

Department of Health Care Services
State of California—Health and Human Services Agency

Statewide Transition Plan for Compliance with Home and Community Based Settings Rules

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CALIFORNIA’S STATEWIDE TRANSITION PLAN FOR ACHIEVING AND MAINTAINING COMPLIANCE WITH THE FEDERAL HOME AND COMMUNITY BASED SETTING REQUIREMENTS

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Background

1915(c) Waivers

The federal government authorized the “Medicaid 1915(c) Home and Community-Based Services (HCBS) Waiver program” under Section 2176 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). It is codified in section 1915(c) of the Social Security Act. The original legislative intent of the HCBS Waiver program was to slow the growth of Medicaid (Medi-Cal in California) spending by providing services in less expensive settings. In order to contain costs, the federal legislation limited waiver services to individuals who would be institutionalized if the services were not provided. However, the costs of those waiver services cannot be higher than what they would cost in an institutional setting.

The law permitted states to waive certain Medicaid program requirements and in doing so, deviate from Medicaid requirements, such as providing services only in certain geographic areas (“waive statewideness”). The HCBS Waiver program also allowed states flexibility to offer different types of services to individuals with chronic disabilities. Prior to this, with the origin of Medicaid in 1965, members could only receive comprehensive long-term care in institutional settings.

The initial waiver application is approved by the Centers for Medicare & Medicaid Services (CMS) for three years with additional renewal applications needing to be approved every five years. The waiver can be designed for a variety of targeted diagnosis-based groups including individuals who are elderly, and those who have physical, developmental, or mental health disabilities, or other chronic conditions such as Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS). The waiver can be designed to offer a variety of services including case management, personal attendant services, adult day health care services, habilitation services, day treatment services, psychosocial rehabilitation services, mental health services, and other services specifically requested by the state. 1915(c) HCBS waivers have subsequently become mechanisms for many states, including California, to provide Medicaid-funded community-based, long-term care services and supports to eligible members.

Throughout the Statewide Transition Plan (STP), recipients of HCBS will be referred to as members, which includes all Medi-Cal eligible beneficiaries, participants, consumers, etc., who are enrolled in any of the HCBS programs.

1915(i) State Plan Program

Starting January 1, 2007, the Deficit Reduction Act of 2005 (DRA) gave states a new option to provide HCBS through their State Plans. Once approved by CMS, State Plans do not need to be renewed nor are they subject to some of the same requirements of waivers. Under this option, states set their own eligibility or needs-based criteria for providing HCBS. States are allowed to establish functional criteria in relation to certain services. The DRA provision eliminated the skilled need requirement and allowed states to cover Medicaid beneficiaries who have incomes no greater than 150 percent of the federal poverty level

and who satisfy the needs-based criteria. The Patient Protection and Affordable Care Act of 2010 created several amendments including elimination of enrollment ceilings, a requirement that services must be provided statewide, and other enrollment changes.

1915(k) Community First Choice (CFC) State Plan Program

CFC services are provided in the member's private residence (see Private Residence Presumed to be in Compliance section below). The provision of community-based services and supports are the most integrated setting appropriate to the individuals' needs without regard to age, type or nature of disability, severity of disability or the form of home and community-based services and supports that the individual requires in order to lead an independent life.

By being in the community and self-directing care, the individual is able to control their environment to the maximum extent consistent with their capabilities and needs. 1915(k) members have the ability to be active in their community and are able to seek employment by utilizing any available resources. These resources could be their CFC provider or their local community that they reside in.

CFC members select their residential setting of a home or abode of their own choosing. The CFC member chooses who their provider will be and that the services will be provided in the home of the individual or a residential setting, such as an apartment where the individual pays rent through a landlord / occupant agreement, or if the individual is living in a home owned by their family. Settings in which CFC services may be provided are unlicensed, private residences. CFC services are not provided in licensed Community Care Facilities (CCF), a Community Care Licensing term for licensed residential facilities.

Community-Based Adult Services (CBAS) 1115 Waiver

See **Attachment I** – Revised Draft CBAS Home and Community Based (HCB) Settings Transition Plan

New Home and Community-Based Setting Requirements

In January 2014, CMS announced it had finalized important rules that affect HCBS waiver programs and 1915(i) and 1915(k) State Plan programs provided through Medicaid/Medi-Cal, and subsequently published regulations in the Federal Register on January 16, 2014. The rules became effective 60 days from publication, or March 17, 2014. These final regulations are CMS 2249-F and CMS 2296-F.

Prior to the final rule, home and community based (HCB) setting requirements were based on location, geography, or physical characteristics. The final rules define HCB settings as more process and outcome-oriented, guided by the member's person-centered service plan by:

1. The setting is integrated in and supporting full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life,

control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.

2. The setting is selected by the individual from among various setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board
3. Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.
4. 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.
5. Facilitates individual choice regarding services and supports, and who provides them.

For Medicaid/Medi-Cal provider-owned or controlled HCB residential settings, the provider must offer:

6. The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.
7. Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors; individuals sharing units have a choice of roommates in that setting; and individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.
8. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
9. Individuals are able to have visitors of their choosing at any time.
10. The setting is physically accessible to the individual.

Any modification(s) of the new requirements can only be made in provider-owned or controlled settings and on an individual basis, supported by a specific and individually assessed need and justified in the person-centered service plan. Documentation of all of the following is required:

- Identification of a specific and individualized assessed need.
- The positive interventions and supports used prior to any modification(s) to the person-centered plan.
- Less intrusive methods of meeting the need that have been tried but did not work.

- A clear description of the condition(s) that is directly proportionate to the specific assessed need.
- Review of regulations and data to measure the ongoing effectiveness of the modification(s).
- Established time limits for periodic reviews to determine if the modification(s) is still necessary or can be terminated.
- Informed consent of the individual.
- An assurance that interventions and supports will cause no harm to the individual.

HCBS Programs in California Affected by the Final Rule

Program Responsibilities

California's HCBS programs, which are the focus of this Statewide Transition Plan (STP) are either directly administered or overseen by the Department of Health Care Services (DHCS) as the single state agency for Medicaid/Medi-Cal. However, several of the HCBS waivers and the 1915(i) State Plan program are administered jointly by DHCS and the State or local entity with program responsibility. Administrative teams comprised of employees from the State department/entity with program responsibility exist at DHCS, the California Department of Public Health (CDPH), the Department of Developmental Services (DDS), the California Department of Aging (CDA), and the San Francisco Department of Public Health (SFDPH). The SFDPH administers a HCBS Waiver program in accordance with terms of an Agreement with DHCS.

Existing 1915(c) HCBS Waivers and the corresponding State department/entity with program responsibility are as follows:

1. MSSP Waiver (0141), CDA, Long Term Care & Aging Services
2. HIV/AIDS Waiver (0183), CDPH, Office of AIDS
3. DD Waiver (0336), DDS, Community Services
4. ALW (0431), DHCS, Long-Term Care Division
5. HCB Alternatives Waiver (0139), DHCS, Long-Term Care Division
6. IHO Waiver (0457), DHCS, Long-Term Care Division
- 7.
8. PPC Waiver (0486), DHCS, Systems of Care Division

The existing 1915(i) State Plan Amendment (SPA) is administered by DDS and utilizes the same provider types as the HCBS Waiver for Persons with Developmental Disabilities (DD Waiver).

California's HCBS 1915(c), 1915(k), 1115 Waiver – CBAS Program, and 1915(i) State Plan Program

California currently has an approved 1915(i) State Plan program that allows the State to access federal financial participation for services provided to individuals with

developmental disabilities who do not meet the institutional level-of-care criteria required for participation in the DD Waiver, which is described in greater detail below.

California currently administers the following seven 1915(c) HCBS Waivers:

Note: Bold text indicates the HCB settings in which services are provided.

- *Multipurpose Senior Services Program (MSSP) Waiver.* The objective of this program is to provide opportunities for frail older adults to maintain their independence and dignity in community settings by preventing or delaying avoidable nursing facility placement. 38 MSSP sites perform Care management, which is the cornerstone of this waiver and involves beneficiary assessment; person-centered care planning; service arrangement, delivery and monitoring; and coordinating use of existing community resources. The waiver was approved on July 1, 2014 for five years, through June 30, 2019.

MSSP Waiver provider types include all of the following:

- **Adult Day Program**
 - Building Contractor or Handyman/Private Nonprofit or Proprietary Agency
 - **Congregate Meals Site**
 - Home Health Agency
 - Licensed/Certified Professionals
 - Private Nonprofit or Proprietary Agency
 - Registered Nurse
 - Social, Legal, and Health Specialists
 - Social Worker Care Manager
 - Title III (Older Americans Act)
 - Translators/Interpreters
 - Transportation Providers
- *HIV/AIDS Waiver.* The purpose of this waiver is to allow persons of all ages with mid- to late-stage HIV/AIDS to remain in their homes through a continuum of care designed to stabilize and maintain an optimal level of health, improve quality of life, and provide an alternative to institutional care in hospitals or nursing facilities. Services include, but are not limited to, enhanced care management, homemaker and attendant care services, nutritional counseling and supplements, psychotherapy, and non-emergency medical transportation. The current waiver was approved on January 1, 2017 for five years, through December 31, 2022.

HIV/AIDS Waiver provider types include all of the following:

- Building Contractor or Handyman
- Clinical Psychologist
- Specialized Medical Supplies
- Non-Emergency Transportation
- Foster Parent
- Home Health Agency
- Home Health Aide
- Homemaker
- Licensed Clinical Social Worker
- Licensed Vocational Nurse
- Local Pharmacy or Vendor
- Marriage and Family Therapist

- Master’s Degree Nurse; Psychiatric and Mental Health Clinical Nurse Specialist or Psychiatric and Mental Health Nurse Practitioner
 - Private Nonprofit or Proprietary Agency
 - Registered Dietician
 - Registered Nurse
 - Social Work Case Manager
 - Waiver Agency with Exception Approved by CDPH/Office of Aids
 - **Residential Care Facilities for the Chronically Ill**
 - **Foster Family Homes (Specialized)**
- *HCBS Waiver for Persons with Developmental Disabilities (DD Waiver)*. The purpose of this waiver is to serve individuals of all ages in their own homes and community settings as an alternative to placement in hospitals, nursing facilities or intermediate care facilities for persons with developmental disabilities (ICF/DD). Community-based services for individuals with developmental disabilities are provided through a statewide system of 21 private non-profit corporations known as Regional Centers. Regional Centers provide fixed points of contact in the community for persons with developmental disabilities and their families. The DD Waiver has been in operation since 1982 to assist in funding services for individuals who live in the community and who meet the ICF/DD level-of-care requirement. DD Waiver beneficiaries live in the setting of their choice, such as with their families, in their own homes or apartments, or in licensed settings. The proposed effective date of the current waiver application is October 1, 2017 for five years, through September 30, 2022.

DD Waiver provider types include all of the following:

- Adaptive Skills Trainer
- **Adult Residential Facility (CCF)**
- **Adult Residential Facility for Persons with Special Health Care Needs (CCF)**
- Associate Behavior Analyst
- Behavior Analyst
- Behavior Management Consultant
- Behavioral Technician/Paraprofessional
- Building Contractor or Handyman
- Camping Services
- **Certified Family Home; Foster Family Home**
- **Child Day Care Facility; Child Day Care Center; Family Child Care Home**
- Client/Parent Support Behavior Intervention Training
- Clinical Psychologist
- Contractor
- Creative Arts Program
- Crisis Intervention Facility
- Crisis Team – Evaluation and Behavioral Intervention
- Day-Type Services (**Activity Center, Adult Day Care Facility, Adult Development Center, Behavior Management Program, Community-Based Training Provider,**

Socialization Training Program; Community Integration Training Program; Community Activities Support Service)

- Dentist
- Dental Hygienist
- Dietitian; Nutritionist
- Dispensing Optician
- Driver Trainer
- Durable Medical Equipment Provider
- Facilitators
- **Family Home Agency: Adult Family Home/Family Teaching Home**
- Financial Management Services Provider
- **Group Home**
- Hearing and Audiology Facilities
- Home Health Agency
- Home Health Aide
- Independent Living Program
- Independent Living Specialist
- Individual (Landlord, Property Management)
- Individual or Family Training Provider
- In-Home Day Program
- Licensed Clinical Social Worker
- Licensed Psychiatric Technician
- Licensed Vocational Nurse
- Marriage Family Therapist
- Occupational Therapist
- Occupational Therapy Assistant

- Optometrist
- Orthotic Technician
- Parenting Support Services Provider
- Personal Assistant
- Personal Emergency Response Systems Provider
- Physical Therapist
- Physical Therapy Assistant
- Physician/Surgeon
- Psychiatrist
- Psychologist
- Public Transit Authority
- Public Utility Agency, Retail and Merchandise Company, Health and Safety Agency, Moving Company
- Registered Nurse
- **Residential Care Facility for the Elderly (CCF)**
- **Residential Facility – Out of State (CCF)**
- Respite Agency
- **Small Family Home**
- Social Recreation Program
- Special Olympics Trainer
- Speech Pathologist
- Sports Club, e.g., YMCA, Community Parks and Recreation Program; Community-Based Recreation Program
- Supported Employment
- Supported Living Provider
- Translator/Interpreter
- Transportation Provider
- Vehicle Modification and Adaptations
- **Work Activity Program**

- *Assisted Living Waiver (ALW)*. This waiver offers eligible seniors and persons with disabilities age 21 and over the choice of residing in either a licensed Residential Care Facility for the Elderly or independent Publicly Subsidized Housing (PSH) private residences with Home Health Agency services as alternatives to long-term institutional

placement. The majority of Publicly Subsidized Housing units serve low-income applicants, while a percentage of units are designated for ALW members. The goal of the ALW is to facilitate nursing facility transition back into community settings or prevent skilled nursing admissions for beneficiaries with an imminent need for nursing facility placement. Eight care coordinator agencies serving seven counties independently maintain wait lists. Please note, the San Francisco Community Living Support Benefit (SFCLSB) Waiver ended in 2017, and all SFCLSB Waiver participants were given the opportunity to transition to the ALW. The current waiver was approved on March 1, 2014 for five years, through February 28, 2019.

ALW provider types include the following:

- Care Coordination Agency
- Home Health Agency in Public Subsidized Housing
- **Residential Care Facility for the Elderly**
- **Adult Residential Facility**
- *Home and Community-Based Alternatives (HCB Alternatives) Waiver (previously titled Nursing Facility/Acute Hospital Waiver).. This waiver offers services in the home to Medi-Cal beneficiaries with long-term medical conditions, who meet the acute hospital, adult subacute, pediatric subacute, intermediate care facility for the developmentally disabled – continuous nursing care and Nursing Facility A/B levels of care with the option of returning and/or remaining in their home or home-like setting in the community in lieu of institutionalization. The current HCB Alternatives Waiver was approved on January 1, 2017 for five years, through December 31, 2022.*

HCB Alternatives Waiver provider types include all of the following:

- | | |
|---|---|
| ○ Behavioral Therapist | ○ Licensed Clinical Social Worker |
| ○ Durable Medical Equipment Provider | ○ Licensed Psychologist |
| ○ Employment Agency | ○ Licensed Vocational Nurse |
| ○ Congregate Living Health Facility | ○ Marriage Family Therapist |
| ○ Home Health Agency | ○ Non-Profit or Proprietary Agency |
| ○ Home Health Aide | ○ Personal Care Agency |
| ○ In-Home Support Services Public Authority | ○ Private Nonprofit or Proprietary Agency |
| ○ Intermediate Care Facility for the Developmentally Disabled – Continuous Nursing Care (LTC facility prior to March 2022) | ○ Professional Corporation |
| | ○ Registered Nurse |
| | ○ Waiver Personal Care Services Provider |

- *In-Home Operations (IHO) Waiver.* This Waiver was originally developed for those individuals who had been continuously enrolled in a DHCS administered waiver prior to January 1, 2002 and who primarily receive direct-care services rendered by a licensed nurse. This waiver offers services in the home to Medi-Cal beneficiaries with long-term medical conditions in their home or home-like setting in the community in lieu of institutionalization. The current waiver was approved on January 1, 2015 for five years, through December 31, 2019.

IHO Waiver provider types include all of the following:

- | | |
|---|---|
| ○ Associate Clinical Social Worker (ACSW) | ○ Licensed Psychologist |
| ○ Durable Medical Equipment Provider | ○ Licensed Vocational Nurse |
| ○ Employment Agency | ○ Marriage Family Therapist |
| ○ Home Health Agency | ○ Personal Care Agency |
| ○ Home Health Aide | ○ Private Nonprofit or Proprietary Agency |
| ○ In-Home Support Services Public Authority | ○ Professional Corporation |
| ○ Licensed Clinical Social Worker | ○ Registered Nurse |
| | ○ Waiver Personal Care Services Provider |

- *Pediatric Palliative Care (PPC) Waiver.* This waiver offers children with life limiting conditions a range of home-based hospice-like services while they maintain the option of receiving curative treatment. According to diagnosed need and an approved plan of care, services include: care coordination, expressive therapies, family training, individual and family caregiver counseling/bereavement services, pain and symptom management, personal care and respite care. The current waiver was approved on December 27, 2012 for five years, through December 26, 2017.

PPC Waiver provider types include all of the following:

- | | |
|--|-----------------------------------|
| ○ Agency Certified Nursing Assistant | ○ Home Health Aide |
| ○ Art Therapist | ○ Hospice Agency |
| ○ Associate Clinical Social Worker | ○ Licensed Clinical Social Worker |
| ○ Child Life Specialist | ○ Licensed Psychologist |
| ○ Congregate Living Health Facility | ○ Licensed Vocational Nurse |
| ○ Home Health Agency | ○ Masters Level Social Worker |
| | ○ Massage Therapist |
| | ○ Music Therapist |
| | ○ Registered Nurse |

1915(k) Community First Choice (CFC) – In-Home Supportive Services (IHSS). The goal of the IHSS program is to allow members to live safely in their private residence and avoid the need for out of home care. Services are provided in the members' private residence. This

could be a house, apartment, or the home of a relative. The members' private residence is the only setting in which CFC – IHSS may be provided. Members residing in a licensed, provider-owned/controlled residential setting may not receive CFC- IHSS services.

1915(k) CFC services include:

- Personal care services like dressing, bathing, feeding, toileting
 - Paramedical services like helping with injections, wound care, colostomy and catheter care under the direction of a licensed medical professional
 - House cleaning
 - Cooking
 - Shopping
 - Laundry
 - Accompaniment to and from medical appointments
- *1115 Community-Based Adult Services Program (CBAS)*. See **Attachment I** of the STP for details.

Monitoring and Oversight Process

In keeping with state laws and regulations, and CMS approved Waiver and State Plan commitments, California's HCBS programs currently conduct periodic reviews of their care-management entities, providers, and residences of program members. Prior to implementation of the HCB Settings Final Rule, HCBS programs were required to conduct site visits to monitor and assess federal assurance compliance. Among the activities conducted during these on-site visits are member record reviews, member and staff interviews, home visits, person-centered plan review, and special incidents review,

In order to assess current settings and ensure ongoing compliance with the HCB Setting Final Rule, the State has expanded its current processes to include activities that will ensure compliance with the Final Rule, and remediation strategies to achieve compliance in the event a setting does not meet the HCB criteria. The state has developed an at-a-glance view of California's monitoring and oversight process demonstrating each programs approach to on-site assessments and compliance with the HCB Settings Final Rule (see **Attachment VI – Setting Assessment Process**).

Private Residences Presumed to be in Compliance

CMS issued home and community-based (HCB) settings regulations which define HCB settings based on individual experience and outcomes with the purpose of maximizing the opportunities for members receiving Medicaid HCB services to receive those services in integrated settings. In formulating a plan to implement these regulations, California has

determined that the following types of non-provider owned or controlled private residential settings qualify as HCB settings:

1. Private residences owned, leased or rented by the member, a relative of the member, a conservator, or any other individual legally authorized to represent the member.
2. Private residences may take a variety of forms provided they still afford members with access to the community as required by the new HCBS definitions. A private residence may be a single family home, apartment, rental unit or any other space in the greater community.
3. Private residences where the member pays for part or all of the lease costs with the assistance of federal, State, or local funding. Examples include:
 - Affordable Housing Apartment Complexes funded by a combination of Low Income Tax Housing Credits, California State Housing and Bond initiatives, Housing and Urban Development, City and County local and federal funds, and bank financing, where residential eligibility is income based.
 - Housing and Urban Development (HUD) Section 8 Housing Choice Vouchers, which can be used to pay for housing anywhere that accepts vouchers. This includes the Medi-Cal partnership with the Housing Authority of the City of Los Angeles (HACLA), for section 8 vouchers for Medi-Cal seniors residing in skilled nursing facilities (SNFs) who would like to return to the community. All units must meet the applicable Housing Quality Standards (HQS) set forth in 24 C.F.R. § 982.401.
 - HUD Non-Elderly Disabled Vouchers, which can be used by disabled individuals to live in any residence of their choice that accepts these vouchers. These vouchers do not require that the residences are limited to disabled residents. All units must meet the applicable Housing Quality Standards (HQS) set forth in 24 C.F.R. § 982.401.
 - HUD Shelter Plus Care and Continuum of Care Vouchers, issued to people experiencing homelessness. This program provides case management supportive services to the homeless but do not require the residence be restricted to the homeless. All units must meet the applicable Housing Quality Standards (HQS) set forth in 24 C.F.R. § 982.401. All units must meet the applicable Housing Quality Standards (HQS) set forth in 24 C.F.R. § 982.401.
 - HUD Section 811 Project Rental Assistance Demonstration Program. For this program, no more than 25% of the units can be set-aside for 811 tenants,

which results in a mix of tenant types. All units must meet the applicable Housing Quality Standards (HQS) set forth in 24 C.F.R. § 982.401.

- Veterans Affairs Supportive Housing vouchers issued to homeless veterans and disabled veterans to help them pay for housing.
- Veteran Housing and Homeless Prevention Program, which acquires, constructs, rehabilitates and preserves affordable multifamily housing for veterans and their families.
- HUD Section 202 Senior Housing rent subsidies for very low-income households with at least one person who is at least 62 years old.
- LA Department of Health, Housing for Health, rental subsidies and supportive services for persons who are homeless, for use in a variety of community-based housing options such as non-profit owned supportive housing with units dedicated to serving homeless individuals and/or families, long term leases of privately owned buildings, and scattered site housing units rented from private landlords.

Consistent with CMS' HCB settings rules, California presumes that these non-provider-owned or controlled private residential home settings qualify as HCB settings. The members realize the benefits of community living, including opportunities to seek employment and work in competitive integrated settings. The State presumes these settings do not isolate the member from the broader community, and do not have the characteristics of an institution. These settings do not control the personal resources of the member, or utilize interventions or restrictions that exist in institutional settings.

HCB Settings will be determined compliant through existing monitoring and oversight practices, if the individual's person-centered service plan addresses their unique needs and the required setting characteristics. If it is discovered through the course of normal reviews that an individual's person-centered service plan does not address an individual's unique needs for HCB Setting qualities and a setting is non-compliant, members will have access to: 1) compliant settings, 2) settings of their choice, and 3) not lose federally funded HCBS while waiting for compliant settings; via standard corrective action processes which typically last 60 days but are no longer than 90 days. Only when a setting, including a private residence, does not fully demonstrate HCB Settings remediation on the 90th day will an individual have to choose between:

- 1) Remaining in a non-compliant setting and loss of HCBS with referrals to other services, or
- 2) Relocating to a compliant setting with continuity of HCBS. Relocation to a complaint setting may take an additional 90 days in which case, a member will continue to have access to HCBS.

In the event of conflict between the final rule and additional guidance issued by CMS, the final rule will solely be followed.

Individuals living in these settings, or utilizing the described subsidies or vouchers to pay for rent in non-provider owned and controlled dwellings, personally select their homes that include non-disability specific settings and options for a private unit in a residential community setting. The individual decides whether or not to share a room with a person of their choice. Residents in these settings who are receiving HCB services are treated with the same respect and dignity as persons not receiving HCB services. The settings do not restrict the member from interaction with other non-disabled people or other persons with disabilities in the broader community. These settings do not restrict the member's independence in making life choices. The settings do not restrict the member's choice of HCB services and supports or who can provide those services.

