recovery manager will complete the checklist to confirm the new setting is HCBS compliant.

In the NF-based LOC waivers the following OAC rules are being amended to align with the federal requirement that individuals enrolled in a 1915(c) waiver must reside in an HCBS compliant setting: OAC 5160-33-02, 5160-46-02, 5160-58-02.2, and 5160-33-03. The completion of ODM Form # 10173 by HCBS waiver case managers and waiver service coordinators will be one component of eligibility determination process for enrollment in a 1915(c) waiver. If the individual does not reside, enrollment in the 1915(c) will not be offered. For individuals enrolled on a 1915(c) who experience a change of residence, the waiver case manager or waiver service coordinator will complete the checklist to confirm the new setting is HCBS compliant.

The content of the checklist is based on the language in the federal regulation, the CMS exploratory questions and is consistent with the questions included in the HCBS Setting Evaluation Tool (ODM 10172) for providers.
Thank you in advance for your comments.

Attachments

Home and Community-Based Services (HCBS) Settings Verification Checklist

Section I: Qualities Required for All Home and Community-Based Settings

Complete this section for each individual, regardless of his or her current living arrangement.

The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community.		
<p>1. Does the individual reside in a setting that he or she owns or leases or is owned or leased by a member of the individual's family?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, do not complete Section II.</p>	<p>2. Does the individual reside in a setting that is owned or leased by the same party that furnishes HCBS services in the setting?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, complete Section II.</p>	<p>3. Is the individual able to describe how he or she accesses the community, including who assists in facilitating the activity and where he or she goes?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting.		
<p>4. Was the individual given a choice of available options regarding where to live/receive services?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
The setting ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.		
<p>5. Does the individual have access to telephones or other electronic devices to use for personal communication in private and at any time?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>6. Does the individual know how to file a complaint about his or her level of involvement with the greater community?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>7. Does the individual report the use of interventions/restrictions like those that might be used in an institutional setting (<i>seclusion, physical or chemical restraints, locked doors</i>)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
The setting optimizes opportunities for the individual to make choices and control his or her own schedules regarding daily activities, physical environment, and with whom to interact.		
<p>8. Does the individual have opportunities to make informed choices about when tasks, services and activities are furnished?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
The setting facilitates choice regarding services and supports and who provides them.		
<p>9. Does the individual make informed choices about who provides services to him or her?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		

Section II: Additional Conditions Required for Provider-Owned or Controlled Residential Settings

Complete this section only when the individual resides in a setting that is owned or leased by the same party that furnishes HCBS services in that setting.

The individual has a legally enforceable agreement specifying responsibilities and protections from eviction.			
<p>10. Does the individual have a legally enforceable agreement such as a lease or resident agreement?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>11. Does the agreement specify the responsibilities of the individual and the provider with respect to the setting?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>12. Does the agreement specify the circumstances under which the individual's residency may be terminated?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>13. Does the agreement address the steps an individual can follow to request a review or appeal the termination of residency?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
The individual has privacy in his or her sleeping/living unit.			
<p>14. Is the individual's living unit configured so that the individual's privacy is protected including when assistance is provided to the individual?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
The setting provides living unit doors that are lockable by the individual with only appropriate staff having keys.			
<p>15. Can the individual lock his or her door to the unit?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		<p>16. Does the individual have a key to his or her own living unit?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
Individuals sharing units have a choice of roommates in the setting.			
<p>17. If the individual does not have his or her own bedroom, does the individual share a bedroom with a roommate of his or her choice?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
Individuals have the freedom and support to furnish and decorate their sleeping or living units within the lease or other agreement			
<p>18. Can the individual furnish and decorate his or her unit as they please within the terms spelled out in in the legally enforceable?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>			

Individuals' freedom to control schedules and activities and have access to food at any time.		
19. Does the individual control his or her daily schedule without being required to adhere to a set schedule for waking, bathing, eating, exercising, or activities? <input type="checkbox"/> Yes <input type="checkbox"/> No	20. Does the individual have access to typical home areas such as cooking and dining areas, laundry, living and entertainment areas? <input type="checkbox"/> Yes <input type="checkbox"/> No	21. Does the individual have access to food between and after regularly scheduled meal times? <input type="checkbox"/> Yes <input type="checkbox"/> No
The individual is able to have visitors of his or her choosing at any time.		
22. Are visiting hours or the number of visitors allowed at one time determined by the individual? <input type="checkbox"/> Yes <input type="checkbox"/> No	23. If visiting hours are addressed in the legally enforceable agreement, are individuals made aware of limitations before moving into the residential setting? <input type="checkbox"/> Yes <input type="checkbox"/> No	
The setting is physically accessible for each individual.		
24. Are supports to facilitate mobility provided where needed, e.g., home modifications, grab bars, shower seats, or hand rails, etc.? <input type="checkbox"/> Yes <input type="checkbox"/> No	25. Are there gates, locked doors, or other barriers preventing access/exit from areas in the setting? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Results *(Select one result from the options listed below)*

HCBS Setting

- The individual resides in a private residence and experiences community integration, privacy, choice, and control. (*"Yes" response to question 1, and "Yes" responses to questions 3 through 8 in section 1.*)
- OR
- The individual resides in a provider-owned/controlled setting and experiences community integration, privacy, choice and control (*"Yes" response for questions 2 through 8 in section 1 and "Yes" responses to questions 10 through 25 in Section 2.*)

Non-HCBS Setting

- The individual resides in a private residence and does not experience community integration, privacy, choice, and control in the setting. (*"Yes" response to question 1 and one or more "No" response to questions 3 through 8 in section 1.*)
- OR
- The individual resides in a provider-owned/controlled setting and does not experience community integration, privacy, choice, and control in the setting. (*"Yes" response to question 2 in Section 1 and one or more "No" responses to questions 10 through 25 in Section 2.*)

Date Completed
Name of Individual Interviewed
Signature of the Person Completing the form