Notably, California law governs all of these private residences in ways that makes them meet the minimum qualifications for HCB settings. Residential rental agreements are subject to fundamental Code limitations. Several provisions in residential rental agreements are deemed invalid as contrary to public policy and, if included, will be unenforceable. These statutory limitations demonstrate the legislative recognition of the unequal bargaining power historically typifying residential landlord-tenant relationships. The codes help prevent the unknowing signing away of valuable rights by tenants who may not fully understand the rental agreement. (*See Jaramillo v. JH Real Estate Partners, Inc.* (2003) 111 CA4th 394, 402-403.) A member living in these settings has a legally enforceable agreement for the housing which ensures the member's rights of privacy, dignity and respect, and freedom from coercion and restraint. Residential rental agreements cannot waive or modify any of the following tenant rights:

- Tenant's right to return of security deposit under Civil Code sections 1950.5(m) and 1953(a)(1);
- Tenant's right to protection under the implied warranty of habitability under Civil Code section 1942.1;
- Tenant's statutory protection against "retaliatory eviction" by the landlord under Civil Code section 1942.5;
- The tenant's right to have the landlord exercise a lawfully-imposed duty of care to prevent personal injury or property damage, under Civil Code section 1953(a)(5);
- Statutory limitations on the landlord's right to access the rented unit during the lease term under Civil Code § 1953(a)(1). The rights of a Landlord to enter a dwelling are limited to certain conditions under Civil Code section 1954;

- Tenant’s right to assert a cause of action against the landlord under Civil Code section 1953(a)(2);
- Tenant’s right to legally-required notice and hearing, including three or 30/60-day notice to terminate the tenancy, filing of a response to an unlawful detainer complaint, and an unlawful detainer trial, under Civil Code section 1953(a)(3) and (4). The non-waivable right to three-day notice also applies to federally-subsidized (HUD) rental housing. In federally-subsidized “Section 8” housing, landlords are required to give 90 days’ written notice under Civil Code section 1954.535 and specify “good cause” to evict. In rent control jurisdictions, some form of “eviction control” restricts the grounds upon which tenancies may be terminated. Some local controls are quite extensive and others very selective.
- A landlord must allow a tenant with a disability to make reasonable modifications to the rental unit to the extent necessary to allow the tenant “full enjoyment of the premises.” (Civil Code § 54.1(b)(3)(A).)
- Landlords of “buildings intended for human habitation” must install dead bolt locks on each “main swinging entry door of a dwelling unit” and exterior doors that provide ingress or egress to common areas with access to dwelling units in multifamily developments (Civil Code § 1941.3(a).) Any dwelling unit which lacks a proper lavatory or kitchen sink, bathtub shower, or less room or space dimensions than required by code, to an extent that endangers the life, limb, health, property, safety, or welfare of the occupant, is deemed substandard. (Health & Safety Code § 17920.3) “Dwelling unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. (Civil Code § 1940(c).) Landlords are responsible for installing at least “one usable telephone jack” and the placement, maintenance and repair of inside telephone wiring “in good working order.” (Civil Code § 1941.4.)
- A residential rental agreement compelling binding arbitration of disputes over a tenant’s rights or obligations falls within the section 1953(a)(4) bar, and thus is void, because inherent in an arbitration agreement is the waiver of any right to a jury trial. (*Jaramillo v. JH Real Estate Partners, Inc., supra*, 111 CA4th at 403-404.)
- As a matter of state constitutional law, a contractual provision waiving the right to a jury trial in advance of pending litigation is unenforceable because it is not one of the ways the Legislature has directed that a jury may be waived. (Cal. Const. Art. I, § 16; Code of Civil Pro. § 631(d)).
- The California Fair Employment and Housing Act effectively makes protection from unlawful housing discrimination a non-waivable tenant right. (Gov. Code §§ 12920, 12955; *see also* Gov. Code § 12921(b).)

Other Residential Settings

The State presumes private residences meet the HCB settings requirements and are deemed in compliance. However, as required by CMS, California will assess residential setting types that are not identified above as presumed compliant, including private homes in which the individual receives services from an unrelated caregiver who is also the homeowner. The State will not disallow settings with disability-friendly and supporting amenities and programmatic aspects. The Final Rule states that disability-specific housing and congregate settings are permissible, and that there is no singular definition of home- and-community based. HCBS recipients will be able to choose from all residential settings, including those designed specifically for HCBS recipients, that meet the HCB Settings requirements by March 2022.

California's Statewide Transition Plan

This STP identifies the framework and strategy for achieving and maintaining compliance with the federal requirements for HCB settings in California. The STP and related information can be found at:

<http://www.dhcs.ca.gov/services/ltc/Pages/HCBSStatewideTransitionPlan.aspx>.

California's HCBS waiver and 1915(i) State Plan program differ significantly in the populations they serve, their size and complexities, and their statutory and regulatory structures, among other differences. The largest and most complex are the DD Waiver and the 1915(i) State Plan program, where the programs serve approximately 130,000 members in the provision of a vast array of residential and nonresidential services that are separately licensed and/or regulated. Participation in the DD Waiver is not required to access the State's full array of available developmental services. Providers are not separately identified for DD Waiver or 1915(i) State Plan program purposes; therefore, all providers potentially utilized for HCBS must be in compliance with the HCB setting requirements. For the developmental services system over 300,000 members, are potentially affected by the new requirements.

This STP identifies at a high level the commitments and requirements that each of the eight HCBS waivers, 1915(i) and 1915(k) State Plan programs, and 1115 waiver will meet. The specific approach and details of each program's transition process will reflect the input and guidance of the particular program's stakeholders, and the unique structure and organization of the program itself. The complexity of each task will vary significantly across programs.

Resources to address and implement the many changes necessary to be in compliance with the regulations are and will continue to be limited. When resources are needed, they must be raised and vetted through the annual legislative budget process, which only allows for

new resources prospectively, typically in the upcoming state budget year. Therefore, careful thought and analysis must go into every aspect of implementation in an effort to achieve compliance as cost effectively as possible. Since program systems and processes have long been established in California, standard processes will be considered for modification to bring about and ensure ongoing compliance, such as revising existing monitoring and oversight protocols to incorporate the regulatory requirements, utilizing available data, such as the National Core Indicator (NCI) and expanding existing complaint and appeal processes to allow for member and/or provider due process when disputes arise.

Stakeholder Input

To achieve compliance, California will strongly emphasize inclusive stakeholder processes that analyze and guide implementation. Essential involvement will come from members. Their input concerning how they experience community inclusion and freedom of choice will be critical for system changes and implementation strategies. Also essential is provider input. Providers are the backbone of the system, ensuring that services and choices are available to members. How the regulations are implemented may affect the viability of providers as sustainable businesses. Stakeholder processes will also include entities and experts who are impacted by, or are knowledgeable about, the various topics, particularly, the California Department of Social Services as the licensing agency (Community Care Licensing [CCL]) for many of the HCB settings.

As the State continues this process, stakeholder input will evolve over time as implementation phases progress, as described below. With the stakeholder input, specificity will be added and/or modifications will be made to the various components identified in the STP.

Following is a summary of California's efforts to elicit stakeholder input and subsequent comments received to date on the STP. Please note: the Revised Draft CBAS Home and Community-Based (HCB) Settings Transition Plan details a separate stakeholder engagement process.

DHCS posted the first STP draft to the DHCS website on September 19, 2014, followed by a 30-day stakeholder input period, and the second STP draft on November 7, 2014, followed by another 30-day stakeholder input period. In addition, DHCS posted general public interest notices about impending public comment periods and meetings regarding development of the STP in the California Regulatory Notice Register on March 3, 2014 and April 25, 2014. The Register is available in print at public libraries as well as other public places. DHCS also posted a general public interest notice to inform stakeholders of a conference call on July 13, 2015, to discuss the revisions made to the STP, as well as to discuss comments received on the On-Site Assessment Tools and Provider Self-Survey Tools. Other notices were sent by the individual departments with responsibility for specific waivers; e.g., CDPH communicated directly with HIV/AIDS Waiver stakeholders; CDA with MSSP sites and CBAS centers; and DDS with Regional Centers.

DHCS received CMS feedback on the previously submitted STP on November 16, 2015. The letter can be found at: <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/ca/ca-cmia.pdf>. CMS hosted a series of conference calls with the State to discuss CMS feedback and clarify the STP requirements outlined in the letter. The current STP draft, which addresses CMS' requirements, was posted to the DHCS website on August 29, 2016 for public review and input. DHCS published a notice in the California Register on August 26, 2016, informing the public of a 30-day STP public comment period. Public comment was analyzed and incorporated into the STP, and is summarized in **Appendix A**. DHCS also hosted a stakeholder conference call on September 27, 2016, to discuss revisions to the STP and respond to questions or concerns.

Implementation of the HCB Setting Requirements

Following is a description of the various phases of implementation that California will undertake to achieve compliance with the HCB setting requirements. California will move forward concurrently with many of the components listed below. As described previously, the details of implementation will vary significantly across the HCBS Waiver, 1915(i) and 1915(k) SPAs, and 1115 Waiver, program and be integrally guided by stakeholders. As remedial strategies are solidified, actions and timelines will be identified to track progress against objectives based on resources available.

Consistent with the above, additional State resources must be requested via the State legislative and budget processes. To ensure awareness of these needs, staff from the California Department of Finance and the State Legislature are invited to attend ongoing stakeholder meetings.

Education, Outreach, and Training

As an important early step, information and education on the requirements of the HCB setting requirements and the regulations generally has been provided to State departments/entities, members and families, care-coordination agencies, regional centers, providers, advocacy groups and other interested stakeholders throughout the State on a continuous and ongoing basis. California has used website postings, conference calls, webinars, and public hearings as methods for getting information about the Final Rules widely disbursed. Additionally, all affected parties will be informed of the ongoing methods for providing input, being involved and staying informed as implementation progresses. Ongoing communication methods will be developed with stakeholder input. DHCS will coordinate with sister departments to produce and disseminate additional outreach and educational materials as needed to continuously update and provide information to the public.

California is utilizing several methods for communicating information about the HCBS rules and how the state's transition plan assures their effective implementation. Major efforts include:

- Developing and widely disseminating general informational fliers to members and their families, providers, managed care plans, regional centers and other care coordination agencies, as well as the broader communities where members live and the general public.
- Conducting webinars and face-to-face or online training sessions specifically tailored to members and their families, providers, and care coordination agencies.
- Regularly posting and updating informational documents and FAQs about the HCBS rules on department websites.
- Seeking ongoing input from stakeholder groups convened by the several departments.
- Providing program policy and operational instructions through official correspondence, provider bulletins and regulatory changes.

The initial rollout of these education and outreach activities is taking place through fourth quarter 2018. As various aspects of HCBS implementation proceed throughout 2019 and 2020, California will continuously update and disseminate information through department websites, official correspondence, advocacy groups and HCBS Advisory Committees. Feedback and comments from the various stakeholders will validate the efficacy of the state's outreach and training strategy.

Systemic Assessment of Statutes, Regulations, Policies and Other Requirements

DHCS and the State departments/entities responsible for operating each HCBS Waiver, 1915(i) and 1915(k) State Plan programs, and 1115 Waiver reviewed and analyzed the applicable statutes, regulations, and policies governing residential and nonresidential HCB settings to determine the extent to which they comply with federal regulations. Departments requested stakeholder participation for input into the systemic assessment process to determine whether each standard is in compliance, out of compliance or whether the standard is silent on the federal requirement. Beginning early in 2015 the State engaged assistance from stakeholders who are required to adhere daily to California law, program regulations, and program policies.

Each department convened stakeholders via webinar, teleconference, and/or face-to-face meetings, and encouraged stakeholder input either directly during the meetings, by email, USPS mail, and telephone. Stakeholder involvement in review and analysis of statutes, regulations, and policies varied by program. For example, the sheer number of residential and non-residential HCB settings available to persons with developmental disabilities through the HCBS waiver and State Plan benefits required an extensive process to consider, deliberate, and validate existing State standards and policies.

The initial draft systemic assessment process was completed July 1, 2015, and following incorporation of public input, finalized August 6, 2015. To address issues CMS identified in the systemic assessment in its letter dated November 16, 2015, the State reexamined its

findings. During a series of meetings among the State departments, and as a result of discussions with CMS teams, updates have been made to the August 6, 2015 version. The State completed additional systemic assessment revisions on June 30, 2017. The revised systemic assessment indicates where specific programs will take action to bring their statutes, regulations and policy documents in conformance with the federal requirements. Given the amount of time required to effect statutory or regulatory changes in California, programs will develop and implement any needed changes by the first quarter of 2021.

A revised summary of results including hyperlinks to applicable statute, regulations, policies and other source documents can be found in **Appendix B**. Please note that the systemic assessment is an indication of compliance, but does not preclude settings from further compliance determination processes, such as Provider Self-Surveys, Beneficiary Self-Surveys, and On-Site Assessments.

The State believes there is opportunity to implement policies and strategies in alignment with the HCB Settings Final Rule that will enhance and strengthen existing local practice during the upcoming legislative cycle. The Department of Developmental Services is considering what, if any, statutory changes may be needed to allow for the department to administer and release timely and appropriate policies for implementing STP activities.

Compliance Determination Process for HCB Settings

The State departments/entities will be responsible for ensuring appropriate provision of HCBS by all providers that serve, or may serve Medi-Cal members. California's assessment of HCBS providers will involve several distinct sets of activities that will feed into one another. All of these activities require large amounts of data in the planning stages, and will produce similar amounts of data needed for ongoing operations, program reporting to state management and CMS, and evaluation and program improvement. Some of the initial types and sources of data include member eligibility files, provider certification and payment files, program administration files, sampling, selection criteria, and validation protocols.

Following is the listing of HCB settings that have been assessed [see page numbers below] through the systemic assessment process for inclusion in the compliance determination process:

- Adult Day Program [Pg. 58]
- Adult Family Home/Family Teaching Home [Pg. 68]
- Adult Residential Facility - Assisted Living Waiver [Pg. 93]
- Adult Residential Facility; Adult Residential Facility for Persons with Special Health Care Needs; Residential Care Facility for the Elderly; Group Home; Small Family Home – HCBS Waiver for Californians with Developmental Disabilities and 1915(i) State Plan [Pg. 108]
- Certified Family Home; Foster Family Home [Pg. 133]
- Child Day Care Facility; Child Day Care Center; Family Child Care Home [Pg. 156]

- Community-Based Adult Services [See **Attachment I** - Community-Based Adult Services Program Transition Plan – Appendix V]
- Congregate Living Health Facility [Pg. 173]
- Congregate Meal Site [Pg. 186]
- Day-Type Services (Activity Center, Adult Day Care Facility, Adult Development Center, [Pg. 196]
- Residential Care Facility for the Chronically Ill [Pg. 218]
- Residential Care Facility for the Elderly - Assisted Living Waiver [Pg. 240]
- Work Activity Program [Pg. 254]

The first set of activities centers around provider self-surveys of their existing operations compared to the new requirements in the federal regulations. DHCS and State departments have developed an agency-wide core Provider Self-Survey Tool, which will be forwarded to all HCB settings for completion. The Residential and non-Residential Provider Self-Survey Tools are found in **Attachment IV and V**, respectively. The core survey tool may be modified, including guidance and instructions, to address specific provider types and programs. Additionally, care management entities will complete a survey to demonstrate their compliance with the Final Rule, and to ensure they meet person-centered planning requirements.

The different HCBS programs may use both electronic and mail distribution processes to send the survey instruments and guidelines to providers. Additionally, California will host training webinars on the provider self-survey process and expectations, and will post follow up information on program websites. The survey distribution and training processes generally will begin the third quarter of 2017 and continue through the fourth quarter of 2018 (See **Attachment VII** - Statewide Transition Plan Milestones and Timeline for detailed timeline).

Depending on provider type, providers will have up to 60 days to complete and return their self-surveys. Programs will follow up with providers with reminder emails and phone calls. The outcome for not completing and returning the Provider Self-Survey varies by provider type. Some settings that fail to complete and return the Provider Self-Survey will be subject to an on-site assessment. Other settings such as CBAS require the Provider Self-Assessment to be completed as part of the certification renewal process and failure to do so could result in their not being re-certified. Completion of provider self-surveys is targeted for the fourth quarter of 2018, except for programs such as CBAS which is integrating the provider self-surveys with other information required in preparation for their biennial certification visits through 2019. See **Attachment VII** - Statewide Transition Plan Milestones and Timeline for detailed timeline.

Program staff, or care coordination agencies and regional centers, will analyze returned self-surveys and identify them according to whether or not they meet the CMS readiness criteria. As appropriate, departments may review returned Provider Self-Surveys to

validate results and promote consistency in determinations. Providers whose self-surveys do not indicate that they fully meet the criteria will be further categorized by the type and level of remediation needed to achieve compliance. Those needing corrective action through technical assistance (e.g., documenting procedures, staff training on the new requirements, reiterating rights and responsibilities to members and their representatives, etc.) will implement corrective action, monitored by program staff, care coordination agencies and regional centers. Those needing more extensive corrective action may be scheduled for on-site assessments.

Secondly, surveys of members will pose non-threatening questions to effectively elicit members' thoughts and feelings about the HCBS they receive, their ability to actively participate in life decision making, and any problems they encounter. Member survey instruments also need to be tailored to the several different types of populations receiving HCBS—the elderly; persons with developmental disabilities, cognitive impairments, or mental illness; the physically disabled; AIDS patients; children needing palliative care in addition to treatment for acute diseases.

DHCS will develop Member Survey core questions and elicit feedback from advocates and stakeholders prior to finalizing the survey. These core questions will be incorporated in existing policies and procedures used by the various programs for member interviews, service planning, and complaint investigations.

Conducting member surveys will take many different forms through the second quarter of 2019. To avoid confusion and to assure the consistency and reliability of member input, California will not distribute member surveys in mass through the mail or electronic media. Instead HCBS programs will conduct face-to-face interviews with members or their authorized representatives as often as possible. For example, HCBS programs which use periodic recertification of member eligibility or reassessment of need for services may add the core questions to their recertification or reassessment processes. Programs which make on-site visits to HCBS providers or to member homes may interview members during these visits. Complaint investigations will include the opportunity to ascertain how members see their ability to access community resources.

Since many members receive HCBS from more than one provider, the focus will be on the HCBS provider(s) with which the member resides or spends a significant amount of time (i.e., 4 hours) on a regular basis. Member input can be linked to identified providers through each program's system for storing provider information.

In addition to corroborating information garnered from provider self-surveys and on-site assessments, member input will play an essential role in quality assurance and program

improvement efforts. Its impact is felt in the scope and duration of HCBS that programs offer, the types and qualifications of providers used, and how services are financed.

On-site assessments are the litmus test for ascertaining provider compliance with the federal settings requirements. These assessments will confirm compliance or identify areas for remediation. DHCS and State departments have developed an agency-wide core On-Site Assessment Tool, for use in the On-Site Assessments of HCB settings. The Residential and non-Residential On-Site Assessment Tools are found in **Attachment II and III**, respectively. The core assessment tool includes questions that relate to each new federal requirement that will be used to determine if the HCB setting meets or does not meet the required federal rule. The core assessment tool may be modified to address specific provider types, including guidance and instructions, and will become the assessment tools utilized by the appropriate State departments/entities administering the program.

The responsibility for ensuring completion of On-Site Assessments rests with the State department/entity responsible for the program as specified under “HCBS Programs in California Affected by the Final Rules” section of this document. On-Site Assessments will be conducted by a survey team that includes, but is not limited to, representation from any or a combination of the following: State personnel, case managers or other representatives of case management entities, and licensing entities.

Depending upon the HCBS program’s size and diversity of provider types, the selection of providers for on-site assessments can be done on the basis of several factors that may include:

- Statistically valid samples
- Annual or biennial regularly scheduled site visits for licensing or certification purposes
- The responses to the provider self-surveys, member input, and other factors like staff’s knowledge of provider operations, including a history of site visits, complaints, and corrective actions
- The provider’s location being on or adjacent to institutional settings.

On-Site Assessments and Member Surveys will be used to validate Provider Self-Surveys for a sample of settings by provider type category. In the event that the results of a Provider Self-Survey differ from information gathered through validation activities, an in-depth review will occur to determine the reason for the discrepancy and identify the appropriate course of action, which could include, but not be limited to additional provider education, surveying additional members, or an additional On-Site assessment. Similarly, if a general pattern of Provider Self Survey and validation discrepancy is found across a provider type category, the State will conduct an in-depth review to identify the source of the discrepancy. Follow-up actions in this case could include, but not be limited to increasing the number of planned On-Site Assessments and Member Surveys to validate the

results of the Provider Self Surveys. On-Site Assessments and Member Surveys will be ongoing until remedial strategies are identified and implemented. On-Site Assessments and Member Surveys will be incorporated into ongoing monitoring protocols as a part of existing processes.

There are HCBS providers which may serve members from several different HCBS programs. To ensure consistency and avoid duplication of effort, the program which has primary responsibility for monitoring and oversight of the providers will conduct any necessary on-site assessments. Other programs may rely on the findings of the responsible agency as to the providers' compliance with the federal requirements.

Like the analysis of provider self-surveys, on-site assessments will determine if a specific provider is in compliance with the federal settings requirements, or needs to implement corrective action to achieve compliance. The written results of each On-Site Assessment will be forwarded back to the HCB setting with specific information regarding improvements that will be required in order for the setting to come into compliance with the federal requirements and a timeline for completion. Remedial actions will be developed to include timelines, milestones and a description of the monitoring process to ensure timelines and milestones are met. Follow up of the compliance issues will be the responsibility of the administering State department/entity. Completed assessments, including documentation of any required follow-up actions as a result of the On-Site Assessments, will be maintained by the appropriate department

The following is a count of settings to be assessed through 100% On-Site Assessments, by program:

Multipurpose Senior Services Program: Total settings = 41 with 100% validation.

Adult Day Program – 33
Congregate Meal Sites – 8

Community Based Adult Services Program:

CBAS Centers - 240 with 100% validation.

HIV/AIDS Waiver:

Residential Care Facilities for the Chronically Ill – 4 settings with 100% validation.

All providers of services in the settings below will be required to complete a provider self-survey. Additionally, a statistically valid sample (with no less than a 95% confidence level and no more than a 5% margin of error) of providers within the categories below will be selected for an on-site assessment. Sample sizes were calculated using the Raosoft Sample Size Calculator. The sample within each category will be representative based on the types of services within each category and geographically. The total number of settings as well as the statistically valid number of settings that will receive on-site assessments is reflected below.

Assisted Living Waiver: Total settings = 245; sample size is 150.

Residential Care Facility for the Elderly - 239

Adult Residential Facility - 6 settings

HCB Alternatives Waiver:

Congregate Living Health Facility - 54 settings, sample size is 48.

DD Waiver and 1915i State Plan:

Residential – Total settings = 6,363; sample size is 363

- Adult Family Home – 1,209
- Family Teaching Home - 14
- Adult Residential Facility/Adult Residential Facilities for Persons with Special Health Care Needs - 4773
- Certified Family Home/Foster Family Home/Small Family Home - 146
- Group Home - 134
- Residential Care Facility for the Elderly - 87

Child Day Care – Total settings = 512; sample size is 220

- Child Day Care Facility/Child Day Care Center/Family Child Care Home - 512

Day-Type Services – Total settings = 1,891; sample size is 320

- Activity Center - 139
- Adult Day Care Facility - 37
- Adult Development Center - 638
- Behavior Management Program - 344
- Community-Based Training Provider - 3
- Socialization Training Program - 124
- Community Integration Training Program – 488
- Community Activities Support Service – 118

Work Activity Programs – Total settings = 107; sample size is 84

The State recognizes the need for reasonable and sound methodology(ies) early in the assessment design and implementation process. Given stakeholder comments on the need for a vendor to perform these functions, the State is evaluating how to implement these provisions of the plan.

The final report of the compliance determination process will detail the number of HCB settings that are fully compliant with the requirements, partially compliant with the requirements and will require modifications, cannot meet the requirements and require withdrawal from the program, and the number of settings that require going through the heightened scrutiny process. Once completed, this report will be included in an updated STP.

Heightened Scrutiny Process

The State must identify settings that are presumed to have institutional qualities. These settings include those that: are in a publicly or privately-owned facility that provide inpatient treatment; are on the grounds of, or immediately adjacent to, a public institution; or settings that have the effect of isolating individuals receiving Medi-Cal funded HCBS services. Settings that have one or more of these characteristics must be approved by CMS to continue to receive Medi-Cal HCBS funding. The State must demonstrate, through evidence presented by the State and public input, that the setting meets the HCB setting requirements.

Settings that may have the effect of isolating HCBS members are settings designed to provide members with multiple types of services and activities on-site, including housing, day services, medical, behavioral and therapeutic services, and/or social and recreational activities. These settings provide little or no interaction with the broader community and use interventions or restrictions that are used in institutional settings. The State will identify specific characteristics of settings that tend to isolate through a stakeholder engagement process.

Using Provider Self-Surveys, On-Site Assessments and other monitoring activities, Member Surveys and stakeholder input, the State will identify settings that are in publicly or privately owned facilities that provide inpatient treatment; are on the grounds of, or immediately adjacent to, public institutions; or have the effect of isolating individuals receiving Medi-Cal funded HCBS services. These settings will be required to submit evidence to the State to demonstrate how they have the qualities of HCBS, which the State will then review and submit to CMS if the setting is believed to overcome the institutional presumption. The evidence should focus on the qualities of the setting and how it is integrated in and supports full access to the community. Specific evidence to be submitted may include:

1. Licensure requirements or other state regulations that clearly distinguish a presumed institutional setting from licensure or regulations of institutions;
2. Provider qualifications for staff employed in the setting that indicate training or certification for HCBS, and that demonstrate the staff is trained specifically for HCBS in a manner consistent with the HCB setting requirements;
3. Procedures that indicate support for activities in the greater community according to the individual's preferences and interests; and
4. Description of the proximity to avenues of available public transportation or an explanation of how transportation is provided when desired by the member.

All settings submitted for heightened scrutiny must complete a Provider Self-Survey and will be subject to an On-Site Assessment where Member Surveys will be conducted. The State's heightened scrutiny review process will consist of:

- A review of evidence provided by the setting;
- A review of the setting's policies and services;

- An on-site visit and an assessment of the physical characteristics;
- A review of policies and procedures governing person-centered plan development and implementation;
- Member interviews and observation;
- Collection of evidence to submit to CMS in order to overcome the institutional presumption.

The State must determine, using input from the public, members, stakeholders, and providers whether or not it believes the setting overcomes the institutional presumption. The evidence required to overcome institutional presumptions must be submitted to the settings' contractor (e.g. care coordination agencies or regional centers) within forty-five (45) days of its identification for the heightened scrutiny process. The contractor will review the evidence submitted, follow up with the setting for any necessary documentation, and make a recommendation to the corresponding State agency overseeing the program. The State agency will review the evidence, follow up with the contractor to request missing documentation, and recommend to DHCS a compliance determination. DHCS will review evidence and recommendations and will follow up if necessary with an On-Site Assessment and Member Survey to ensure all necessary information is obtained before making a determination of whether or not the setting overcomes the institutional presumption.

The State will work with settings when necessary to develop remediation strategies and timelines specific to each setting to achieve full compliance with the final rule. In the event that a setting cannot achieve compliance with the HCB settings rule, the transition of members will be conducted as described under the STP section "Changes in Services or Providers for Members."

Changes in Members' Services or Providers

Currently California's HCBS programs have policies and procedures, which allow for changes in members' services or providers. These changes may occur due to several factors including:

- Changes in a member's need for specific types or intensity of services
- The member's selection of different service options available to meet needs
- The member's dissatisfaction with a provider's services or personnel
- Changes in a provider's staffing, hours of operation, or location
- Provider closure
- Provider withdrawal or suspension from the Medi-Cal program

Written notification to the member and the provider is given at least 30 calendar days in advance of the effective date of the change, identifying the specific reason(s) for the change. This notification also informs the member of their right to a fair hearing under Medi-Cal, including Aid Paid Pending if timely requested.

The initial steps in addressing the impending change include reviewing the member's person-centered service plan; reevaluating the goals and objectives, needs, preferences and choices of the member; and identifying the options available. The person-centered service plan meeting would include the member and his/her choice of participants including, but not limited to, involved family members, conservators, authorized representatives, advocates, the care management agency or regional center coordinator, and provider staff who know the member well. To ensure a smooth transition from one provider to another, a transition plan outlining the specific transition activities, including any necessary supports and services needed to ensure a successful and person-centered transition, is incorporated into the person-centered service plan.

When one of California's HCBS programs determines that a setting is not in compliance with the HCB settings requirements, the first order of business is the setting's development of a workable remediation plan to come into full compliance with the HCBS Settings Rules over a reasonable timeframe. However, if the provider owned and operated residence or day program provider cannot come into compliance with the HCBS Settings Rule by March 2022, the program will initiate its policies and procedures to transition, if possible, affected members to compliant settings so they can continue to receive federally funded HCBS.

When choosing provider owned and operated residences, members have the opportunity to explore integrated living options that match their identified service and support needs and choices. Considerations may include:

- Exploring the variety and types of community living options currently available (e.g., non-disability settings, supported living, small group homes, family home agencies)
- Proximity to services in the community
- Employment opportunities
- Needed medical services

Until California completes the process of assessing provider settings and determines appropriate remediation plans, it cannot estimate the number of individuals that may need to be transitioned eventually to other settings.

Milestones and Timeline

In order to illustrate the variety of compliance determination activities the State has performed, or will perform, California has developed a comprehensive milestones and timeline document for stakeholders to reference. It provides a convenient view of the milestone activities described in detail throughout the STP, and their associated timelines for completion (see **Attachment VII**).

Role of Person-Centered Planning

Even though implementation of the new federal regulations affecting the person-centered service planning process is not technically part of this STP, person-centered service planning is inextricably linked to the HCB setting requirements. The State department/entity responsible for program administration will use a stakeholder process to evaluate the role of person-centered service planning as it relates to determining compliance with the federal regulations, assessing member satisfaction with the setting options, and other possible community integration issues. Strategies may be developed to utilize information from the person-centered service planning process to improve service delivery under the federal regulations.

Public comment supports the idea of the State's understanding regarding home-like and community integration within a persons' individual plan of care and basic civil right. DHCS believes community is not the mere physical presence of other buildings and people. It includes a safe and purposeful environment where individuals have needed support and safety, and the greatest freedom to live productive, connected lives according to their own desires.

The person-centered service plan documents the member's choice of settings and services based on the needs and preferences of the member. The State will take into account the options provided and choice of the member or their parent or legal guardian when determining HCB settings compliance, thus keeping the end goal of optimizing autonomy, independence, and member choice in mind. The State is committed to participating in all opportunities to enhance person-centered HCBS and increasing monitoring, oversight and enforcement of person-centered service planning. Person-centered service planning activities will be performed outside the purview of the STP.

The State will ensure through STP activities and ongoing monitoring and oversight that the person-centered service plan documents member choice, needs, preferences, and goals. Any modification to the HCBS setting requirements must be documented and supported by the person-centered service plan and will only be made on an individual basis. For example, certain HCBS members will have a documented need to reside in a setting utilizing delayed egress and/or secured perimeters. State statute and regulation clearly identify the policies and procedures for implementing such interventions¹.

Appeal Processes

As the State assesses HCBS settings for compliance with the Final Rule, providers and members will have an opportunity appeal compliance determinations made that result in loss of funding for providers or loss of service and/or member relocation of residence. In addition to the appeals and grievance policies that exist for each individual program, and department, providers and members may utilize existing state processes to file an appeal.

¹ Health and Safety Code Section 1584; 17 CCR 56068 – 56074, 56101, 56620 – 56625; 22 CCR 87705.

There are two distinct processes that providers and members may use to file appeals with the State.

Provider Appeals:

In the event that a setting is determined non-compliant and cannot or will not address issues of non-compliance through remediation, the provider has the option of filing an appeal through the Office of Administrative Hearings and Appeals (OAHA). OAHA is an independent hearing office created by DHCS to provide an appeals process for enrolled Medi-Cal providers to dispute actions taken by the Department. Providers looking to file an appeal related to HCBS setting compliance can find more information at <http://www.dhcs.ca.gov/formsandpubs/laws/Pages/The-Office-of-Administrative-Hearings-and-Appeals.aspx>

Member Appeals:

Members looking to dispute an HCBS setting determination by the State resulting in a loss of services and/or unwanted relocation of residence may file an appeal through the Medi-Cal Fair Hearing process. For more information regarding the Fair Hearing process, members may visit <http://www.dhcs.ca.gov/services/medi-cal/Pages/Medi-CalFairHearing.aspx>.

Compliance Monitoring

Each HCBS Waiver and 1915(i) State Plan program, in consultation with stakeholders, will use the self-surveys, On-Site Assessments and/or other data collection methods, to develop remedial strategies and monitor progress toward compliance with the federal regulations. All State-level and individual-setting level remedial actions will be completed no later than March 17, 2022.

The State will ensure that HCB settings remain in compliance with the new requirements by utilizing current ongoing licensing and/or certification processes for both residential and non-residential settings, as well as weaving compliance reviews into current monitoring and oversight processes (**See Attachment VI – Setting Assessment Process**).

Plan Updates and CMS Reporting

During the implementation period, progress on this STP will be continuously monitored and reported to CMS, as needed.

Appendix A – Stakeholder Input

The State submitted a draft STP for public comment on December 19, 2014, followed by a second draft for public comment submitted July 1, 2015. On August 14, 2015, the State submitted its STP for CMS review, which included a summary of public comment and state responses. To review public comment and state responses on the previous STP submission, please visit:

http://www.dhcs.ca.gov/services/ltc/Documents/STP_Final%20August%2014%202015.pdf

The August 29, 2016, revised STP incorporates stakeholder input from previous STP versions, and addresses CMS feedback received November 16, 2015. The letter can be found at <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/ca/ca-cmia.pdf>.

DHCS posted the revised STP draft to the DHCS website on August 29, 2016, followed by a 30-day stakeholder input period. DHCS published a notice in the California Register on August 26, 2016, informing the public of the 30-day STP public comment period. DHCS also hosted a webinar on September 27, 2016, to discuss changes made to the STP and the CBAS Transition Plan.

More than 80 members, providers, advocates, and other stakeholders participated in the stakeholder calls combined. DHCS established a dedicated email box to receive stakeholder input. DHCS received 81 emails of stakeholder input, and two mailed letters.

Approximately 60% of stakeholder input was received directly from members and their families, 15% was received from providers, and 25% from advocates. We received valuable feedback during this stakeholder input process and have summarized these comments in the following pages. California believes it has captured the intent of comments received in the summary below; however, the original content of all stakeholder comments will be posted on the DHCS STP website for public viewing.

Stakeholder Input on Revised Draft STP Posted August 29, 2016

(Bold text indicates frequently received comments.)

As an overview of comments received, beneficiaries and their family members were most concerned with the choice of homes and programs, including disability-specific and congregate housing. They fear the STP will violate the Americans with Disabilities Act by reducing or eliminating desired housing and program options. Advocates have concerns about the STPs assessment of private residences and that the assessment process is unclear. Advocates also assert that the State must redouble its education and outreach efforts and provide funding for remediation activities. Providers have commented that the STP must be implemented in a uniform manner.

State Response Reference Key:

- (1) No action to be taken; outside of STP purview.
- (2) Comment logged for continuous consideration through transition process.
- (3) Language in the Statewide Transition Plan has been added or modified due to stakeholder input.
- (4) Compliance determination will be made once the Provider Self-Survey, Beneficiary Self-Survey, and On-Site Assessment have been completed.
- (5) The State will continue its education and outreach to meet the needs of agencies, stakeholders, and beneficiaries as the Statewide Transition Plan is implemented.

Consumer and Family:

The following comments received are outside of the purview of the STP. No modifications were made to the STP as a result of these comments.

(1) Where will individuals with developmental disability, who are aging out of schools, live and how will they be care for when their parents are gone?

(1) Housing in CA is outrageously expensive – especially for those with DD receiving SSI as their primary source of funds.

(1) Presently, over 6,000 persons with autism are turning 18 each year – less than 10% are finding homes in the community.

(1) Without adequate staff support for DD/autistic adults with significant behaviors, the goals and focus of the community based, person centered programs will not come anywhere near even minimal fulfillment.

The following comments received have been taken into consideration as the State has developed its STP and future STP activities; however, the comments, while valid, did not result in modifications to the STP. These comments were statements made for the State’s consideration but do not affect the contents of the STP.

(2) We urge you to consider the needs of individuals like our son who do not do anything that involves sitting, does not watch TV or use the computer and for whom the group home model is not workable to meet his needs. Communities with a focus on outdoor physical work are not institutions and serve the needs of many individuals like our son.

(2) All monitoring and oversight should ensure safety of those with developmental disabilities and freedom of choice based on personal outcomes and reasonable costs.

(2) Agencies sometimes issue a document purporting to be an interpretive rule, but which in fact creates new law, rights, or obligations. Indeed, as the notice and comment rulemaking process has become more onerous over time, agencies have a strong incentive to avoid the burdens of rulemaking if possible. If an agency issues a policy or guidance

document that amounts to legislation without going through notice and comment rulemaking, the agency's action may be vacated. A legislative rule promulgated without proper notice and comment rulemaking is "procedurally invalid."

(2) Prohibiting autism-friendly housing or subjecting it to "heightened scrutiny" is disability discrimination.

(2) I implore you to consider carefully how you proceed with the STP. We need ALL options to be available. We need more help, not more restrictions. The situation is desperate. We are aging, and our kids will be never be independent.

(2) In fact, for some people, co-living and working with many people of like-minds is the best way to help them integrate with others, to nurture their emotional well-being, their sense of connection and belonging. The state has the authority to draw its own conclusion as to whether a setting can become compliant with modifications, whether it must undergo heightened scrutiny, or whether it is not and cannot become compliant as if deemed institutional in nature. CMS has inappropriately singled out these two settings among the thousands of homes providing residences for developmentally disabled adults in California.

(2) CMS has not placed a limit on the number of DD persons who can occupy a setting. On page 2967 of the rule, CMS also stated that "we do not believe there is a maximum number beneath which we could determine with certainty that the setting would meet the requirements of HCB settings." The focus should be on the experience of the individual in the setting.

(2) Living in a setting with others of the same disabilities does NOT limit integration and interaction with a larger community of non-disabled citizens.

(2) People with disabilities vary greatly in their needs and preferences. There must not be a "one size fits all" approach to housing options.

The following comments received have been taking into consideration as the State has developed its STP and future STP activities. Furthermore, the state has made modifications to the STP as a result of these comments, as identified below.

(2) (3) CMS issued a subsequent Informational Bulletin entitled "Guidance on Settings That Have the Effect of Isolating Individuals Receiving HCBS from the Broader Community" which conflicts with the original intent of CMS which was derived from years of public comment. In the event of conflict between the final rules and this Bulletin, the final rules should be followed first and foremost as they have legal standing.

State Response: The STP identifies the process for determining institution-like qualities and the circumstances that lead to a setting having the effect of isolating [Pg. 28]. The STP agrees the Final Rule should be followed while also taking into account the subsequent guidance issued by CMS.

(2) (3) The sentence that reads “dwellings are not limited to or designed specifically for people with disabilities” does not make any logical sense. First, it implies that someone with DD cannot choose to live with other DD persons. And second, it suggests that homes cannot be designed for people with DD. Neither of these is legal or desirable. DD individuals can choose to live with any number of DD persons as they choose – especially in private, non-licensed residences. The language, as written, violates ADA regulations.

State Response: This language was removed from the STP [Pg. 28].

(2) (3) The notion that disability-specific settings are undesirable is directly contrary to the new CMS rules. As mentioned earlier, CMS intentionally removed this limiting language in Page 2973-74 of the rules by stating “we have revised the rule to remove the term “disability-specific housing complex”.

State Response: The STP does not indicate disability-specific settings are undesirable. Settings will be assessed as described in the STP, and settings that have the effect of isolating will be closely reviewed for heightened scrutiny consideration.

(2) (3) The second paragraph under the Heighted Scrutiny is language that is NOT contained in the new rules and is contrary to the intent of the rules. This language comes directly from the subsequent CMS Informational Bulletin entitled "Guidance on Settings That Have the Effect of Isolating Individuals Receiving HCBS from the Broader Community". It violates the language of the approved regulations and, therefore, should be null and void. The public also had no opportunity to comment on this guidance which is rule-making in disguise.

State Response: The STP has been revised to describe characteristics of settings that tend to isolate [Pg. 28], and the State does not believe the STP contradicts the language of the approved regulation.

(2) (3) The implication that a housing model that is 100% occupied or designed for individuals with developmental disabilities is subject to further review, scrutiny or does not fall under the automatic presumption is troubling at best, likely illegal, and contradicts CMS’ own rules. Simply put, a setting that is occupied by 100% of residents with disabilities is entitled to the same presumption of HCBS compliance that a setting that is occupied by 75% of residents with disabilities. Moreover, the current language promotes the indefensible assumption that living with individuals without disabilities is superior to the alternative. Please eliminate the language under Heighted Scrutiny that comes from the CMS Informational Bulletin “Guidance on Settings That Have the Effect of Isolating Individuals Receiving HCBS from the Broader Community.” The public has had no opportunity to comment on this and it violates the language of the earlier approved regulations.

State Response: The STP has been revised to describe characteristics of settings that tend to isolate [Pg. 28], and the State does not believe the STP contradicts the language of the approved regulation. The State does not believe that disability specific housing is inferior to non-disability specific housing; however, all settings will be assessed for compliance with the Final Rule, and settings that have the effect of isolating individuals from the broader community will be carefully reviewed.

(2) (3) (4) If DD member wants to live with his peers and they are offered access to the community to the extent they desire, I believe HCBS should support and encourage this and not limit choice. It seems a grave potential injustice to suggest that if a person with I/DD chooses to live with, work or socialize with others with I/DD they would be denied access to needed support services under HCBS implementation.

State Response: The STP has been revised to describe characteristics of settings that tend to isolate [Pg. 28], and the State does not believe the STP contradicts the language of the approved regulation. The State has no intention of limiting choice for individuals; however, the State will identify settings that tend to isolate through the compliance determination process. If a setting affords the individual access to the broader community to the same extent as non-HCBS individuals, the State will make a determination by considering this and all other characteristics of the setting.

(2) (3) (4) Allow Private residences of all sizes and types, including homes, condos, apartments, shared living, and rural options such as farms. This is very important to our community of families facing the housing dilemma.

State Response: The STP clearly defines private residences and the State's presumption of HCB Settings compliance [Pg. 13]. The STP also indicates that settings owned by an unrelated caregiver [Pg. 18] will be assessed as a residential setting, rather than a private residence presumed to be in compliance.

(2) (3) (4) Although we want to limit 'institutionalizations', options should be phrased to emphasize goals – access to community, access to friends and family, opportunities for choice versus trying to specify exclusions. One person's view of limits may be exactly what another chooses and/or needs for safety and/or health reasons. Living in a setting with others of the same disabilities does NOT limit integration and interaction with a larger community of non-disabled citizens. And, indeed may enhance interaction by providing a site for interaction and safe base within a larger, integrated community.

State Response: The State agrees with the commenter. The STP describes the process for assessing settings for HCB Setting compliance and does not exclude settings that may serve residents with similar disabilities.

The following comments have been logged for continuous consideration throughout the transition process. Furthermore, these comments are statements regarding compliance determinations. The STP describes the compliance determination process [Pg. 22], and will not make determination of HCB Setting compliance until the assessment process is concluded.

(2) (4) Limitations regarding how “integrated” the program is to the community and who is allowed to participate in a program will eliminate resources and prevent people from being able to make actual choices. Housing options designed for certain groups results in more efficient coordination, greater choice of quality providers and a reduction in overall costs.

(2) (4) According to the new HCBS rules, states have sole jurisdiction in determining which settings are submitted for heightened scrutiny. In that letter, CMS went to extreme and unauthorized lengths to direct DHCS to examine 2 specific settings for heightened scrutiny (FYI – one name was wrong and the other setting does not even exist yet). Also, these settings would be deemed private residences anyway and receive no HCBS funds whatsoever. By asking for scrutiny of 2 specific settings, CMS has overstepped its jurisdiction and undermined the authority that CMS has given the DHCS to identify and assess settings for compliance. The state has the authority to draw its own conclusion as to whether a setting can become compliant with modifications, whether it must undergo heightened scrutiny, or

(2) (4) DD individuals should not be shamed if they opt to live with others who have DD in private residences. The language as written promotes an abilist ideal that living with non-DD peers is superior to having housemates with DD.

(2) (4) Disability-specific design is precisely what many DD persons require “as appropriate to their needs.” Design items might be for safety or a mere matter of convenience to allow DD persons to live the most-unrestricted lives. This might be secure access gates for safety or something as simple as additional soundproofing for individuals with sensory processing issues. All DD persons are entitled to reasonable accommodations from a landlord under ADA in any event.

(2) (4) HCBS regulations must not presume that living with non-disabled people is always preferable to living with other people with disabilities. This must be a matter of choice and of finding the optimal way to meet an individual’s needs. For example, there must not be an automatic assumption that living alone in a city is preferable to living communally on a farm or rural setting with others who have developmental or other disabilities. By the same token, those individuals who prefer to live in a neurotypical setting must be given the full support they need to do so successfully.

(2) (4) DHCS should also be mindful that it lacks legal authority to require private residential landlords who are not HCBS providers to submit information to DHCS or CMS regarding their tenants, their property or their business operations. All inquiries regarding qualities of one's private residence and whether his or her private home “supports access” to the community must be made at the level of the developmentally disabled individual’s person-centered plan. DHCS has no jurisdiction to impose this inquiry a priori on private residences.

The following comments have been logged for continuous consideration throughout the transition process. Furthermore, the state will continue its education and outreach to meet the needs of agencies, stakeholders, and members as the STP is implemented. The State is committed, as indicated throughout the STP, to continue its outreach and education efforts as necessary.

(2) (5) Regarding Person-Centered Planning – As a general comment, California should consider developing a standardized form for the IPP. In the DDS system, regional centers all have different formats which makes it difficult for DD consumers who transfer between regions.

(2) (5) Regarding Stakeholder Input, California needs to ensure that voices of California residents and consumers are used exclusively in revising and implementing the STP. Unfortunately, there is a small but vocal group of professional advocates, lobbying firms and non-state residents that often inject their opinions and agendas without knowing the laws of California or the needs of its DD persons. Many do not have offices in California and most certainly do not speak for the more-challenged end of the DD spectrum.

(2) (5) Need increased funding and more highly skilled supported living options. Concerns about writing into IPP that there are health and safety reasons to override some of the HCBS voluntary and choice requirements; must be specific to circumstance and setting. STP should clarify how conservators can decide what the choice of an individual will be and what is still left up to that individual in choosing housing or services. Need more general public education and understanding.

(3) (4) More residential and non-residential settings needed. Must expand provider and privately controlled residential options. CMS has no authority to conducted system-wide inspections of private residences or impose heightened scrutiny on those homes. Assessment of compliance must be made through person-centered plan, not by unauthorized private property review.

State Response: The State will conduct its setting assessments based on the processes described in the STP and pursuant to Federal requirements.

(3) (4) (5) Regional Centers must implement the STP uniformly. Who comprises heightened scrutiny review committee? Is there an advocate who represents the DD consumer? HCB Setting criteria and assessments should not be based on physical characteristics, such as population density of waiver recipients or proximity to other services. HCB settings should be individually assessed for quality based on feedback from the member.

State Response: The State will conduct its setting assessments based on the processes described in the STP and pursuant to Federal requirements. The state will solicit public comment as well as conduct member surveys.

The following comments are statements regarding compliance determinations. The state will conduct the compliance determination process, as described in the STP [Pg. 22], before any determinations are made.

(4) It violates ADA Sections 35.130(a), (b) and (g). CMS cannot deny HCBS services to a DD individual solely because the other person with whom they associate (either in residential or employment setting) has a DD.

(4) DD consumers need a spectrum of services and one size does not fill all. Attaching labels and or stigmas to types of settings often results in the individual needs of a consumer not being met. The term "appropriate to their needs" should be kept in the forefront of all decisions.

(4) California should NOT create barricades to living solutions with language that limits choices

(4) No two persons are alike and each setting must be examined through the lens of the individual's choices and needs. "Community" means different things to different people.

(4) The Americans with Disabilities Act protects my daughter. CMS may NOT withhold HCBS funding to her merely because she has chosen to live with other women with autism. This violates ADA in multiple ways.

(4) My young adult son, who has cerebral palsy and other DD, needs and wants to be part of a community that includes his friends, many of whom also have DD. His choices should not be restricted in order for him to have access to services that are essential for his survival. He and his friends want to live together and share a home base from which to explore the wider community. Please don't restrict his choices by forbidding community-building out of a fear of institutions.

(4) Under 1915(k) Community First Choice (CFC) State Plan Program, CFC members select their residential setting. If this choice is one that includes living with others who share the same disability, so be it as it is the member's choice.

(4) Adult Residential Facilities (CCF) are currently included in the list of DD Waiver providers and should continue to be an option, past March 28, 2017. Living in a setting with others of the same disabilities does NOT limit integration and interaction with a larger community of non-disabled citizens.

(4) Available solutions must include:

- Center-based programs addressing the often intensive needs adults with autism
- Group homes of varying sizes and structures to address a broad spectrum of support needs
- Private residences of all sizes and types, including homes, condos, apartments, shared living, and rural options such as farms.
- Residential options that include intentionally autism-friendly and supportive elements, including safety and recreational and space amenities, must be made available, as may be required by individual needs. Just because a property has intentionally disability-friendly amenities does not render it "institutional."

(4) Policies and regulations that cater to "higher-functioning" people with DD risk preventing other people from living and receiving services in settings that are best for them. Furthermore, when a conserved person with DD does not have full ability to express preferences, the STP must acknowledge the power of a conservator "to fix the residence or specific dwelling of the limited conservatee."

(4) (5) Parents would like to band together with friends to buy land and build homes to give children a rural environment in which to flourish. Does the STP exclude this type of arrangement?

State Response: The STP does not exclude any non-institutional setting. If settings meet the characteristics of the Final Rule, they will be deemed compliant and will be considered an HCB setting. All settings will be assessed as described in the STP compliance determination process [Pg. 22].Advocates:

(1) Transition Plan should include from Project-Based to Tenant-Based (Section 8 Voucher) Programs. Baby boomers should live close to their children/relatives/friends.

State Response: Housing options are discussed in the STP [Pg. 14]. The State does not dictate proximity of social support network, since this is outside of the purview of the STP.

The following comments have been logged for continuous consideration throughout the transition process; however, the comments did not result in modifications to the STP.

(2) Choice does not justify non-compliant setting. Not “restricting” access to community does not mean supporting full access.

(2) CHOICES made through the person centered planning process on behalf of every regional centers client while, at the same time setting arbitrary program limitations regarding how “integrated” the program is to the community and who is allowed to participate in a program or activity will seriously limit or eliminate resources and prevent people from being allowed to make actual CHOICES.

(2) We absolutely support and advocate integration of persons with developmental disabilities into our communities. This transition plan, based upon what appears to be either a naive attempt at forced integration or a means to reduce CMS costs for CMS funded waiver services that can be denied based on arbitrary location and participants is ridiculous.

(2) Completing needed changes to laws and regulations governing settings included in the DD Waiver during the 4th Quarter of 2018 is too late to expect full compliance by March 2019. This is particularly true for allowing lockable interior doors as local Fire Marshalls will need to adapt to this change.

State Response: CMS has granted states an additional three years for HCB Setting compliance. The State has revised its proposed STP timeline accordingly.

(2) Person Centered Planning processes need revision to comply with federal rules.

(2) We recommend that the state clearly define and establish standards for PCP as it relates to broader concepts of person-centered care.

(2) We recommend that the state finalize and implement the UA [Universal Assessment] to identify LTSS needs and help inform the PCP process in accordance with W&I Code section 14186.36(b)-(i).

(2) (3) (4) (5) Providers need financial support to ensure that services will be available to consumers consistent with individual choice in integrated settings. State needs to set rules and guiding principles for sorting out questions related to settings under the CMS regulations, including what is compliant and what is not. More specific timetable and appeals processes. A functional review of current decision making and case management systems to assure members and family choices and person centered plans are conducted properly and used to guide decisions. Need clarity on who is “deemed” compliant currently. Placing additional restrictions of licensing on providers would be inconsistent and unproductive in ensuring consumers are safe and adequately supported in the community. CCL, with authority to promulgate and enforce regulations, is a critical player in the state coming into compliance. DSS and DOR must work hand in hand with DDS to

ensure compliance by 2019. Regarding Private Residences Presumed compliant, STP should expand section to include non-residential programs presumed to be in compliance. The State must begin now to commit the necessary resources through the state budget process to fund the structural and programmatic changes that will be required for compliance by 2019, across all affected programs. Current STP timeline does not provide sufficient time to modify programs. STP inconsistent with Provider and On-Site assessments: Pg 22 states all settings will receive surveys, Attachment VI pg. 8 says statistically valid sample. California is behind on education and outreach. Providers lack understanding of individual rights and privacy.

State Response: The comment has been logged for continuous consideration. The STP describes the State's process for setting assessments and compliance determinations. The State does not intend to add additional licensing restrictions, rather, an assessment of state standards demonstrates a high level of compliance on a systemic level. In the event state standards are silent, partially compliant, or conflicting, the state will modify rules and regulations to come into compliance, or issue policy directives to enforce the Final Rule.

(2) (4) STP ignores ICFDD residents receiving adult day services. Plan should identify a process to ensure that every individual who receives HCBS lives in an HCB compliant setting.

State Response: The STP describes the State's process for assessing residential and non-residential settings for HCB Setting compliance. ICF/DD settings will be considered Long-Term Care facilities prior to the end of the transition period, and will not be under the purview of the STP. However, settings in which individuals receive HCBS, including residential and non-residential settings, will be assessed per the compliance determination process [Pg. 22].

(2) (4) In an effort to integrate there seems to be a bias against those with disabilities when "community" is defined in such a way as to exclude communities of the disabled. Universities separate students from graduate students, fraternities from sororities, etc. Yet the disabled individuals are devalued as a community and are punished with the loss of services if housing and community is built to accommodate them. Eliminate restrictions upon housing which meets the needs of any particular group by removing the language which defines private housing as that which is not designed for or limited to people with disabilities. Stop defining "people from the community" as only those who are not disabled, as if they are the most appropriate members of our society and the disabled are not. Define private housing as simply privately owned property without restrictions and vague language regarding design and intergration with "others from the community" as if DD peers are not part of our society or are to be prevented or not counted as appropriate.

State Response: The State will conduct setting assessments as described in the STP [Pg. 22]. The State will assess individual settings for HCB Setting compliance, and will not presume non-compliance based on the disabilities of the residents.

(2) (4) CMS simply lacks legal authority to regulate private residential property. CMS provides subsidies to states to help them provide services and supports for some of their residents with disabilities. While the states, following CMS rules, may regulate the providers of the services (including group homes, for example), CMS lacks jurisdiction over private residences. This new HCBS mandate is a novel sideways attempt to regulate these homes

State Response: The State has defined private residences in the STP [Pg. 14]. Private residences are presumed compliant but will be monitored for HCB Setting compliance through the State's current monitoring and oversight process. Compliance determinations will be made after the compliance determination process is complete.

(2) (5) Input from families, in addition to members, should be considered when assessing settings. Include training for families and members to understand the transition and purpose of assessment. Develop protocols for protections for members against coercion. Develop communications plan with stakeholders. Training initiative for understanding the transition plan. Training for direct support professionals. Publicly post member assessments and provider progress in remediating during heightened scrutiny. Incorporate licensing and credentialing information into the decision of on-site assessments. RE: "Changes in Member Services," language should not be prescriptive of who will be in a members' person centered plan meeting. Language should not presume the state will remove a service from a member's individualized program plan. This section should describe the informed choice process instead. Transition Plan should acknowledge that additional incentive funding will be necessary to bring settings into compliance, such as Work Activity Programs.

State Response: The State has logged this comment for continuous consideration throughout the transition process. The setting assessment process will consist of several layers of review. The state will survey providers and validate provider surveys using on-site assessments and member surveys. The State will conduct education and outreach to providers, stakeholders, and members as the State conducts its STP activities, which will include public input as appropriate.

(2) (5) State must take act immediately and proactively to make necessary legislative and regulatory changes; funding commitments; and concrete outreach, education, and assessment efforts.

State Response: The State agrees with this comment and is taking steps, as described in the Systemic Assessment [STP Appendix B], to seek legislative changes to bring settings into compliance on a systemic level. The State will continue its outreach and education throughout the transition process.

(3) Proposed heightened scrutiny process is incomplete and unreasonable. Timeline does not support gathering meaningful data.

State Response: The State has revised the STP to allow additional time for gathering evidence during the heightened scrutiny process [Pg. 29].

(3) State misstates the heightened scrutiny process. States must submit evidence to CMS only for settings it believes overcome the institutional presumption.

State Response: The State has revised the STP to clarify that only settings the State believes overcome the institutional presumption will go through the heightened scrutiny process [Pg. 28].

(3) STP misstates that all requirements can be modified if need is identified in person centered plan. This only applies to provider owned or controlled settings.

State Response: The State has clarified that modifications of HCB Setting requirements can only be made in provider-owned or controlled settings [Pg. 6 and 54].

(3) The draft STP fails to identify settings that will not pass the heightened scrutiny test and how and what the State intends to do about these settings.

State Response: The STP identifies how it will review settings for heightened scrutiny [Pg. 28], and describes the transition process for individuals receiving services or living in non-compliant settings [Pg. 29].

(3) The State wrongly states that it will automatically pass on information on heightened scrutiny determinations from the provider to CMS.

State Response: The STP indicates that heightened scrutiny will only occur for settings that the State believes may overcome the institutional presumption [Pg. 28].

(3) We repeat the recommendation from the 2015 comments that California follow the lead of other states and make the provider self-survey mandatory.

State Response: The STP indicates that all settings must complete the Provider Self-Survey or be subject to mandatory on-site assessments.

(3) The STP also does not identify any method of validation, which is critical to making the provider self-survey meaningful.

State Response: The STP has been revised to expand on Self-Survey and validation processes [Pg. 25].

(3) The list of who would be present in a person-centered planning meeting is incorrect.

State Response: The STP has been updated to include members' choice of plan meeting participants [Pg. 30].

(3) The State's proposed schedule fails to recognize that many work activity programs may need to be wholly or significantly redesigned or dismantled to come into compliance. Given the approximately 10,000 individuals in Work Activity Programs, the State's proposed statutory and regulatory "alignment," just months before the March 2019 deadline, and without any identified commitment of resources, falls far short of what is needed to produce timely compliance.

State Response: CMS has granted an additional 3 years to the transition period and the STP activities have been updated accordingly. The State also offered funding to settings that anticipate non-compliance issues in order to make necessary adjustments.

(3) (4) STP must identify mechanisms to ensure that every individual who receives HCBS is living in an HCB compliant setting.

State Response: The STP describes the compliance determination process [Pg. 22], and will make determinations only after the compliance determination process is complete. All provider-owned or controlled settings in which an individual lives will be assessed.

(3) The Draft STP misstates the federal rules relating to modification of the standards.

State Response: The State has updated the STP to reflect the Final Rule characteristics verbatim [Pg. 5, 53].

(3) More information is needed about the on-site assessment process and compliance procedures, including the size and composition of "statistically valid samples," the timeframe and protocols for conducting assessments, and the inclusion of presumed institutional settings other than those in proximity to institutions.

State Response: The STP has been revised to include information on the on-site assessment process, as well as sample sizes and timelines for validation [Pgs. 25-30].

(3) The State has failed to identify adequate complaint handling processes.

State Response: The STP identifies compliant/appeal opportunities [Pg. 31].

(4) The State must have a process for ensuring that none of the settings it is presuming to be compliant are actually institutional in nature. For example, there may be private homes purchased to serve as "intentional" settings only for people with disabilities, which isolate HCB consumers from the larger community.

State Response: The STP identifies characteristics of settings that tend to isolate [Pg. 28] and will further specify characteristics of these settings through a stakeholder engagement process.

(4) In addition, the State needs a method by which settings that are presumed to be compliant are tracked to ensure they remain compliant through the transition and in the future.

State Response: The STP describes the compliance determination process [Pg. 22] and indicates that the State will ensure settings remain compliant through the State's monitoring and oversight activities. [Pg. 13]. Furthermore, settings that are presumed compliant will be reviewed through existing monitoring and oversight activities [Pg. 15].

(4) The State sets forth an incomplete idea of settings that isolate but sets forth very little methodology for identifying those settings.

State Response: The STP offers certain characteristics of settings that tend to isolate, but as stated in the STP, the State will identify specific characteristics through a stakeholder engagement process [Pg. 28].

(4) The draft STP does not identify methods by which the state will find settings that isolate.

State Response: The State will identify settings that tend to isolate through the compliance determination process [Pg. 22] and will continue to develop strategies for identifying isolating settings, as described in the STP [Pg. 28].

(4) We are troubled that the focus will be only on the provider with whom the consumer resides or spends the most time.

State Response: The STP indicates that both residential and non-residential settings must complete a Provider Self-Survey [Pg. 23], and later describes the validation process [Pg. 25].

(4) State fails to acknowledge scope of change needed to bring work activity programs into compliance.

State Response: The State has conducted its systemic assessment of Work Activity Programs and has indicated its approach to modifying state standards to come into compliance [Appendix B]. The State will conduct assessments of Work Activity Programs to determine levels of compliance and necessary remediation.

(4) The STP should clarify the role of Licensing and expand on explanations of how they will support the move to changing the service provision mind-set away from program driven and institutional driven models. STP should clarify steps, sample sizes, and

remedial strategies. Adults who participate in HCBS work or day activities but reside in an ICF or other institution must be assessed.

State Response: The State agrees with this comment and has identified remediation strategies in the systemic assessment [Appendix B]. Furthermore, the State has identified total number providers and validation sample sizes in the STP [Pg. 26]. All provider-owned or controlled settings in which the individual lives will be assessed as described in the STP compliance determination process [Pg. 22].

(4) In its November 16, 2015 letter to California, CMS indicated that the state may presume the compliance of private homes but “the state needs to confirm that none of these settings were purchased or established in a manner that isolates the individual from the community of individuals not receiving Medicaid funded home and community-based services...” The draft STP does not address how California will make this assurance for communities comprised entirely of Waiver recipients.

State Response: All provider-owned or controlled settings in which an individual resides will be assessed, as described in the STP compliance determination process [Pg. 22].

(4) The State should identify all the settings that have been determined to possibly need to go through the heightened scrutiny process.

State Response: The State has taken steps to identify potentially institutional settings; however, no determination will be made until the settings are assessed as described in the STP [Pg. 22].

(5) Add link to STP website on front page of DHCS website until March 2019. Person centered planning process is critical when allowing for any health and safety exceptions for an individual. Include need for training on person centered planning for state agencies, contracted entities responsible for eligibility, and people who receive services. Add details regarding heightened scrutiny in the STP. Publicly post heightened scrutiny decisions, corrective actions, and details on what settings will not be considered compliant.

State Response: The State has posted the STP and related information on the DHCS Website: <http://www.dhcs.ca.gov/stp>. The State believes the STP contains the relevant information related to this comment.

(5) The types of evidence listed in the STP regarding heightened scrutiny do not fully reflect the suggestions in CMS guidance.

State Response: The evidence listed in the STP is a non-exhaustive list. DHCS intends to engage stakeholders regarding the heightened scrutiny process.

Providers:

(1) I know that you are working on the DC Task Force for rate reform and at the same time doing your best to have an approved State Transition Plan which is very difficult to do. The rate structure will need to do away with ratios unless you are dealing specifically in an area of safety and security. This will allow programs the freedom to have clients that can truly choose their setting of choice.

State Response: Comment is outside of purview of STP. No modifications were made to the STP.

(1) RC consumers receive services from different providers. A consumer in a day program might make choices their parents do not honor, and the program cannot implement those choices. More education needed for providers, families, and members. Direct service workers are the real “implementers” of the HCB settings rule. Providers need skilled workers with good communication skills, can document and think critically. More funding needed for better workers.

State Response:

Comment is outside of purview of STP. No modifications were made to the STP.

(2) Short time frame to move toward compliance, made shorter due to bureaucracy. Assessment forms use bureaucratic and federal language, which will be a barrier to encourage the community to help in this process. Legislative/regulatory remedial strategies targeted for 4th quarter of 2018 unlikely to be completed before end of transition period.

State Response: The State agrees with this comment and has revised the systemic assessment remediation strategy timeline to align with the additional three transition period years granted by CMS.

(2) We believe it's critical to incentivize creative options to expand and maximize housing resources by honoring individual's choice and autonomy, and not restricting the options of where, how or with whom individuals with developmental disabilities should live.

State Response: The State agrees with this comment and believes the STP does not contradict the intent of the comment.

(2) Please ensure that the regional centers have the flexibility needed, and are willing to use that flexibility in order to help providers make changes necessary for the transition of programs that are not in compliance with the new rule.

State Response: The State offered additional funding to Regional Center providers that anticipate program changes. The State will work with all providers to achieve compliance.

(2) We recommend that the state develop safeguards to ensure members can express opinions and respond to surveys in confidence, without provider involvement.

State Response: Members will be interviewed in person to gather member survey data and will not include setting staff or administrators in this interview.

(2) We recommend that the state clearly define and establish standards for PCP as it relates to broader concepts of person-centered care.

State Response: Each HCBS program has a robust person-centered planning process. While the STP acknowledges the importance of the person-centered planning process, the STP's purpose is to describe the State's settings assessment and remediation process.

(3) There is a lot of confusion around what "provider owned or controlled" means. Please clarify whether "provider" in the STP means a Medicaid/Medicare or Waiver (i.e. DD Waiver) services provider to HCB Services recipients or includes other types of providers. For example, is a private pay service provider who receives no HCBS funding considered "provider" in this context?

State Response: All provider-owned or controlled settings in which an individual resides is subject to the compliance determination process of the STP. The STP identifies provider-owned and controlled settings in the STP [Pg. 22]. Furthermore, an individual receiving services in a setting where the caregiver is unrelated and is the home owner is also considered a provider-owned or controlled setting [Pg. 18].

(3) P. 22, 3rd paragraph – change to 30-60 days to 90-120 days with goal of having self-assessments by 180 days.

State Response: The State revised the STP to indicate up to 60 days to complete self-surveys. The State believes this provides settings sufficient time to complete the surveys.

(3) (5) Please ensure that the regional centers are administering the roll-out of the STP for the transition of the programs not currently in compliance in the same way so that there are not 21 different variations.

State Response: A position was created at all Regional Centers to facilitate the implementation of the STP. While not specifically cited in the STP, the State and its contracted Regional Centers will work together to implement the STP uniformly.

(4) Some jurisdictions and public funding sources encourage and favor universal design to enable aging in place for the elderly and people with disabilities. In fact, some public funding opportunities are contingent upon this design. If the developers must rely on these major public funding sources and implement universal design and set aside a majority of the units for people with developmental disabilities, how is it that individuals with developmental disabilities are to be punished with the loss of funding for much needed services regardless of the outcome of their life experiences?

State Response: The STP states that all provider-owned or controlled settings in which an individual resides will be assessed for HCB Setting Compliance. Compliance determinations will be made after the STP compliance determination process is complete.

(4) The focus should be on whether the dwellings could properly support the individual's need and allow the individual an opportunity to integrate and have access to the greater community. Please remove any restrictive standard that focuses on physical characteristics of a setting.

State Response: The STP states that all provider-owned or controlled settings in which an individual will be assessed for HCB Setting Compliance. Compliance determinations will be made after the STP compliance determination process is complete. The State has not imposed restrictions on settings based on physical characteristics.

(5) We recommend that the state provide additional detail regarding the stakeholder process throughout STP implementation. We believe that stakeholder workgroups/committees provide a useful forum for focused discussion on implementation issue identification and resolution.

State Response: The State agrees with this comment and has committed to stakeholder engagement throughout the STP process.

(5) The STP should include additional information about the opportunities for Waiver participants (self-advocates) and their family members to play an active role in shaping California's response to the HCBS Final Rule. Their voices are crucial to ensuring that service systems not only comply with federal expectations but also provide them with opportunities to pursue individual goals.

State Response: The State agrees with this comment and has a number of workgroups participating in the interpretation and development of the STP.

Evidence of Public Notice

The following public notice was published in the California Register on August 26, 2016, which is distributed to public institutions and subscribers statewide.



FINAL RULES, CMS-2249-F, REQUIRE HOME AND COMMUNITY – BASED (HCB) SETTING COMPLIANCE Statewide Transition Plan Resubmission

Purpose:

The California Department of Health Care Services (DHCS) gives notice that the revised Statewide Transition Plan (STP) will be resubmitted to the Centers for Medicaid and Medicare (CMS) in October, 2016, for approval. The Community-Based Adult Services (CBAS) Transition Plan is an attachment to the STP. This revised STP describes California's plan to ensure approved Home and Community-Based Services (HCBS) waivers comply with the new federal HCBS setting rules. DHCS, state partners and stakeholders have updated the STP based on the CMS guidance letter, which can be found at: <https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/ca/ca-cmia.pdf>.

DHCS invites all interested parties to review the STP, including the CBAS Transition Plan, and provide public input. The public comment period will begin August 29, and end September 29, 2016. Public comments on the STP should be input onto the STP Public Comment Template, which will be available on the DHCS website listed below. The DHCS website will provide a link to the CBAS Transition Plan and the CBAS Plan's Public Comment Template.

Please mail or email public comments using the contact information below. DHCS will review all feedback and incorporate into the STP as appropriate. Public input is essential to the development and implementation of the STP, and will assist the state to achieve approval of the STP and compliance with the HCBS Settings Final Rule.

DHCS will host a statewide conference call in mid-September to discuss the revised STP, milestones and timelines, state strategies for HCBS setting compliance, and any questions or concerns raised by the public. Please check the STP website below for the date, time, call-in number, and agenda.

The STP and public comment template including a link to the CBAS Transition Plan and its public comment template can be found at:
<http://www.dhcs.ca.gov/services/ltr/Pages/HCBSStatewideTransitionPlan.aspx>

More information about the new federal rules is available at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>.

For Further Information on the STP, contact
STP@dhcs.ca.gov
Department of Health Care Services
Long-Term Care Division
1501 Capitol Avenue, MS 4502
P.O. Box 997437
Sacramento, CA 95899-7413

For additional information on the CBAS Transition Plan, contact
cbascda@aging.ca.gov; (916) 419-7545
California Department of Aging
1300 National Drive, Suite 200
Sacramento, CA 95834

Appendix B - Systemic Assessment Summary

The following is an assessment summary, by setting type, of the statutes, regulations, policies and other requirements for all HCB settings listed in the “Compliance Determination Process for HCB Settings” section. Please note that the systemic assessment is an indication of compliance, but does not preclude settings from further compliance determination processes, such as Provider Self-Surveys, Member Surveys, and On-Site Assessments. For reference, the Systemic Assessment is based on the following HCB Setting Requirements:

11. The setting is integrated in and supporting full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
12. The setting is selected by the individual from among various setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and, for residential settings, resources available for room and board
13. Ensures an individual’s rights of privacy, dignity and respect, and freedom from coercion and restraint.
14. Optimizes, but does not limit, individual initiative, autonomy and independence in making life choices, including, but not limited to, daily activities, physical environment and with whom to interact.
15. Facilitates individual choice regarding services and supports, and who provides them.

For Medicaid/Medi-Cal provider-owned or controlled HCB residential settings, the provider must offer:

16. The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law.
17. Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors; individuals sharing units have a choice of roommates in that setting; and individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.

18. Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.
19. Individuals are able to have visitors of their choosing at any time.
20. The setting is physically accessible to the individual.

Any modification(s) of the additional conditions, under 6 – 9 of the Federal requirements, can only be made in provider-owned or controlled settings and on an individual basis, supported by a specific and individually assessed need and justified in the person-centered service plan.

Please note:

- Intermediate Care Facilities for the Developmentally Disabled Continuous Nursing (ICF/DD-CN) will be long-term care facilities prior to March 2022.
- NF/AH Waiver Home and Community-Based Continuous Care Facility (HCBCCF) is a Congregate Living Health Facility (CLHF) in the renewed HCB Alternatives Waiver.
- IHO Continuous Care Facility is also a CLHF; however, in the renewed IHO Waiver, CLHFs are no longer a setting type.
- In the DD Waiver, Supported Employment provides ongoing support services for participants in paid work that is integrated in the community. It is a service, not a setting. Social Recreation Program is also a service provided in the community, and not in a setting. Residential Care Facility – Out of State is not included in the Systemic Assessment because, as stated in the DD Waiver, “the State uses the same standards as in-state residential facilities.”

While all of the settings assessed through California’s Systemic Assessment are either licensed facilities that must adhere to all licensing requirements, or to other State laws and regulations as identified in the Systemic Assessment, certain programs also require the setting to become Medi-Cal Providers. In order to become a Medi-Cal Provider, the provider must sign the Medi-Cal Provider Agreement. One of the requirements of the Medi-Cal Provider Agreement includes the following requirement: “Provider further agrees to comply with all federal laws and regulations governing and regulating Medicaid Providers.” This Medi-Cal Provider Agreement requirement would contractually obligate the setting to adhere to the characteristics of 42 CFR 441.301(c)(4). However, the State intends to send all HCBS Medi-Cal providers that are subject to the STP a supplemental agreement form that will reinforce this requirement of the Medi-Cal Provider Agreement, and will clearly identify the HCB Settings Final Rule characteristics for which they are responsible. The Programs in which providers have signed the Medi-Cal Provider Agreement include: HCB Alternatives Waiver, Pediatric Palliative Care Waiver, Assisted Living Waiver, and HIV/AIDS Waiver. The Settings within these Waivers include: Congregate Living Health Facility, Adult Residential Facility, Residential Care Facility for the Elderly, and Residential Care Facility for the Chronically Ill.

Please note: In spite of the Medi-Cal Provider Agreement requirement that settings must adhere to all federal laws and regulations governing and regulating Medicaid Providers, the State's systemic assessments will also focus on California Licensing requirements and applicable laws and regulations. Where State standards are silent or partially compliant, the systemic assessment will still identify remediation strategies, in addition to the supplemental provider agreement to be sent to all HCBS Medi-Cal providers to be signed and returned to the State, where appropriate.

1915(k), 1915(c) HCBS Waiver IHO Settings

1915(k) Settings

The setting utilized for these programs are the members' private residence; therefore, the state presumes the settings meet the requirements of the HCB Settings Final Rule. The following demonstrates the State standards ensuring the provision of services occurs in a private residence. These State standards do not preclude the state from ongoing monitoring of HCB Setting compliance, as well as health and safety, within private residences.

1915(k) Community First Choice Option (CFCO) requirements follow the In-Home Supportive Services (IHSS) State standards, as described in [CDSS' State Hearings Division 610-0](#), which states that CFCO is a part of the IHSS Program.

CDSS [All County Letter \(ACL\) 16-78](#) requires the applicant to sign the IHSS Program Health Care Certification Form, which states that "IHSS is a program intended to enable aged, blind, and disabled individuals who are most at risk of being placed in Out-of-home care to remain safely in their own home by providing domestic/related and personal care services."

In the CDSS Manual, [SOCIAL SERVICES STANDARDS 30-755 SERVICE PROGRAM NO. 7](#): The IHSS Program definition states "The IHSS Program provides assistance to those eligible aged, blind and disabled individuals who are unable to remain safely in their own homes without assistance. IHSS is an alternative to out-of-home care." Own Home is defined as "the place in which an individual chooses to reside. An Individual's 'own home' does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or board and care facility. A person receiving an SSI/SSP payment for nonmedical out-of-home living arrangement is not considered to be living in his/her home."

Furthermore, related to CFCO, [SPA 13-007](#) explains the following:

The Individualized Back-up and Risk Assessment process is a multi-faceted process that all recipients, and their social workers, complete to assess risks and determine the best back-up for each recipient during the initial and annual face-to-face

visits as administrative activities of the CFCO program. This process includes the following components, and is accomplished through discussion and negotiation between the parties involved (including any individuals the recipient chooses):

- Program Assessment – During the program assessment, specific risks are identified based on an individual’s personal care and domestic and related service needs. Once these needs are identified, the social worker reviews service options with the individuals, and authorizes services that will help the individual stay safely in their home. In addition to program specific areas, additional risk areas are discussed, such as issues around living arrangements (i.e. alone or with others, etc.), evacuation/environmental factors, and communications abilities.
- Referrals – Appropriate referrals are processed to other government public assistance programs or community service agencies when social workers identify recipients’ needs that are outside the scope of the CFCO program. These service referrals assist in supplementing CFCO benefits to help recipients remain safely in their own homes and communities. ACL 16-78 states that “IHSS recipients are required to submit a certification form (SOC 873), completed by a Licensed Health Care Professional (LHCP) which states a recipient needs IHSS to ‘...enable the individual to remain safely in his/her home.’”

Lastly, [W&I Code § 12300](#) states:

(d) Personal care services are available if these services are provided in the beneficiary's home and other locations as may be authorized by the director. Among the locations that may be authorized by the director under this paragraph is the recipient's place of employment if all of the following conditions are met:

(1) The personal care services are limited to those that are currently authorized for a recipient in the recipient's home and those services are to be utilized by the recipient at the recipient's place of employment to enable the recipient to obtain, retain, or return to work. Authorized services utilized by the recipient at the recipient's place of employment shall be services that are relevant and necessary in supporting and maintaining employment. However, workplace services shall not be used to supplant any reasonable accommodations required of an employer by the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.; ADA) or other legal entitlements or third-party obligations.

(2) The provision of personal care services at the recipient's place of employment shall be authorized only to the extent that the total hours utilized at the workplace are within the total personal care services hours authorized for the recipient in the home. Additional personal care services hours may not be authorized in connection with a recipient's employment.

(e) Where supportive services are provided by a person having the legal duty pursuant to the Family Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other

suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

1915(c) HCBS Waiver IHO Settings

The setting utilized for these programs are the members' private residence; therefore, the state presumes the settings meet the requirements of the HCB Settings Final Rule. The following demonstrates the State standards ensuring the provision of services occurs in a private residence. These State standards do not preclude the state from ongoing monitoring of HCB Setting compliance, as well as health and safety, within private residences.

In Appendix C: Participant Services, Other Standards: all services are "provided to a waiver participant in his/her home or place of residence." Furthermore, in the service definition of Community Transition Services, "Community Transition Services are non-recurring set-up expenses for individuals who are transitioning from a licensed health care facility to a living arrangement in a private residence where the person is directly responsible for his or her own living expenses."

Provider Setting Type – Adult Day Program

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>22 CCR § 82077 (a) Information and referral services shall be available to the clients and their families. (b) The adult day program shall establish linkages with other community agencies and instructions to staff to coordinate services.</p> <p>22 CCR § 82079 (a) (1-5) State licensing requires the setting provide opportunities for, and encourage participation in activities, including but not limited to: Activities that require group interaction; Daily living skills, including...social skills...and opportunities to learn about the community; Physical activities; Leisure time to pursue personal interests; Education through special instruction and projects.</p>	Compliant	N/A
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	<p>22 CCR § 82077 (e) Activities shall be designed to meet the client's specific needs and interests, as determined by the Needs and Services Plan. Should an individual indicate a desire to pursue employment, the setting is required to provide the opportunity.</p> <p>While licensing requirements support the individual’s needs and interests, which may include employment, the standards do not specify competitive integrated settings.</p>	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to opportunities to seek employment and work in competitive

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				integrated settings. Completion first quarter 2021.
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	State standards are silent regarding controlling personal resources.	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to controlling personal resources. Completion first quarter 2021.
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	22 CCR § 82068.2 (f) (4) (C) within the needs and service plan, the setting must have An individual activity plan designed to meet the needs of the client for psychosocial and recreational activities. Additionally, (D) the setting must make Recommendations for referrals to other service providers and therapy which the adult day program will coordinate.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 82072 (a) (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.</p> <p>22 CCR § 82077 (a) Information and referral services shall be available to the clients and their families. (b) The adult day program shall establish linkages with other community agencies and instructions to staff to coordinate services. The setting must facilitate community engagement or services in the community depending on the needs and preferences of the individual.</p> <p>22 CCR § 82079 (a) (1-5) State licensing requires the setting provide opportunities for, and encourage participation in activities, including but not limited to: Activities that require group interaction; Daily living skills, including...social skills...and opportunities to learn about the community; Physical activities; Leisure time to pursue personal interests; Education through special instruction and projects.</p>		
2	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.	22 CCR § 82068 (c) the admission agreement must be dated and signed, acknowledging the contents of the document, by the client and the client's representative and the licensee. This requirement demonstrates the choice of setting and services provided by the setting. (e) The licensee shall retain in the client's file the original of the initial	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.	admission agreements and all subsequent modifications. While choice of setting is a licensing requirement, state standards do not address offering individuals a choice of non-disability specific settings.		related to choice of non-disability specific settings. Completion first quarter 2021.
3a	The setting ensures an individual's rights of privacy;	22 CCR § 82044 (b) (1) requires that should the licensing agency elect to interview clients, the setting shall ensure that provisions are made for private interviews with any clients. 22 CCR § 82077.4 (b) (7) the setting must ensure privacy when care is provided for individuals with incontinence.	Compliant	N/A
3b	The setting ensures an individual's rights of dignity;	22 CCR § 82072 (a) (1) the setting shall ensure the individual is accorded dignity in his/her personal relationships with staff and other persons.	Compliant	N/A
3c	The setting ensures an individual's rights of respect;	22 CCR § 82072 (a) (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		While “rights of respect” is not explicitly stated, 22 CCR § 82072 (a) (2) essentially requires the individual is treated and cared for with respect.		requirement related to rights of respect. Completion first quarter 2021.
3d	The setting ensures an individual’s freedom from coercion and restraint.	22 CCR § 82072 (a) (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication, or aids to physical functioning. (6) To leave or depart the day program at any time. (7) Not to be locked in any room, building, or day program site.	Compliant	N/A
4	The setting 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.	22 CCR § 82068.2 (f) (4) (C) within the needs and service plan, the setting must have An individual activity plan designed to meet the needs of the client for psychosocial and recreational activities. Additionally, (D) the setting must make Recommendations for referrals to other service providers and therapy which the adult day program will coordinate. Individuals have the choice of services and supports, which are optimized by the setting. Individuals are ensured independence in making choices.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 82079 (a) (1-5) State licensing requires the setting provide opportunities for, and encourage participation in activities, including but not limited to: Activities that require group interaction; Daily living skills, including...social skills...and opportunities to learn about the community; Physical activities; Leisure time to pursue personal interests; Education through special instruction and projects.</p>		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>22 CCR § 82022 (4) (A) In the setting's plan of operation, the setting must make staffing adjustments in order to provide the proposed services. This may include increased staffing, hiring staff with additional or different qualifications, utilizing licensed professionals as consultants, or hiring licensed professionals. Should an individual prefer a specific staff person, or staff person other than the current provider, the facility must make staffing adjustments to accommodate the individual.</p> <p>22 CCR § 82065 (a) requires the setting to employ staff competent to provide the services necessary to meet individual client needs and shall, at all times, be employed in numbers necessary to meet such needs. This licensing requirement ensures that the facility meets the needs of the individual, and should the individual need or desire certain staff to provide</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>services, the setting must employ an adequate number of staff to meet such needs.</p> <p>22 CCR § 82068 (a) the setting must complete and maintain an individual written admission agreement with each client. (b) Admission agreements must specify (1) Basic services and (2) Available optional services.</p> <p>22 CCR § 82068.2 (f) (4) (C) within the needs and service plan, the setting must have An individual activity plan designed to meet the needs of the client for psychosocial and recreational activities. Additionally, (D) the setting must make Recommendations for referrals to other service providers and therapy which the adult day program will coordinate.</p> <p>22 CCR § 82077 (a) Information and referral services shall be available to the clients and their families. (b) The adult day program shall establish linkages with other community agencies and instructions to staff to coordinate services.</p> <p>22 CCR § 82079 (a) (1-5) State licensing requires the setting provide opportunities for, and encourage participation in activities, including but not limited to: Activities that require group interaction; Daily living skills, including...social skills...and opportunities to learn about the community;</p>		

		<p>Physical activities; Leisure time to pursue personal interests; Education through special instruction and projects.</p> <p><u>22 CCR § 82087.3 (b)</u> A space shall be provided for clients not actively participating in the planned activity programs.</p>		
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or</p>	N/A – Adult Day Programs are not residential settings.	N/A	N/A

	other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	N/A – Adult Day Programs are not residential settings.	N/A	N/A
7b	Individuals sharing units have a choice of roommates in that setting;	N/A – Adult Day Programs are not residential settings.	N/A	N/A
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	N/A – Adult Day Programs are not residential settings.	N/A	N/A
8a	Individuals have the freedom and support to	N/A – Adult Day Programs are not residential settings.	N/A	N/A

	control their own schedules and activities;			
8b	Individuals have access to food at any time.	N/A – Adult Day Programs are not residential settings.	N/A	N/A
9	Individuals are able to have visitors of their choosing at any time.	N/A – Adult Day Programs are not residential settings.	N/A	N/A
10	The setting is physically accessible to the individual.	N/A – Adult Day Programs are not residential settings.	N/A	N/A

Provider Setting Type – Adult Family Home; Family Teaching Home

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>The State believes it is compliant with this requirement. Adult Family Homes and Family Teaching Homes monitored by Family Home Agencies (FHA) have both WIC and Title 17 language promoting opportunities for integration in, access to, and participation in all aspects of the community.</p> <p>Welfare and Institutions Code (WIC) § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age... ...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p>	Compliant	N/A

		<p><u>WIC § 4502(a)(b)(1-3, 5-7, & 10)</u></p> <p>(a) Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. An otherwise qualified person by reason of having a developmental disability shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives public funds.</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(1) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible.</p> <p>(2) ...To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>(3) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.</p> <p>(5) A right to religious freedom and practice.</p> <p>(6) A right to social interaction and participation in community activities.</p> <p>(7) A right to physical exercise and recreational opportunities.</p>		
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		<p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p><u>WIC § 4646(a)</u> It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p> <p><u>WIC § 4689.1(1)(e)(8)(D) (Specific to Adult Family Homes and Family Teaching Homes)</u> (e) For purposes of ensuring that regional centers may secure high quality services that provide supports in natural settings and promote inclusion and meaningful participation in community life for adults with developmental disabilities,... (8) The department and regional center’s monitoring and evaluation of the family home agency (FHA) and approved homes, which shall be designed to ensure that services do all of the following:</p>		
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		<p>(D) Maximize the consumer’s opportunities to have choices in where he or she lives, works, and socializes.</p> <p>Title 17 of the California Code of Regulations (17 CCR) § 56084(b)(6)(D) Program Design Requirements (Specific to Adult Family Homes and Family Teaching Homes)</p> <p>(b)(6) A proposed training plan which addresses the initial and ongoing training needs for FHA staff and the family home. The training plan shall include, but not be limited to, the following topics:</p> <p>(D) Fostering consumer participation in, and integration into, the community...</p>		
1b	<p>The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;</p>	<p>The State believes it is compliant with this requirement. Language in WIC provides opportunities for individuals to seek and obtain competitive/integrated employment. Additionally, California’s Employment First Policy identifies strategies to increase employment for individuals with developmental disabilities.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living</p>	Compliant	N/A

		<p>available to people without disabilities of the same age...</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4689.1(e)(8)(D) (Specific to Adult Family Homes and Family Teaching Homes) (e)(8) The department and regional center’s monitoring and evaluation of the family home agency and approved homes, which shall be designed to ensure that services do all of the following: (e)(8)(D) Maximize the consumer’s opportunities to have choices in where he or she lives, works, and socializes.</p> <p>WIC § 4646.5(a)(4) (a) The planning process for the individual program plan described in Section 4646 shall include all of the following: (4) When developing an individual program plan for a transition age youth or working age adult, the</p>		
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		<p>planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).</p> <p>With the Employment First Policy, the State is committed to providing opportunities for individuals with developmental disabilities to seek employment and engage in work in integrated settings.</p> <p>WIC § 4851(o)</p> <p>“Integrated work” means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.</p>		
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	<p>The state believes it is compliant with this requirement. Language in Title 17 promotes an individual’s right to control their own resources.</p> <p>17 CCR § 56091(d) Consumer Funds and Property (Specific to Adult Family Homes and Family Teaching Homes)</p> <p>The family home provider shall provide access to the consumer's cash resources when requested by the consumer or the consumer's authorized representative, if applicable.</p>	Compliant	N/A
1d	The setting includes opportunities to engage in community life, and	<p>The State believes it is compliant with this requirement. Language in WIC promotes an individual’s right to engage in community life and make choices in their</p>	Compliant	N/A

<p>receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>own lives including participation in community activities and events.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements.</p> <p>WIC § 4502(b)(10)</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p>		
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		<p>WIC § 4689.1(e)(8)(D) (Specific to Adult Family Homes and Family Teaching Homes)</p> <p>(e) For purposes of ensuring that regional centers may secure high quality services that provide supports in natural settings and promote inclusion and meaningful participation in community life for adults with developmental disabilities, the department shall promulgate regulations for family home agencies, family teaching homes, and family homes that shall include, but not be limited to, standards and requirements related to all of the following:</p> <p>(8) The department and regional center’s monitoring and evaluation of the family home agency and approved homes, which shall be designed to ensure that services do all of the following:</p> <p>(D) Maximize the consumer’s opportunities to have choices in where he or she lives, works, and socializes.</p>		
2	<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. The setting options are identified and documented in the person-centered service</p>	<p>The State believes it is partially compliant with this requirement. Language in WIC indicates that a range of service options should be provided to individuals during the individual program plan process and that the selection of services and supports will be completed according to the preferences of the individual.</p> <p>Silent:</p> <ul style="list-style-type: none"> Option for private unit. 	Partial Compliance	<p>The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having the option for a private unit and</p>

<p>plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<ul style="list-style-type: none"> • Documentation of setting options, including non-disability specific settings, not selected by the individual. <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise</p>		<p>documentation of setting options not selected by the individual. Completion first quarter 2021.</p>
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		<p>decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) ...It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p> <p>WIC § 4689.1(e)(8)(D) (Specific to Adult Family Homes and Family Teaching Homes) (e)(8) The department and regional center’s monitoring and evaluation of the family home agency and approved homes, which shall be designed to ensure that services do all of the following:</p>		
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		(e)(8)(D) Maximize the consumer’s opportunities to have choices in where he or she lives, works, and socializes.		
3a	The setting ensures an individual’s rights of privacy;	The State believes it is compliant with this requirement. Language in WIC addresses an individual’s right to privacy. WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.	Compliant	N/A
3b	The setting ensures an individual’s rights of dignity;	The State believes it is compliant with this requirement. Language in WIC addresses an individual’s right to dignity. WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.	Compliant	N/A
3c	The setting ensures an individual’s rights of respect;	The State believes it is compliant with this requirement. Language in Title 17 and WIC emphasizes that choices made by the individual shall be respected.	Compliant	N/A

		<p>17 CCR § 56084(a)(1)(4) Program Design Requirements (Specific to Adult Family Homes and Family Teaching Homes)</p> <p>(a) The program design shall detail how the FHA will achieve and monitor the following outcomes:</p> <p>(1) That the consumer will live in a family home where he/she will receive respect and support and involvement in the normal routines of family life;</p> <p>(4) That the FHA and the family home will provide services and supports which will respect the consumer's personal and cultural preferences and values</p> <p>WIC § 4502.1</p> <p>The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers...</p>		
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>The State believes it is compliant with this requirement. Language in Title 17 and WIC addresses an individual's right to be free from coercion and restraint.</p> <p>17 CCR § 56089(c) Prohibited Interventions and Treatment (Specific to Adult Family Homes and Family Teaching Homes)</p> <p>(c) A consumer who resides in a family home shall be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation,</p>	Compliant	N/A

		<p>ridicule, coercion, threat, mental abuse, restraint or other actions of a punitive nature...</p> <p>WIC § 4502(b)(8) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.</p>		
4	<p>The setting 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.</p>	<p>The State believes it is compliant with this requirement. Language in WIC indicates that services and supports should enable individuals to make choices regarding their daily lives.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age... ...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other</p>	Compliant	N/A

		<p>appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live...</p> <p><u>WIC § 4502(b)(10)</u> (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p><u>WIC § 4512(b)</u> ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p>		
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		<p>WIC § 4646(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p> <p>WIC § 4689.1(e)(8)(B) (Specific to Adult Family Homes and Family Teaching Homes) Assist the consumer in understanding and exercising his or her individual rights.</p>		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>The State believes that it is compliant with this requirement. Language in Title 17 indicates that the services provided by Adult Family Homes and Family Teaching Homes are chosen by the individual and reflect their needs and preferences, as specified in the individual program plan. WIC also identifies an individual’s right to make choices pertaining to their own lives, including program planning and implementation.</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their</p>	Compliant	N/A

		<p>community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p><u>WIC § 4512(b)</u> ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p><u>WIC § 4646(a)(b)(d)</u> (a) ...to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer,...</p>		
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		<p>(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.</p> <p>(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.</p> <p><u>17 CCR § 56084(a)(2)(7) Program Design Requirements (Specific to Adult Family Homes and Family Teaching Homes)</u></p> <p>(a) The program design shall detail how the FHA will achieve and monitor the following outcomes:</p> <p>(2) That the FHA and the family home will provide services and supports which will be consistent with the consumer's needs and preferences for services and supports as specified in the consumer's IPP.</p> <p>(7) That the FHA will ensure that services and supports which are chosen by the consumer and provided by the FHA will be satisfactory to the</p>		
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		<p>consumer, or the consumer's authorized representative, if applicable.</p> <p>17 CCR § 56090(a)(e) Referral for Service (Specific to Adult Family Homes and Family Teaching Homes) (a) When the consumer and the consumer's authorized representative, if applicable, has expressed an interest in the services and supports provided by an FHA, the regional center shall coordinate with the FHA for a meeting between the FHA, the consumer and/or the consumer's authorized representative, if applicable. (e) When the consumer has made a decision to reside in the family home, the FHA shall execute a residence agreement...</p>		
For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:				
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which</p>	<p>The State believes it is compliant with this requirement. Language in Title 17 provides definitions for Adult Family Homes and Family Teaching Homes. Title 17 also indicates that once the individual has chosen a home in which to reside, a residence agreement will be executed by the agency. A 30-day notice of termination of residency is required if the agency is unable to meet the needs of the individual.</p> <p>17 CCR § 56090(e)(1)(2)(f)(1 – 5)(g)(h) Referral for Service (Specific to Adult Family Homes and Family Teaching Homes) (e) When the consumer has made a decision to reside in the family home, the FHA shall execute a residence agreement which specifies the following: (1) The portion of the FHA's rate of reimbursement to be paid to the family home provider by the FHA pursuant to Section 56082(b)(1); and</p>	Compliant	N/A

<p>landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>(2) The services and supports which the FHA and the family home will provide to the consumer. (f) The residence agreement shall be signed by the: (1) Consumer; (2) Consumer's authorized representative, if applicable; (3) FHA; (4) Regional center; and (5) Family home provider. (g) The original residence agreement shall be maintained by the family home provider. (h) Copies of the signed residence agreement shall be maintained by the entities specified in subsection (f)(1) through (4).</p> <p><u>17 CCR § 56094(e)(f)(g)(h)(1 - 3)(i - k) Termination of Residency (Specific to Adult Family Homes and Family Teaching Homes)</u></p> <p>(e) When a family home provider, (f) an FHA, or (g) the regional center determines that the family home is unable to continue to meet the needs of the consumer as specified in the consumer's IPP, the family home provider, FHA, or regional center shall notify the following, in writing, at least 30 days prior to the date of termination of residency: (1) The consumer; (2) The regional center; (3) The FHA; and (4) The consumer's authorized representative, if applicable. (h) Upon the determination in subsections (e), (f), or (g), the regional center shall convene the consumer's ID Team to assess:</p>		
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		<p>(1) The need for additional or different services and supports in order for the consumer to remain in the family home; or</p> <p>(2) If a move becomes necessary, the consumer's choices and needs for services and supports before, during and after the move to a new residence; and</p> <p>(3) Any additional measures necessary to meet the consumer's health and safety needs until the move has been accomplished.</p> <p>(i) A place of residence shall be selected by the regional center and the FHA within a reasonable period of time based upon concerns for the health and safety of the consumer.</p> <p>(j) The FHA shall provide the services and supports necessary to enable the consumer to continue to reside in the family home until a new residence is selected pursuant to subsection (i).</p> <p>(k) If a new residence is not available by the designated termination date, the regional center shall coordinate with the FHA to ensure that the services and supports necessary to enable the consumer to continue to reside in the family home are provided until a new residence is available.</p>		
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	<p>Silent:</p> <ul style="list-style-type: none"> • Privacy in sleeping or living unit • Lockable doors, with only appropriate staff having keys to doors. 	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having privacy in his/her

				sleeping or living unit and lockable doors. Completion first quarter 2021.
7b	Individuals sharing units have a choice of roommates in that setting;	Silent: Choice of roommates	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having choice of roommates. Completion first quarter 2021.
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent: Freedom to decorate and furnish sleeping units.	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having the freedom to decorate and furnish his/her sleeping unit.

				Completion first quarter 2021.
8a	Individuals have the freedom and support to control their own schedules and activities;	<p>The State believes it is compliant with this requirement. Language in WIC indicates that individuals should be provided with opportunities for decision-making in their daily lives.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives...</p> <p>WIC § 4502(b)(6 & 10) (b)(6) A right to social interaction and participation in community activities. (b)(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p>	Compliant	N/A

		<p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>WIC § 4689.1(e)(8)(B-F) (Specific to Adult Family Homes and Family Teaching Homes) (e)(8)(B) Assist the consumer in understanding and exercising his or her individual rights. (e)(8)(C) Are consistent with the family home agency’s program design and the consumer’s individual program plan. (e)(8)(D) Maximize the consumer’s opportunities to have choices in where he or she lives, works, and socializes.</p>		
8b	Individuals have access to food at any time.	<p>Silent: Access to food at any time.</p>	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement

				related to individuals having access to food at any time. Completion first quarter 2021.
9	Individuals are able to have visitors of their choosing at any time.	Silent: Visitors at any time	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having visitors at any time. Completion first quarter 2021.
10	The setting is physically accessible to the individual.	The State believes that it is compliant with this requirement. In accordance with WIC, each individual program plan, which outlines services and supports, is developed with a specific focus on personal needs. Additionally, language in Title 17 indicates that agency staff are to determine that the family home is accessible to individuals, prior to approval as a certified family home. WIC § 4646(b) The individual program plan is developed through a process of individualized needs determination...	Compliant	N/A

		<p><u>17 CCR § 56087(a)(C) Home Visit (Specific to Adult Family Homes and Family Teaching Homes)</u></p> <p>(a) Prior to approval, the FHA shall visit each prospective family home to:</p> <p>(C) Accommodations for ensuring safe and reasonable accessibility for entrance to, movement within and exit from the family home.</p>		
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Provider Setting Type - Adult Residential Facility - Assisted Living Waiver

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>22 CCR § 80022 (b) (13) includes the following requirement in the setting’s Plan of Operation: Consultant and community resources to be utilized by the facility as part of its program.</p> <p>22 CCR § 80072 (a) (5) ensures that a resident is free to attend religious services or activities of his/her choice. (a) (6) ensures the resident may leave or depart the facility at any time.</p> <p>22 CCR § 85072 (b) (9) To have access to telephones in order to make and receive confidential calls...</p> <p>22 CCR § 85064 (j) (6) requires the setting administrator arranges for the clients to attend available community programs, when clients have needs, identified in the needs and service plan, which cannot be met by the facility but can be met by community programs.</p> <p>22 CCR § 85079 (a) – (f) Licensing requirements for ARFs clearly support integration and full access to the greater community. Specifically, 22 CCR § 85079 (c) provides a list of community activities the setting must ensure that residents are given the opportunity to attend if they choose to.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		Licensing requirements support the resident in any way necessary for full access and integration into the community to the same degree of access as their non-Medicaid HCBS counterparts.		
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	Current ARF State Standards do not explicitly offer opportunities for residents to seek employment. 22 CCR § 85064 (j) (6) requires the setting administrator arranges for the clients to attend available community programs, when clients have needs, identified in the needs and service plan, which cannot be met by the facility but can be met by community programs. If a resident's needs and service plan identify the desire of the resident to seek employment, the setting's administrator is required to facilitate that service.	Partial Compliance	ARFs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.
1c	The setting includes opportunities to control	22 CCR § 85072 (b) (5-7) To wear his/her own clothes; To possess and use his/her own personal	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	items... To possess and control his/her own cash resources. State standards ensure the residents' opportunity to control personal resources to the same degree as non-Medicaid HCBS persons.		
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Licensing requirements 22 CCR § 80022 (b) (13) include the following requirement in the setting's Plan of Operation: Consultant and community resources to be utilized by the facility as part of its program. ARFs must utilize community resources to engage their residents with community life and the services therein, as are available to non-Medicaid HCBS persons.</p> <p>Activities 22 CCR § 85079 (a) – (f) Licensing requirements for ARFs clearly support opportunities to engage in community life, and receive services in the community. Specifically, 22 CCR § 85079 (c) provides a list of community activities the setting must ensure that residents are given the opportunity to attend. These include: worship services and activities of the client's choice; community service activities; community events; self-help organizations; senior citizen groups, sports leagues and service clubs.</p> <p>22 CCR § 85064 (j) (6) requires the setting administrator arrange for the clients to attend available community programs, when clients have needs, identified in the needs and service plan, which cannot be met by the facility but can be met by community programs.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
2	<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. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>22 CCR § 85060 (a) (2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement...licensing requirements ensure a private room option and is documented in the admissions agreement, which is kept in the resident's file.</p> <p>22 CCR § 85072 (b) (1) The licensee shall ensure that each client is accorded the following personal rights. To visit the facility with his/her relatives or authorized representative prior to admission. This requirement allows the potential resident and/or authorized representative to make an informed decision whether or not to choose a particular setting.</p> <p>22 CCR § 80068 (a) (1-2) ARFs must complete an individual written admission agreement with each client and the client's authorized representative. When admitting a developmentally disabled adult, the ARF shall obtain from the Regional Center written certification which states that there was no objection to the placement...The licensee shall maintain a copy of the certification in the client's file. These requirements ensure choice of setting and documentation in the residents' file.</p>	Partial Compliance	<p>ARFs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 80068.2 (a) – (c) the ARF must complete a Needs and Service Plan for each resident. The Needs and Service Plan must be maintained in the residents' file. This ensures placement in the ARF is based on the needs and preferences of the individual.</p> <p>22 CCR § 80068.3 (a) the Needs and Service Plan must be updated at least annually, or with change in condition. This ensures the resident's placement continues to be based on needs, preferences and choice.</p>		
3a	The setting ensures an individual's rights of privacy;	<p>22 CCR § 85072 (b) (8) To have access to individual storage space for his/her private use.</p> <p>22 CCR § 85087 (a) (3) No room commonly used for other purposes shall be used as a bedroom for any reason.</p> <p>22 CCR § 85088 (a) (4) Individual privacy shall be provided in all toilet, bath and shower areas.</p>	Compliant	N/A
3b	The setting ensures an individual's rights of dignity;	<p>Personal Rights 22 CCR § 85072 (b) (4) ensures individuals have privacy in all toilet, bath and shower areas. 22 CCR § 85072 (c) requires the setting provide furniture, equipment and supplies necessary for personal care and maintenance of personal hygiene. State standards such as these ensure a standard level of dignity for the residents.</p> <p>Furthermore, in licensing community care facilities such as ARFs, 22 CCR § 80072 (a) ensures the resident</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>is accorded dignity in his/her personal relationships with staff and other persons. 22 CCR § 80072 (a) (3) ensures the resident is free from corporal and unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.</p>		
3c	The setting ensures an individual's rights of respect;	<p>In addition to State standards identified in HCBS Settings Requirement 3b, an additional requirement that demonstrates an element of respecting the resident are in Personal Rights 22 CCR § 85072 (b) (3) To have communications to the facility from his/her relatives or authorized representative answered promptly and completely.</p>	Compliant	N/A
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>Admission Agreements 22 CCR § 85068 (b) (2) The admission agreement must specify General facility policies which are intended to ensure that no client, in the exercise of his/her personal rights, infringes upon the personal rights of any other client. The admission agreement ensures that residents exercising their personal rights do not infringe upon the personal rights of other residents.</p> <p>Personal Rights 22 CCR § 80072 ensures that a resident is free from corporal or unusual punishment, infliction of pain, humiliation, intimidation,</p>	Compliant	N/A

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		<p>ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning. 22 CCR § 80072 (a) (6) ensures the resident may leave or depart the facility at any time. 22 CCR § 80072 (a) (7) ensures the resident shall not be locked in any room, building, or facility premises by day or not. 22 CCR § 80072 (a) (8) ensures the resident shall not be placed in any restraining device.</p>		
4	<p>The setting 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.</p>	<p>22 CCR § 80068 prior to admission the setting must complete an individual written admission agreement with each client and the client’s authorized representative, if any. As part of the admission procedure detailed in 22 CCR § 85068.1, the setting must complete a Needs and Services Plan for each client. The Needs and Services Plan must, as defined in 22 CCR § 85068.2, include The client’s desires and background... and specific service needs, if any.</p> <p>22 CCR § 85072 ensures the personal rights of residents. Specifically 22 CCR § 85072 (b) (4-12) include requirements that the resident shall wear his/her own clothes, possess his/her own personal items, possess and control his/her own cash resources,</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>have access to individual storage space for his/her private use.</p> <p>22 CCR § 85079 define the activities that the setting is required to provide and/or facilitate. The setting must ensure planned recreational activities that require group interaction, and physical activities such as games, sports, and exercise. Additionally, 22 CCR § 85079 (b) ensure that residents that are capable shall be given the opportunity to participate in the planning, preparation, conduct, clean-up and critique of the activities.</p> <p>22 CCR § 85079 (c) The licensee shall ensure that clients are given the opportunity to attend and participate in community activities including, but not limited to...(1) activities of the client’s choice.</p> <p>22 CCR § 85079 (c) also requires the setting give residents the opportunity to attend and participate in community activities, such as worship services and activities of the client’s choice, community services activities, community events, self-help organizations, and senior citizen groups, sports leagues and service clubs.</p> <p>Essentially, the setting is required to optimize the residents’ individual initiative, autonomy and independence in making life choices, as well as the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		ability to design his/her activities and services and who provides them.		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>State standards ensure individual choice of activities. 22 CCR § 85079 (c) The licensee shall ensure that clients are given the opportunity to attend and participate in community activities including, but not limited to...(1) activities of the client’s choice.</p> <p>22 CCR § 85064 (j) (6) requires the setting administrator arranges for the clients to attend available community programs, when clients have needs, identified in the needs and service plan, which cannot be met by the facility but can be met by community programs.</p> <p>22 CCR § 85068.1 Admission Procedures require the setting obtain the resident’s signature on the admission agreement, or his/her authorized representative, before admission. 22 CCR § 85068.2 requires that an ARF admitting a resident must complete a written Needs and Services Plan, which shall include: The client’s desires and background, obtained from the client’s family or his/her authorized representative, if any, and licensed professional, where appropriate, regarding...specific service needs, if any. 22 CCR § 85068.2 (b) (2) requires that the needs and services plan include the facility’s plan for providing services to meet the individual needs of the resident. Should a resident choose a certain</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		provider for his/her services, the setting must facilitate that choice.		
For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:				
6	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides	All residents of an ARF must sign an admission agreement. 22 CCR § 85068.1 details the admission procedures, which include the requirement that (b) no client may be admitted prior to a determination of the facility’s ability to meet the needs of the client, which must include an appraisal of his/her individual service needs. 22 CCR § 85068.1 (e) If admission is agreed to, the facility shall obtain the signature of the client, or his/her authorized representative, if any, on the Admission Agreement. Further, 22 CCR § 85068.5 details the State standards regarding eviction procedures.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	<p>22 CCR § 85087 (a) (3) requires that no room commonly used for other purposes shall be used as a bedroom for any person. (a) (4) requires that no client bedroom shall be used as a public or general passageway to another room, bath or toilet.</p> <p>Current State standards partially address privacy in the resident's bedroom, but does not fully address privacy in the resident's sleeping or living unit, and does not address lockable doors with appropriate staff having keys.</p> <p>The Waiver partially addresses this HCBS Settings Requirement, but does not address staff keys.</p>	Partial Compliance	ARFs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
7b	Individuals sharing units have a choice of roommates in that setting;	Current State standards do not address choice of roommates.	Silent	ARFs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	22 CCR § 80072 (a) (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs. Licensing requirements, which also detail admission agreement procedures, ensure the setting grants the resident furnishings and equipment.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 85072 (b) (5-8) requires the resident shall (5) wear his/her own clothes; (6) possess his/her own personal items; (7) control his/her own cash resources; and (8) have access to individual storage space for his/her private use. These requirements ensure that the resident has full control over their cash resources, may purchase their own personal items, including clothing, furniture, and other accessories he/she may decorate their living unit with, and has his/her own storage space.</p>		
8a	Individuals have the freedom and support to control their own schedules and activities;	<p>22 CCR § 80072 (a) (3) To be free from...interference with the daily living functions, including eating, sleeping.</p> <p>22 CCR § 85079 this section ensures that the setting provide opportunities for activities, and (b) Each client who is capable shall be given the opportunity to participate in the planning, preparation conduct, clean-up and critique of the activities. Furthermore, (c) requires that the setting ensure that clients are given the opportunity to attend and participate in community activities including...(1) Worship services; (2) Community Service activities; (3) Community events; (4) Self-help organizations; (5) Senior citizen groups, sports leagues and service clubs.</p>	Compliant	N/A
8b	Individuals have access to food at any time.	<p>22 CCR § 80072 (a) (3) To be free from...interference with the daily living functions, including eating.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 80076 (a) (4) requires that Between meal nourishment or snacks shall be available for all clients.</p> <p>22 CCR § 85076 (c) (2) requires that Tray service shall be provided in case of temporary need.</p>		
9	Individuals are able to have visitors of their choosing at any time.	<p>22 CCR § 85072 (b) (4) to have visitors, including advocacy representatives, visit privately during waking hours, provided that such visitations do not infringe upon the rights of other clients. The State interprets this to mean that visitors are allowed any time the resident is awake, provided the visit does not infringe upon the personal rights of other residents.</p>	Compliant	N/A
10	The setting is physically accessible to the individual.	<p>22 CCR § 80087 (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.</p> <p>22 CCR § 85087 (b) Stairways, inclines, ramps, open porches, and areas of potential hazard to clients whose balance or eyesight is poor shall not be used by clients unless such areas are well lighted and equipped with sturdy hand railings.</p> <p>22 CCR § 85087.2 (a) Outdoor activity areas shall be provided which are easily accessible to clients and protected from traffic.</p>	Compliant	N/A

		Taken together, these clearly demonstrate that a setting must be accessible and free from obstruction, and properly maintained for all residents and visitors.		

Provider Setting Type – Adult Residential Facility; Adult Residential Facility for Persons with Special Health Care Needs; Residential Care Facility for the Elderly; Group Home and Small Family Home – HCBS Waiver for Californians with Developmental Disabilities and 1915(i) State Plan

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>The State believes it is compliant with this requirement. Language in WIC promotes opportunities for integration in, access to, and participation in all aspects of the community.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities...the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p><u>WIC § 4502(a)(b)(1-3, 5-7, & 10)</u></p> <p>(a) Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. An otherwise qualified person by reason of having a developmental disability shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives public funds.</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(1) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible.</p> <p>(2) ...To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>(3) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.</p> <p>(5) A right to religious freedom and practice.</p> <p>(6) A right to social interaction and participation in community activities.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(7) A right to physical exercise and recreational opportunities.</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646(a)</p> <p>It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p>		
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	The State believes it is compliant with this requirement. Language in WIC provides opportunities for individuals to seek and obtain competitive/integrated employment. Additionally, California’s Employment First Policy identifies strategies to increase employment for individuals with developmental disabilities.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646.5(a)(4) (a) The planning process for the individual program plan described in Section 4646 shall include all of the following:</p>		

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		<p>(4) When developing an individual program plan for a transition age youth or working age adult, the planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).</p> <p>With the Employment First Policy, the State is committed to providing opportunities for individuals with developmental disabilities to seek employment and engage in work in integrated settings.</p> <p>WIC § 4851(o) “Integrated work” means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.</p>		
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	<p>The State believes it meets this requirement. Language in Title 17 and Title 22 promotes an individual’s right to control their own resources.</p> <p>17 CCR § 50510(b)(1) Application of This Subchapter (Specific to Community Care Facility) Unless otherwise restricted by law, these rights may be exercised at will by any person with a developmental disability. These rights include, but are not limited to, the following:</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(b)(1) To keep and be allowed to spend one's own money for personal and incidental needs.</p> <p>22 CCR § 85072(b)(7) Personal Rights (Specific to Adult Residential Facilities)</p> <p>(b) The licensee shall insure that each client is accorded the following personal rights.</p> <p>(7) To possess and control his/her own cash resources.</p>		
1d	<p>The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>The State believes it is compliant with this requirement. Language in WIC and Title 22 promotes an individual's rights to make choices in his/her own life including participation in community activities and events.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>communities, including supported living and other appropriate community living arrangements.</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>22 CCR § 85079(c)(1 – 3) Activities (Specific to Adult Residential Facilities) (c) The licensee shall ensure that clients are given the opportunity to attend and participate in community activities including but not limited to the following: (1) Worship services and activities of the client's choice. (2) Physical activities including but not limited to games, sports and exercise. (3) Community events, including but not limited to concerts, tours, dances, plays, and celebrations of special events.</p>		
2	The setting is selected by the individual from	The State believes it is partially compliant with this requirement. Language in WIC indicates that a range of	Partial Compliance	The State will seek to modify statute

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>service options should be provided to individuals during the individual program plan process and that the selection of services and supports will be completed according to the preferences of the individual</p> <p>Silent:</p> <ul style="list-style-type: none"> • Option for private unit. • Documentation of setting options, including non-disability specific settings, not selected by the individual. <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502.1</p>		<p>and/or regulations as appropriate to align with federal requirement related to individuals having the option for a private unit and documentation of setting options not selected by the individual.</p> <p>Completion first quarter 2021.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a)</p>		

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		<p>...It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p>		
3a	The setting ensures an individual's rights of privacy;	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to privacy.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p>	Compliant	N/A
3b	The setting ensures an individual's rights of dignity;	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to dignity.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
3c	The setting ensures an individual's rights of respect;	<p>The State believes it is compliant with this requirement. Language in WIC emphasizes that choices made by the individual shall be respected.</p> <p>WIC § 4502.1</p> <p>The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers...</p>	Compliant	N/A
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>The State believes it meets this requirement. Language in Title 22 and WIC addresses an individual's right to be free from coercion and restraint.</p> <p>22 CCR § 80072(a)(3) Personal Rights (Specific to Community Care Facilities)</p> <p>(a) Except for children's residential facilities, each client shall have personal rights which include, but are not limited to, the following:</p> <p>(3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature...</p> <p>WIC § 4502(b)(8)</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		(8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.		
4	The setting 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.	<p>The State believes it is compliant with this requirement. Language in WIC and Title 22 indicates that services and supports should enable individuals to make choices regarding their daily lives.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live...</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4503(i) (Specific to Community Care Facilities) To make choices in areas including, but not limited to, his or her daily living routines, choice of companions, leisure and social activities, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p> <p>22 CCR § 80072(a)(6) (Specific to Community Care Facilities) (a) Except for children's residential facilities, each client shall have personal rights which include, but are not limited to, the following: (6) To leave or depart the facility at any time.</p>		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>The State believes it is compliant with this requirement. Language in WIC identifies an individual's right to make choices pertaining to his/her own life, including program planning and implementation.</p> <p>WIC § 4741 (Specific to Residential Care Facility) An adult person with a developmental disability has the legal right to determine where his or her residence will be.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a)(b)(d) (a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system</p>		

		<p>is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p> <p>(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.</p> <p>(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian,</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		conservator, or authorized representative at the program plan meeting.		
For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:				
6	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address	<p>The State believes it is compliant with this requirement. Language in WIC, Title 22, Title 17, and the State Plan Amendment (SPA 09-023A, Section 1915(i)) state that an admissions agreement must be completed between the facility and the individual. This admissions agreement provides the individual with the same protections from eviction that tenants have under landlord tenant laws.</p> <p>WIC § 4741 (Specific to Adult Residential Facilities) An adult person with a developmental disability has the legal right to determine where his or her residence will be. Except in a situation which presents immediate danger to the health and well-being of the individual, the regional center or its designee shall not remove a consumer from a residential care facility against the client’s wishes unless there has been specific court action to abridge such right with respect to an adult or unless the parent, guardian or conservator consents with respect to a child.</p> <p>22 CCR § 80068(a)(2) Admissions Agreement (Specific to Adult Residential Facilities) (a) The licensee shall complete an individual written admission agreement with each client and the client's authorized representative, if any.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>(2) The licensee shall maintain a copy of the certification in the client's file.</p> <p>17 CCR § 56019(c)(1)(A)(C) Consumer Admission (c) Each regional center shall develop a written admission agreement, which shall be completed for each consumer. (1) The admission agreement shall include statements certifying that: (A) No objection has been made to admission of the consumer to the facility; (C) The consumer has a continuing right, which will be honored by all facility staff, to choose where he/she will live.</p> <p>22 CCR § 85068.5(a) Eviction Procedures (Specific to Adult Residential Facilities) (a) The licensee shall be permitted to evict a client by serving the client with a 30-day written notice to quit for any of the following reasons: (4) A needs and services plan modification has been performed, as specified in Section 85068.3, which determined that the client's needs cannot be met by the facility and the client has been given an opportunity to relocate as specified in Section 85068.3(b)(3).</p> <p>17 CCR § 56016(a)(b)(f) Placement and Relocation Requirements</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(a) The regional center shall, to the extent feasible, provide opportunities for each consumer or authorized consumer representative to have a choice among appropriate, available living arrangements.</p> <p>(b) The regional center shall provide placement and relocation assistance to each consumer as specified in Welfare and Institutions Code Sections 4647, 4648 and 4747.</p> <p>(f) ... the regional center shall relocate the consumer within 30 days or within a time frame which has been mutually agreed-upon by the regional center, the administrator and the consumer and/or the consumer's authorized representative.</p> <p>SPA 09-023A, Section 1915(i) - Services, 1.A)7.i) (p.13 – p.14)</p> <p>7. Assurance of residents rights: i) entering into an admission agreement and taking occupancy affords residents of licensed residential facilities the same protections from eviction that tenants have under landlord tenant law of the State, county, city or other designated entity.</p>		
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only	<p>Silent:</p> <ul style="list-style-type: none"> • Privacy in sleeping or living unit. • Lockable Doors, with only appropriate staff having keys to doors. 	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal

	appropriate staff having keys to doors;			requirement related to individuals having privacy in sleeping or living unit and lockable doors. Completion first quarter 2021.
7b	Individuals sharing units have a choice of roommates in that setting;	Silent: Choice of Roommates.	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having choice of roommates. Completion first quarter 2021.
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent: Freedom to decorate and furnish sleeping units.	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				related to individuals having the freedom to decorate and furnish sleeping units. Completion first quarter 2021.
8a	Individuals have the freedom and support to control their own schedules and activities;	<p>The State believes it is compliant with this requirement. Language in WIC indicates that individuals should be provided with opportunities for decision-making in their daily lives.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives...</p> <p>WIC § 4502(b)(6 & 10)</p> <p>(6) A right to social interaction and participation in community activities.</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision-making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>22 CCR § 80072(a)(6) (Specific to Community Care Facilities) (a) Except for children's residential facilities, each client shall have personal rights which include, but are not limited to, the following: (6) To leave or depart the facility at any time.</p>		
8b	Individuals have access to food at any time.	Silent: Access to food at any time	Silent	The State will seek to modify statute

				and/or regulations as appropriate to align with federal requirement related to individuals having access to food at any time. Completion first quarter 2021.
9	Individuals are able to have visitors of their choosing at any time.	Silent: Visitors any time	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having visitors at any time. Completion first quarter 2021.
10	The setting is physically accessible to the individual.	The State believes it is partially compliant with this requirement. Language in Title 22, for Adult Residential Facilities, states that bedrooms must accommodate individual needs, including accessibility.	Partial Compliance	The State will seek to modify statute and/or regulations as

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>Title 22 also indicates that areas within and around the home will be accessible by being kept free of obstruction.</p> <p>Silent: All areas of the setting are accessible to the individual. Title 22 focuses on certain areas of the setting being physically accessible.</p> <p>WIC § 4646(b) The individual program plan is developed through a process of individualized needs determination...</p> <p>22 CCR § 80087(a)(b)(1)(c) Buildings & grounds (a) The facility shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors. (b) All clients shall be protected against hazards within the facility through provision of the following: (1) Protective devices including but not limited to nonslip material on rugs. (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.</p> <p>22 CCR § 85087(a)(2)(b) Buildings & Grounds (Specific to Community Care Facilities)</p>		<p>appropriate to align with federal requirement related to full physical accessibility of the setting to the individual. Completion first quarter 2021.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(a)(2) Bedrooms must be large enough to allow for easy passage and comfortable use of any required client-assistive devices, including but not limited to wheelchairs, walkers, or oxygen equipment, between beds and other items of furniture specified in Section 85088(c).</p> <p>(b) Stairways, inclines, ramps, open porches, and areas of potential hazard to clients whose balance or eyesight is poor shall not be used by clients unless such areas are well lighted and equipped with sturdy hand railings.</p> <p>22 CCR § 85087.2(a)(b) Outdoor Activity Space (Specific to Adult Residential Facilities)</p> <p>(a) Outdoor activity areas shall be provided which are easily accessible to clients and protected from traffic.</p> <p>(b) The outdoor activity area shall provide a shaded area, and shall be comfortable, and furnished for outdoor use.</p>		

Provider Setting Type – Certified Family Home; Foster Family Home

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>The State believes it is compliant with this requirement. Language in WIC promotes opportunities for integration in, access to, and participation in all aspects of the community.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities,...the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502(a)(b)(1-3, 5-7, & 10) (All Setting Types)</p>	Compliant	N/A

		<p>(a) Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. An otherwise qualified person by reason of having a developmental disability shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives public funds.</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(1) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible. ...To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>(2) ...To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>(3) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.</p> <p>(5) A right to religious freedom and practice.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(6) A right to social interaction and participation in community activities.</p> <p>(7) A right to physical exercise and recreational opportunities.</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646(a)</p> <p>It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p>		
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as	The State believes it is compliant with this requirement. Language in WIC provides opportunities for individuals to seek and obtain competitive/integrated employment. Additionally, California's Employment First Policy identifies strategies to increase employment for individuals with developmental disabilities.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	individuals not receiving Medicaid HCBS;	<p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646.5(a)(4)</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(a) The planning process for the individual program plan described in Section 4646 shall include all of the following:</p> <p>(4) When developing an individual program plan for a transition age youth or working age adult, the planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).</p> <p>With the Employment First Policy, the State is committed to providing opportunities for individuals with developmental disabilities to seek employment and engage in work in integrated settings.</p> <p>WIC § 4851(o) “Integrated work” means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.</p>		
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	<p>The State believes it is compliant with this requirement. Language in Title 22 promotes an individual’s right to control their personal resources.</p> <p>22 CCR § 89226(c) Safeguards for Cash Resources, Personal Property, and Valuables (Specific to Foster Family Homes)</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(c) The caregiver shall allow a “child” to have access to and control of his or her cash resources, personal property, and valuables in a manner that is age and developmentally appropriate.</p> <p>22 CCR § 89372(a)(2)(A)(B)(C)(7) Personal Rights</p> <p>(a) The caregiver shall ensure that each “child” is accorded the personal rights specified in Welfare and Institutions Code section 16001.9. In addition, the caregiver shall ensure that each “child” is accorded the following personal rights:</p> <p>(2) To be provided with and allowed to possess and use adequate personal items, which includes their own:</p> <p>(A) Clothes, provided the clothes are age-appropriate as defined in Section 89201, subsection (a)(2), do not violate school standards when worn during school activities, and are in accordance with the gender identity of the “child.”</p> <p>(B) Toiletries and personal hygiene products, including enclosed razors used for shaving, as age and developmentally appropriate.</p> <p>(C) Belongings, including items that were a gift to the “child.”</p> <p>(7) To be accorded the independence appropriate to the age, maturity, and capability of the “child” consistent with the written plan identifying the specific needs and services of the “child” or the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		Transitional Independent Living Plan (TILP) of the “child,” if applicable.		
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual’s right to make choices in their own lives including participation in community activities and events.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age... ...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements.</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p>		
2	<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. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>The State believes it is partially compliant with this requirement. Language in WIC indicates that a range of service options should be provided to individuals during the individual program plan process and that the selection of services and supports will be completed according to the preferences of the individual.</p> <p>Silent:</p> <ul style="list-style-type: none"> • Option for private unit. • Documentation of setting options, including non-disability specific settings, not selected by the individual. <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to</p>	Partial Compliance	<p>The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having the option for a private unit and documentation of setting options not selected by the individual. Completion first quarter 2021.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>support their integration into the mainstream life of the community...</p> <p>In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502.1</p> <p>The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) ...It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p>		
3a	The setting ensures an individual’s rights of privacy;	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual’s right to privacy.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services,</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		and supports shall be provided in natural community settings.		
3b	The setting ensures an individual's rights of dignity;	The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to dignity. WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.	Compliant	N/A
3c	The setting ensures an individual's rights of respect;	The State believes it is compliant with this requirement. Language in WIC emphasizes that choices made by the individual shall be respected. WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers...	Compliant	N/A
3d	The setting ensures an individual's freedom	The State believes it is compliant with this requirement. Language in Title 22 and WIC addresses an individual's right to be free from coercion and restraint.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	from coercion and restraint.	<p>22 CCR § 89372(a)(1 & 8) Personal Rights (a) The caregiver shall ensure that each “child” is accorded the personal rights specified in Welfare and Institutions Code section 16001.9. In addition, the caregiver shall ensure that each “child” is accorded the following personal rights: (1) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature... (8) Not to be restrained or placed in any restraining device other than as specified in Section 89475.2, Postural Supports and Protective Devices.</p> <p>WIC § 4502(b)(8) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.</p>		
4	The setting optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including, but not limited to, daily activities, physical	<p>The State believes it is compliant with this requirement. Language in WIC indicates that services and supports should enable individuals to make choices regarding their daily lives.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	environment, and with whom to interact.	<p>the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live...</p> <p><u>WIC § 4502(b)(10)</u></p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p>		
5	The setting facilitates individual choice regarding services and	The State believes it is compliant with this requirement. Language in WIC identifies an individual’s right to make	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	supports, and who provides them.	<p>choices pertaining to their own lives, including program planning and implementation.</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4646(a)(b)(d)</p> <p>(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p> <p>(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.</p> <p>(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer’s goals, objectives, and services and supports that will be included in the consumer’s individual program plan and purchased by the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.</p>		
For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:				
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in</p>	<p>The State believes that it is compliant with this requirement. Language in Title 17 and the State Plan Amendment (SPA, 09-023A, Section 1915(i)) state that an admissions agreement must be completed by the regional center and the individual. This admissions agreement provides the individual with the same protections from eviction that tenants have under landlord tenant laws.</p> <p>17 CCR § 56019(c)(1)(A)(C) Consumer Admission (c) Each regional center shall develop a written admission agreement which shall be completed for each consumer. (1) The admission agreement shall include statements certifying that: (A) No objection has been made to admission of the consumer to the facility; (C) The consumer has a continuing right, which will be honored by all facility staff, to choose where he/she will live.</p> <p>SPA 09-023a, 1915(j) – Services, 1.A)7.i</p>	Compliant	N/A

	place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	(p.13 – p.14) Assurance of residents rights: i) entering into an admission agreement and taking occupancy affords residents of licensed residential facilities the same protections from eviction that tenants have under landlord tenant law of the State, county, city or other designated entity.		
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	Silent: <ul style="list-style-type: none"> • Privacy in living unit. • Lockable doors, with only appropriate staff having keys to doors. 	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having privacy in sleeping or living unit and lockable doors. Completion first quarter 2021.
7b	Individuals sharing units have a choice of	Silent: Choice of roommates.	Silent	The State will seek to modify statute and/or

	roommates in that setting;			regulations as appropriate to align with federal requirement related to individuals having choice of roommates. Completion first quarter 2021.
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent: Freedom to decorate and furnish sleeping units.	Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having the freedom to decorate and furnish sleeping units. Completion first quarter 2021.
8a	Individuals have the freedom and support to	The State believes it is compliant with this requirement. Language in WIC indicates that individuals should be	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	control their own schedules and activities;	<p>provided with opportunities for decision-making in their daily lives.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives...</p> <p>WIC § 4502 (b)(6 & 10) (6) A right to social interaction and participation in community activities. (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision-making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p>		
8b	Individuals have access to food at any time.	<p>The State believes that it is compliant with this requirement. According to Title 22, providers are to ensure that individuals have at least three meals per day, as well as snacks and additional food.</p> <p>22 CCR § 89376(a)(1)(b) Food Service (a) The caregiver shall provide or ensure at least three nutritious meals per day, have between-meal snacks available, provide food as necessary, and meet any special dietary needs documented in the written plan identifying the specific needs and services of the “child,” unless the physician of a “child” advises otherwise. (1) The quantity and quality of food available to household members shall be equally available to a “child.” (b) A “child” shall be invited to participate in all household meals.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
9	Individuals are able to have visitors of their choosing at any time.	<p>The State believes it is partially compliant with this requirement. Language in Title 22 indicates that individuals have the right to have visitors of their choosing unless prohibited by authorized representatives for the child.</p> <p>Silent: At any time.</p> <p>22 CCR 89372(a)(3)(C) Personal Rights (a) The caregiver shall ensure that each “child” is accorded the personal rights specified in Welfare and Institutions Code section 16001.9. In addition, the caregiver shall ensure that each “child” is accorded the following personal rights: (3) Provided the rights of others are not infringed upon, to have visitors that include: (C) Other visitors, unless prohibited by court order or by the authorized representative for the “child”.</p>	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to individuals having visitors at any time. Completion first quarter 2021.
10	The setting is physically accessible to the individual.	The State believes that it is partially compliant with this requirement. In accordance with WIC, each individual program plan, which outlines services and supports, is developed with a specific focus on personal needs. Language in Title 22 also addresses areas of potential hazard and indicates that those spaces should be free of obstacles.	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to full physical accessibility of the

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>Silent: All areas of the setting are accessible to the individual. Title 22 focuses on certain areas of the setting being physically accessible.</p> <p>WIC § 4646(b) The individual program plan is developed through a process of individualized needs determination...</p> <p>22 CCR § 80087(a)(b)(1)(c) – Buildings & Grounds (a) The facility shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors. (b) All clients shall be protected against hazards within the facility through provision of the following: (1) Protective devices including but not limited to nonslip material on rugs. (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.</p>		<p>setting to the individual. Completion first quarter 2021.</p>

Provider Setting Type – Child Day Care Facility; Child Day Care Center; Family Child Care Home

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>The State believes it is compliant with this requirement. Language in WIC promotes opportunities for integration in, access to, and participation in all aspects of the community.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502(a)(b)(1-3, 5-7, & 10) (All Setting Types)</p>	Compliant	N/A

		<p>(a) Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. An otherwise qualified person by reason of having a developmental disability shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives public funds.</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(1) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible.</p> <p>(2)...To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>(3) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.</p> <p>(5) A right to religious freedom and practice.</p> <p>(6) A right to social interaction and participation in community activities.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(7) A right to physical exercise and recreational opportunities.</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646(a)</p> <p>It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p>		
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	The State believes that this requirement is not applicable to these setting types (Child Day Care Facility, Child Day Care Center, and Family Child Care Home). However, to the extent a transition age youths' needs and/or preferences change, and employment is desired, the planning team shall consider the State's Employment First Policy described in Chapter 14 (commencing with WIC § 4868).	N/A	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.		Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to an individual's opportunity to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS. Completion first quarter 2021.
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	The State believes it is compliant with this requirement. Language in WIC promotes an individual's right to engage in community life and to make life choices. WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age... ...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p>		
2	The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit	The State believes it is partially compliant with this requirement. Language in WIC indicates that a range of service options should be provided to individuals during the individual program plan process and that the selection of services and supports will be completed according to the preferences of the individual.	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>Silent: Documentation of setting options, including non-disability specific settings, not selected by the individual.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving</p>		<p>requirement related to the documentation of setting options not selected by the individual. Completion first quarter 2021.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) ...It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p>		
3a	The setting ensures an individual's rights of privacy;	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to privacy.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p>	Compliant	N/A
3b	The setting ensures an individual's rights of dignity;	<p>The State believes it is compliant with this requirement. Language in WIC and Title 22 addresses an individual's right to dignity.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>22 CCR § 101223(a)(1) Personal Rights To be accorded dignity in his/her personal relationships with staff and other persons.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
3c	The setting ensures an individual's rights of respect;	<p>The State believes it is compliant with this requirement. Language in WIC emphasizes that choices made by the individual shall be respected.</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers...</p>	Compliant	N/A
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>The State believes it is compliant with this requirement. Language in Title 22 and WIC addresses an individual's right to be free from coercion and restraint.</p> <p>22 CCR § 101223(a)(3)(6)(7) Personal Rights (Specific to Child Day Care Centers) (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse or other actions of a punitive nature... (6) Not to be locked in any room, building or center premises by day or night. (7) Not to be placed in any restraining device.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 102423(a)(4) Personal Rights (Specific to Family Child Care Homes) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature...</p> <p>WIC § 4502(b)(8) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.</p>		
4	The setting 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.	<p>The State believes it is compliant with this requirement. Language in WIC indicates that services and supports should enable individuals to make choices regarding their daily lives.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live...</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a)</p> <p>It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p>		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>The State believes that it is compliant with this requirement. Language in WIC identifies the individual's right to make choices pertaining to his/her own life, including program planning and implementation.</p> <p>WIC § 4502(b)(10)</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b)</p> <p>...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a)(b)(d)</p> <p>(a) “...to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and</p>		

		<p>preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer,..."</p> <p>(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.</p> <p>(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer's goals, objectives, and services and supports that will be included in the consumer's individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.</p>		

6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the</p>	<p>N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.</p>	N/A	N/A

	jurisdiction's landlord tenant law.			
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A
7b	Individuals sharing units have a choice of roommates in that setting;	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A
8a	Individuals have the freedom and support to control their own schedules and activities;	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A
8b	Individuals have access to food at any time.	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A

9	Individuals are able to have visitors of their choosing at any time.	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A
10	The setting is physically accessible to the individual.	N/A Child Day Care Facility; Child Day Care Center; Family Child Care Home are non-residential settings.	N/A	N/A

Provider Setting Type – Congregate Living Health Facility (CLHF)

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>H&S § 1250 (i) (1) “Congregate living health facility” means a residential home...and (5) A congregate living health facility shall have a noninstitutional, homelike environment.</p> <p>H&S § 1267.13 (c) require the Facilities shall be in a homelike residential setting.</p> <p>22 CCR § 72527 (a) (7) ensures that the resident be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen...and recommend changes in policies and services to Facility staff and/or outside representatives of the patient’s choice. The facility must assist the resident as a citizen of the community and facilitate access to representatives within the community.</p> <p>22 CCR § 72315 (e) Each patient shall be encouraged and/or assisted to achieve and maintain the highest level of self-care and independence.</p> <p>22 CCR § 72381 (a) Patients shall be encouraged to participate in activities planned to meet their individual needs. An activity program shall have a written, planned schedule of social and other</p>	Compliant	N/A

		<p>purposeful independent or group activities. The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning...(b) The activity program shall consist of individual, small and large group activities which are designed to meet the needs and interests of each patient and which include, but are not limited to: (1) Social activities. (2) Indoor and out-of-doors activities, which may include supervised daily walks. (3) Activities away from the facility. (4) Religious programs. (5) Opportunity for patient involvement for planning and implementation of the activity program. (6) Creative activities. (7) Educational activities. (8) Exercise activities. (c) Activities shall be available on a daily basis. (d) The activity leader, at a minimum, shall: (7) Develop and maintain contacts with community agencies and organizations.</p>		
1b	<p>The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not</p>	<p>State Standards do not address opportunities to seek employment; however, in most cases residents of CLHFs are physically or cognitively incapable of competitive employment.</p>	<p>Silent</p>	<p>The State will issue a provider bulletin clearly indicating the requirements of 42 CFR 441.301(c)(4).</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	receiving Medicaid HCBS;			Completion first quarter 2018.
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	22 CCR § 72527 (a) (8) the Patient's Bill of Rights ensures that the resident can manage personal financial affairs. (15) Ensures that the resident retain and use personal clothing and possessions.	Compliant	N/A
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	22 CCR § 72527 (a) (14) To meet with others and participate in activities of social, religious and community groups. 22 CCR § 72381 (a) Patients shall be encouraged to participate in activities planned to meet their individual needs. The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning...(b) The activity program shall consist of individual, small and large group activities which are designed to meet the needs and interests of each patient and which include, but are not limited to: (1) Social activities. (2) Indoor and out-of-doors activities, which may include supervised daily walks. (3) Activities away from the facility. (d) The activity leader, at a minimum, shall: (7) Develop	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		and maintain contacts with community agencies and organizations.		
2	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. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.	State Standards do not address setting selection by the individual; however, upon enrollment in the PPC or HCB Alternatives Waiver, Program case managers work with the participant and their families to choose a residential setting.	Silent	The State will issue a provider bulletin clearly indicating the requirements of 42 CFR 441.301(c)(4). Completion first quarter 2018.
3a	The setting ensures an individual's rights of privacy;	<u>H&S § 1267.13 (c)</u> Facilities shall provide sufficient space for comfortable living accommodations and privacy for residents, staff, and others who may reside in the facility. <u>22 CCR § 72527 (a) (10)</u> To be assured confidential treatment of financial and health records and to approve or refuse their release. (a) (20) To be allowed privacy for visits with family, friends,	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>clergy, social workers or for professional or business purposes.</p> <p>22 CCR § 72315 (l) Each patient shall be provided visual privacy during treatments and personal care.</p>		
3b	The setting ensures an individual's rights of dignity;	<p>22 CCR § 72315 (b) Each patient shall be treated as individual with dignity and respect and shall not be subjected to verbal or physical abuse of any kind.</p> <p>(e) Each patient shall be provided care which shows evidence of good personal hygiene, including care of the skin, shampooing and grooming of hair, oral hygiene, shaving or beard trimming, cleaning and cutting of fingernails and toenails. The patient shall be free of offensive odors.</p>	Complaint	N/A
3c	The setting ensures an individual's rights of respect;	<p>22 CCR § 72527 Patients' Bill of Rights (a)(10) to be free from mental and physical abuse,(12) To be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment And in care of personal needs</p> <p>22 CCR § 72315 (b) Each patient shall be treated as individual with dignity and respect and shall not be subjected to verbal or physical abuse of any kind.</p> <p>(e) Each patient shall be provided care which shows evidence of good personal hygiene, including care of the skin, shampooing and grooming of hair, oral hygiene, shaving or beard trimming, cleaning and</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		cutting of fingernails and toenails. The patient shall be free of offensive odors.		
3d	The setting ensures an individual's freedom from coercion and restraint	22 CCR § 72527 patients' Bill of Rights (a) (7) To be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen, and to this end to voice grievances and recommend changes in policies and services to Facility staff and/or outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal. (9) To be free from mental and physical abuse.	Compliant	N/A
4	The setting 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.	22 CCR § 72527 (a) (1) To be fully informed, as evidenced by the patients written acknowledgment prior to or at the time of admission and during stay, or these rights and of all rules and regulations governing patient conduct. (5) To receive all information that is material to an individual patient's decision concerning whether to accept or refuse any proposed treatment or procedure. (7) To be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen, and to this end to voice grievances and recommend changes in policies and services to Facility staff and/or outside representatives of the patient's choice. (8) To manage personal financial affairs. (14) To meet with others and participate in activities of social, religious and	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>community groups. (21) To have reasonable access to telephones and to make and receive confidential calls.</p> <p>22 CCR § 72315 (e) Each patient shall be encouraged and/or assisted to achieve and maintain the highest level of self-care and independence.</p> <p>22 CCR § 72527 (a) (7) ensures that the resident be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen...and recommend changes in policies and services to Facility staff and/or outside representatives of the patient's choice.</p> <p>22 CCR § 72381 (a) Patients shall be encouraged to participate in activities planned to meet their individual needs... The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning but not necessarily to correct or remedy a disability. (b) The activity program shall consist of individual, small and large group activities which are designed to meet the needs and interests of each patient and which include, but are not limited to: (1) Social activities. (2) Indoor and out-of-doors activities, which may include</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		supervised daily walks. (3) Activities away from the facility.		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>22 CCR § 72527 (a) (7) ensures that the resident be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen...and recommend changes in policies and services to Facility staff and/or outside representatives of the patient’s choice.</p> <p>22 CCR § 72311 (A) Identification of care needs based upon an initial written and continuing assessment of the patient's needs... (B) Development of an individual, written patient care plan which indicates the care to be given, the objectives to be accomplished and the professional discipline responsible for each element of care. Licensing requirements ensure choice of services based on the residents’ needs but does not fully address choice in who provides the services and supports.</p>	Partial compliance	The State will issue a provider bulletin clearly indicating the requirements of 42 CFR 441.301(c)(4). Completion first quarter 2018.
6	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a	H&S § 1599 It is the intent of the Legislature in enacting this chapter to expressly set forth fundamental human rights which all patients shall be entitled to in a skilled nursing, intermediate care facility, or hospice facility as defined in Section 1250, and to ensure that patients in such facilities are advised of their fundamental rights and the obligations of the facility.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>22 CCR § 72516 (a) The licensee shall use the California Standard Admission Agreement for Skilled Nursing and Intermediate Care Facilities</p> <p>22 CCR §72527 Patients' Bill of Rights (1) To be fully informed, as evidenced by the patients written acknowledgment prior to or at the time of admission and during stay, or these rights and of all rules and regulations governing patient conduct.</p>		
7a	<p>Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only</p>	<p>H&S § 1267.13 (c) Facilities shall provide sufficient space for comfortable living accommodations and privacy for residents, staff, and others who may reside in the facility.</p>	<p>Partial compliance</p>	<p>The State will issue a provider bulletin clearly indicating the requirements of 42 CFR</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	appropriate staff having keys to doors;	22 CCR § 72527 patients' Bill of Rights (a) (20) To be allowed privacy for visits with family, friends, clergy, social workers, or for professional or business purposes. State standards do not address lockable doors with appropriate staff having keys.		441.301(c)(4). Completion first quarter 2018.
7b	Individuals sharing units have a choice of roommates in that setting;	22CR § 72527(a) (16) If married, to be assured privacy for visits by the patient's spouse and if both are patients in the Facility, to be permitted to share a room. State Standards do not specifically ensure choice of roommates, unless the resident chooses to live with his/her spouse.	Partial compliance	The State will issue a provider bulletin clearly indicating the requirements of 42 CFR 441.301(c)(4). Completion first quarter 2018.
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	22CR § 72527 (a) (15) residents are allowed to retain and use personal clothing and possessions as space permits.	Compliant	N/A
8a	Individuals have the freedom and support to control their own schedules and activities.	H&S Code § 1599.1 (d) residents have the right to activity programs to meet their needs and interest. 22 CCR § 72335 For food service, (4) Table service shall be provided for all patients who can and wish to eat at a table.	Partial compliance	The State will issue a provider bulletin clearly indicating the requirements of 42 CFR

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 72379 An activity program means a program which is staffed and equipped to encourage the participation of each patient, to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities.</p> <p>22 CCR § 72381 (a) Patients shall be encouraged to participate in activities planned to meet their individual needs. An activity program shall have a written, planned schedule of social and other purposeful independent or group activities. The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning but not necessarily to correct or remedy a disability. (b) The activity program shall consist of individual, small and large group activities which are designed to meet the needs and interests of each patient and which include, but are not limited to: (1) Social activities. (2) Indoor and out-of-doors activities, which may include supervised daily walks. (3) Activities away from the facility. (4) Religious programs. (5) Opportunity for patient involvement for planning and implementation of the activity program. (6) Creative activities. (7) Educational activities. (8) Exercise activities. (c) Activities shall</p>		<p>441.301(c)(4). Completion first quarter 2018.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>be available on a daily basis. (d) The activity leader, at a minimum, shall: (3) Coordinate the activity schedule with other patient services. (7) Develop and maintain contacts with community agencies and organizations.</p>		
8b	<p>Individuals have access to food at any time.</p>	<p>22 CCR § 72315 (h) Each patient shall be provided with good nutrition and with necessary fluids for hydration.</p> <p>22 CCR § 72335 (1) Not less than 3 meals shall be served daily and with not more than a 14-hour span between the last meal and the first meal of the following day. (2) Between-meal feeding shall be provided as required by the diet order. Bedtime nourishments shall be offered to all patients unless contraindicated.</p>	Compliant	N/A
9	<p>Individuals are able to have visitors of their choosing at any time.</p>	<p>22 CCR §72527 (a) (18) To have visits from members of the clergy at any time. (19) To have visits from persons of the patient's choosing at any time if the patient is critically ill.</p> <p>State standards address visitors at any time if the resident chooses to meet with clergy, or if they are critically ill. However, 22 CCR §72527 (a) (17) requires the setting To have daily visiting hours established.</p>	Partial compliance	<p>The State will issue a provider bulletin clearly indicating the requirements of 42 CFR 441.301(c)(4). Completion first quarter 2018.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
10	The setting is physically accessible to the individual.	<p>22 CCR § 72635 requires that Corridors shall be equipped with firmly secured handrails.</p> <p>State standards do not fully address physically accessible settings.</p>	Partial Compliance	The State will issue a provider bulletin clearly indicating the requirements of 42 CFR 441.301(c)(4). Completion first quarter 2018.

Provider Setting Type – Congregate Meal Sites

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>To be an eligible congregate meal site, the site must be open to the public. (45 CFR §1321.53(b)(3)) (CDA Terms and Conditions Exhibit A. Article1 (20) (a))</p> <p>A comprehensive and coordinated community based system described in paragraph (a) of this section shall:</p> <ul style="list-style-type: none"> (1) Have a visible focal point of contact where anyone can go or call for help, information or referral on any aging issue; (2) Provide a range of options; (3) Assure that these options are readily accessible to all older persons: The independent, semi-dependent and totally dependent, no matter what their income. <p>(Older Americans Act (OAA) Title III, 45 CFR §1321.53 (b))</p>	Compliant	N/A
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	N/A. Congregate meal sites do not address employment opportunities.	N/A	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	<p>Participants are not means tested. Participants are given the opportunity to make voluntary contributions and services are not denied for failure to contribute towards the cost of services.</p> <p>(OAA 315(b)(3 & 4) (CDA Terms and Conditions Exhibit A. Article1 (20) (a))</p>	Compliant	N/A
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>The congregate meal sites provide nutrition services including: meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization.</p> <p>(22 CCR §7632.3) (OAA 330 (c)(2) and OAA 331 (c)(3)) (42 U.S.C. 3030e)</p> <p>WIC § 9103.1(a) requires all older adults have equal access to programs and services provided through the Older Americans Act in each PSA regardless of physical or mental disabilities, language barriers cultural or social isolation.</p> <p>A comprehensive and coordinated community based system described in paragraph (a) of this section shall...</p> <p>(7) Provide effective referral from agency to agency to assure that information or assistance is received, no matter how or where contact is made in the community;</p> <p>(Older Americans Act (OAA) Title III, 45 CFR §1321.53 (b))</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
2	<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. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>Planning and Service Areas (PSA) may offer a variety of congregate meal settings, ranging from Senior Centers, churches, Community Centers to restaurants.</p> <p>Meals are provided in a setting in as close proximity to the majority of eligible older individuals' residences as feasible. OAA Section 339.(2)(E)</p> <p>In accordance with 42 CFR §431.151, a participant may select any willing and qualified provider to furnish Waiver services. (MSSP Waiver Section 6 Additional Requirements, Section E.)</p> <p>The Waiver Participant is involved in the development of the care plan and has a choice in service selection. (MSSP Waiver Appendix D-1, d. Service Development Process).</p>	Compliant	N/A
3a	<p>The setting ensures an individual's rights of privacy;</p>	<p>The nutrition services provider shall ensure that information about, or obtained from a participant's records, shall be maintained in a confidential manner according to subsection 7500(b) of this division. (22 CCR §7636.7(d))</p> <p>Service providers shall not disclose any information about an older individual, or obtained</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>from an older individual in a form that identifies that person, without the written consent of the individual or his/her legal representative. Records with client names, addresses and phone numbers shall:</p> <ol style="list-style-type: none"> 1. Be available only to authorized service staff assisting the individual 2. Remain in a secure, locked file or secure area to protect confidentiality of the records. 3. Be removed from data or information used for reporting and planning purposes and from data or information made available to the public unless the consent of the older individual has been obtained. <p>(22 CCR §7500 (b))</p>		
3b	The setting ensures an individual's rights of dignity;	<p>The congregate meals sites are part of a coordinated and comprehensive community based system that is designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible.</p> <p>(45 CFR §1321.53(b)(3))</p> <p>Congregate meal sites must comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.</p> <p>42 U.S.C. Section 12101 et seq. CDA Terms and Conditions Exhibit D. Article II. (C)(4)</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
3c	The setting ensures an individual's rights of respect;	<p>The congregate meals sites are part of a coordinated and comprehensive community based system that is designed to assist older persons in leading independent, meaningful and dignified lives in their own homes and communities as long as possible. (45 CFR §1321.53(b)(3))</p> <p>Menus are planned for a minimum of 4 weeks. To facilitate the participants' choice of meals the menus are posted in a location easily seen by participants at each congregate meals site. The menus must be legible and easy to read in the language of the majority of the participants. Menus must reflect cultural and ethnic dietary needs of participants when feasible and appropriate. 22 CCR § 7638.5 (d)</p>	Compliant	N/A
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>Voluntary Contributions shall be allowed and may be solicited for congregate nutrition services if the method of solicitation is non-coercive. OAA §315 (b)(1)</p> <p>When it is known or reasonably suspected that a program participant has been the victim of abuse, report the abuse to the authorities in accordance with Section 15630, Welfare and Institutions Code. 22 CCR §7636.1(b)(9)</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
4	<p>The setting 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.</p>	<p>Participants have the choice to attend or not attend a congregate meal site based on the menu choices.</p> <p>The congregate meals sites are part of a coordinated and comprehensive community based system that is designed to assist older persons in leading independent, meaningful and dignified lives in the own homes and communities as long as possible. (45 CFR § 1321.53(b)(3))</p> <p>A comprehensive and coordinated community based system described in paragraph (a) of this section shall...</p> <p>(8) Evidence sufficient flexibility to respond with appropriate individualized assistance, especially for the vulnerable older person; (OAA Title III, 45 CFR §1321.53 (b))</p> <p>Menus are planned for a minimum of 4 weeks. To facilitate the participants' choice of meals the menus are posted in a location easily seen by participants at each congregate meals site. The menus must be legible and easy to read in the language of the majority of the participants. Menus must reflect cultural and ethnic dietary needs of participants when feasible and appropriate. (22 CCR § 7638.5 (d))</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>Meals follow the provisions of “Offer versus Serve,” as found in 7 CFR 226.20(q). Congregate meal participants may be permitted to decline items due to preference of medical reasons. (22 CCR § 7636.9(a)(4))</p>		
5	<p>The setting facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Menus are planned for a minimum of 4 weeks. To facilitate the participants’ choice of meals the menus are posted in a location easily seen by participants at each congregate meals site. The menus must be legible and easy to read in the language of the majority of the participants. And they must reflect cultural and ethnic dietary needs of participants when feasible and appropriate. (22 CCR § 7638.5 (d))</p> <p>Meals follow the provisions of “Offer versus Serve,” as found in 7 CFR 226.20(q). Congregate meal participants may be permitted to decline items due to preference of medical reasons. (22 CCR § 7636.9(a)(4))</p> <p>In accordance with 42 CFR § 431.151, a participant may select any willing and qualified provider to furnish waiver services included in the service plan unless the State has received approval to limit the number of providers under the provisions of §1915(b) or another provision of the Act.</p>	Compliant	N/A

		<p>(MSSP Waiver Section 6 Additional Requirements, Section E.)</p> <p>The waiver participant is involved in the development of the care plan and has a choice in service selection.</p> <p>(MSSP Waiver Appendix D-1, d. Service Development Process)</p>		
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease,</p>	<p>N/A. Congregate meal sites are not a residential setting.</p>	N/A	N/A

	residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	N/A. Congregate meal sites are not a residential setting.	N/A	N/A
7b	Individuals sharing units have a choice of roommates in that setting;	N/A. Congregate meal sites are not a residential setting.	N/A	N/A
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	N/A. Congregate meal sites are not a residential setting.	N/A	N/A

8a	Individuals have the freedom and support to control their own schedules and activities;	N/A. Congregate meal sites are not a residential setting.	N/A	N/A
8b	Individuals have access to food at any time.	N/A. Congregate meal sites are not a residential setting.	N/A	N/A
9	Individuals are able to have visitors of their choosing at any time.	N/A. Congregate meal sites are not a residential setting.	N/A	N/A
10	The setting is physically accessible to the individual.	N/A. Congregate meal sites are not a residential setting.	N/A	N/A

Provider Setting Type (Day Type Services) – Activity Center; Adult Day Care Facility; Adult Development Center; Behavior Management Program; Community-Based Training Provider; Socialization Training Program; Community Integration Training Program; Community Activities Support Service

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>The State believes it is compliant with this requirement. Language in WIC promotes opportunities for integration in, access to, and participation in all aspects of the community.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, the way in which they spend their time, including education, employment, and leisure,</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502(a)(b)(1-3, 5-7, & 10)</p> <p>(a) Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the United States Constitution and laws and the Constitution and laws of the State of California. An otherwise qualified person by reason of having a developmental disability shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives public funds.</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(1) A right to treatment and habilitation services and supports in the least restrictive environment. Treatment and habilitation services and supports should foster the developmental potential of the person and be directed toward the achievement of the most independent, productive, and normal lives possible. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of the treatment, services, or supports.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(2) ...To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p> <p>(3) A right to participate in an appropriate program of publicly supported education, regardless of degree of disability.</p> <p>(5) A right to religious freedom and practice.</p> <p>(6) A right to social interaction and participation in community activities.</p> <p>(7) A right to physical exercise and recreational opportunities.</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646(a)</p> <p>It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	<p>The State believes it is compliant with this requirement. Language in WIC provides opportunities for individuals to seek and obtain competitive/integrated employment. Additionally, California's Employment First Policy identifies strategies to increase employment for individuals with developmental disabilities.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4646.5(a)(4) (a) The planning process for the individual program plan described in Section 4646 shall include all of the following: (4) When developing an individual program plan for a transition age youth or working age adult, the planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).</p> <p>With the Employment First Policy, the State is committed to providing opportunities for individuals with developmental disabilities to seek employment and engage in work in integrated settings.</p> <p>WIC § 4851(o) “Integrated work” means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4688.21(a)(b)(1)(B)(7)(c)(2)(3) (a) The Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development or maintenance of employment and volunteer activities; direct their services; pursue postsecondary education; and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program. (b)(1)(B) Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer’s ability to lead an integrated and inclusive life. (c) (1) A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.		Silent	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to an individual's opportunity to control his/her personal resources to the same degree of access as individuals not receiving Medicaid HCBS. Completion first quarter 2021.
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>The State believes it is compliant with this requirement. Language in WIC promotes an individual's right to make choices in his/her life including participation in community life.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements.</p> <p>WIC § 4502(b)(10)</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p>		
2	The setting is selected by the individual from among setting options including non-disability	The State believes that it is partially compliant with this requirement. Language in WIC indicates that a range of service options should be provided to individuals during the individual program plan process and that	Partial Compliance	The State will seek to modify statute and/or regulations as

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>the selection of services and supports will be completed according to the preferences of the individual.</p> <p>Silent: Documentation of setting options, including non-disability specific settings, not selected by the individual.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives</p>		<p>appropriate to align with federal requirement related to the documentation of setting options not selected by the individual. Completion first quarter 2021.</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) ...It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p>		
3a	<p>The setting ensures an individual's rights of privacy;</p>	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to privacy.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care.</p> <p>N/A. Congregate meal sites are not a residential setting.</p>	Compliant	N/A
3b	<p>The setting ensures an individual's rights of dignity;</p>	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to dignity.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
3c	The setting ensures an individual's rights of respect;	<p>The State believes it is compliant with this requirement. Language in WIC emphasizes that choices made by the individual shall be respected.</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers...</p>	Compliant	N/A
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>The State believes it is compliant with this requirement. Language in Title 22 and WIC addresses an individual's right to be free from coercion and restraint.</p> <p>WIC § 4502(b)(8) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.</p> <p>22 CCR § 82072(a)(3) Personal Rights (a)(3) To be free from corporal or unusual punishment, infliction of pain, humiliation,</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature...		
4	The setting 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.	<p>The State believes it is partially compliant with this requirement. Language in WIC and Title 22 indicates that services and supports should enable individuals to make choices regarding their daily lives.</p> <p>WIC § 4501</p> <p>...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p> <p>Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>...These include promoting opportunities for individuals with developmental disabilities to be integrated into the mainstream of life in their home communities, including supported living and other appropriate community living arrangements. In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives...</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a)</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments.</p> <p>WIC § 4688.21(a)(A)(B)(2)(A)(B)(c)(1)(A) (a) The Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development or maintenance of employment and volunteer activities; direct their services; pursue postsecondary education; and increase their ability to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program. (A) Include an individualized service design, as determined through the individual program plan (IPP) and approved by the regional center, that</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>maximizes the consumer’s individualized choices and needs. This service design may include, but may not be limited to, the following:</p> <p>(B) Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer’s ability to lead an integrated and inclusive life.</p> <p>(2) The type and amount of tailored day service shall be determined through the IPP process, pursuant to Section 4646. The IPP shall contain, but not be limited to, the following:</p> <p>(A) A detailed description of the consumer’s individualized choices and needs and how these choices and needs will be met.</p> <p>(B) The type and amount of services and staffing needed to meet the consumer’s individualized choices and needs, and unique health and safety and other needs.</p> <p>(c) (1) A vouchered community-based training service is defined as a consumer-directed service that assists the consumer in the development of skills required for community integrated employment or participation in volunteer activities, or both, and the assistance necessary for the consumer to secure employment or volunteer positions or pursue secondary education.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(A) A detailed description of the consumer's individualized choices and needs and how these choices and needs will be met.</p> <p>22 CCR § 80072(a)(6) (Specific to Community Care Facilities)</p> <p>(a) Except for children's residential facilities, each client shall have personal rights which include, but are not limited to, the following:</p> <p>(6) To leave or depart the facility at any time.</p>		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>The State believes that it is compliant with this requirement. Language in WIC identifies an individual's right to make choices pertaining to his/her own life, including program planning and implementation.</p> <p>WIC § 4502(b)(10)</p> <p>(b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:</p> <p>(10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a)(b)(d) (a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.</p> <p>(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer’s goals, objectives, and services and supports that will be included in the consumer’s individual program plan and purchased by the regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.</p> <p>WIC § 4688.21(a)(A)(ii)(B)</p> <p>(a) The Legislature places a high priority on opportunities for adults with developmental disabilities to choose and customize day services to meet their individualized needs; have opportunities to further the development or maintenance of employment and volunteer activities; direct their services; pursue postsecondary education; and increase their ability</p>		

		<p>to lead integrated and inclusive lives. To further these goals, a consumer may choose a tailored day service or vouchered community-based training service, in lieu of any other regional center vendored day program, look-alike day program, supported employment program, or work activity program.</p> <p>(A) Include an individualized service design, as determined through the individual program plan (IPP) and approved by the regional center, that maximizes the consumer’s individualized choices and needs. This service design may include, but may not be limited to, the following:</p> <p>(i) Flexibility in the duration and intensity of services to meet the consumer’s individualized needs.</p> <p>(B) Encourage opportunities to further the development or maintenance of employment, volunteer activities, or pursuit of postsecondary education; maximize consumer direction of the service; and increase the consumer’s ability to lead an integrated and inclusive life.</p>		
6	The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual	N/A – Day Type Services are not in a residential setting.	N/A	N/A

	<p>receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>			
7a	<p>Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only</p>	<p>N/A – Day Type Services are not in a residential setting.</p>	<p>N/A</p>	<p>N/A</p>

	appropriate staff having keys to doors;			
7b	Individuals sharing units have a choice of roommates in that setting;	N/A – Day Type Services are not in a residential setting.	N/A	N/A
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	N/A – Day Type Services are not in a residential setting.	N/A	N/A
8a	Individuals have the freedom and support to control their own schedules and activities;	N/A – Day Type Services are not in a residential setting.	N/A	N/A
8b	Individuals have access to food at any time.	N/A – Day Type Services are not in a residential setting.	N/A	N/A
9	Individuals are able to have visitors of their choosing at any time.	N/A – Day Type Services are not in a residential setting.	N/A	N/A
10	The setting is physically accessible to the individual.	N/A – Day Type Services are not in a residential setting.	N/A	N/A

Provider Setting Type – Residential Care Facility for the Chronically Ill – AIDS Waiver

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	<p>22 CCR § 87860 All licensees of RCFCIs shall ensure the provision of basic services specified below: (11) the arranging of transportation for medical, dental, therapeutic and counseling services (12) social and emotional support services of the resident’s own choice.</p> <p>22 CCR § 87872 (a): Each resident shall have personal rights which include, but are not limited to, the following: 5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, in or outside the facility, shall be on a completely voluntary basis. (6) To leave or depart the facility at any time. (7) Not to be locked in any room, building, or facility premises by day or night. 9) To receive or reject medical care, or health-related services. (10) To be informed of the facility's policy concerning family visits and other communication with residents. (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies.</p> <p>(A) The licensee shall be permitted to require reimbursement from the resident or his/her</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>authorized representative for long distance calls. (B) The licensee shall be permitted to prohibit the making of long distance calls upon documentation that requested reimbursement for previous call(s) has not been received. (12) To mail and receive unopened correspondence in a prompt manner. (13) To receive assistance in exercising the right to vote. (14) To move from the facility.</p> <p>H&S Code Section 1568.02: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident: (9) Access to community-based and county services system. (10) Access to a social and emotional support network of the resident's own choosing.</p>		
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	State standards do not address opportunities to seek employment.	Silent	RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	<p>22 CCR § 87826 - <i>Safeguards for Cash Resources, Personal Property, and Valuables</i>, details the procedures a licensee must follow if they are designated to oversee a resident’s financial resources in lieu of the resident him/herself or an outside designee.</p> <p>H&S Code Section 1568.021 (a) If the applicant for a license for a residential care facility handles or will handle any money of a resident of the facility, the applicant or licensee shall file or have on file with the department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the department based upon the magnitude of the operations of the applicant or licensee, but which sum shall not be less than one thousand dollars (\$1,000), running to the State of California and conditioned upon his or her faithful and honest</p>	Partially compliant	RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>handling of the money of residents of the facility. (b) The failure of any licensee under this chapter to maintain on file with the department a bond in the amount prescribed by the department or the embezzlement by a licensee of trust funds of a resident of the facility shall constitute cause for the revocation of the license. (c) This section shall not apply if the licensee handles moneys of residents of the facility in amounts less than fifty dollars (\$50) per person and less than five hundred dollars (\$500) for all persons in any month. (d) The director may grant a partial or total variance from the requirements of this section if the director finds that compliance with them is so onerous that a residential care facility will cease to operate, and if the director also finds that money of the residents received or cared for in the facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that the money may not be withdrawn except on authorization of the person or a representative who is legally authorized to make financial decisions on behalf of the person.</p>		<p>clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.</p>
1d	<p>The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as</p>	<p>22 CCR § 87860 All licensees of RCFCIs shall ensure the provision of basic services specified below: (11) the arranging of transportation for medical, dental, therapeutic and counseling services (12) social and</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	individuals not receiving Medicaid HCBS.	<p>emotional support services of the resident's own choice.</p> <p>22 CCR § 87872 (a): Each resident shall have personal rights which include, but are not limited to, the following: 5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, in or outside the facility, shall be on a completely voluntary basis. (6) To leave or depart the facility at any time. (7) Not to be locked in any room, building, or facility premises by day or night. 9) To receive or reject medical care, or health-related services. (10) To be informed of the facility's policy concerning family visits and other communication with residents. (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies.</p> <p>(A) The licensee shall be permitted to require reimbursement from the resident or his/her authorized representative for long distance calls.</p> <p>(B) The licensee shall be permitted to prohibit the making of long distance calls upon documentation that requested reimbursement for previous call(s) has not been received. (12) To mail and receive unopened correspondence in a prompt manner.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>(13) To receive assistance in exercising the right to vote. (14) To move from the facility.</p> <p><u>H&S Code Section 1568.02</u>: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident: (9) Access to community-based and county services system. (10) Access to a social and emotional support network of the resident’s own choosing.</p>		
2	<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. The setting options are identified and documented in the person-centered service plan and are based on the individual’s needs, preferences, and for residential settings, resources available for room and board.</p>	<p>State standards do not address this requirement</p>	<p>Silent</p>	<p>RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				of 42 CFR 441.301(c)(4). Completion first Quarter 2018.
3a	The setting ensures an individual's rights of privacy;	<p>22 CCR §87860 (a) All licensees of RCFCIs shall ensure the provision of basic services specified below: (A) The resident shall have securable storage space for personal items</p> <p>22 CCR §87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies. (12) To mail and receive unopened correspondence in a prompt manner.</p> <p>22 CCR § 87887 (d) Bedrooms shall meet, at a minimum, the following requirements: (1) Not more than two residents shall sleep in a bedroom. (2) Securable storage space for personal items.</p> <p>H&S Code §1568.02: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		resident: (13) Adequate securable storage space for personal items.		
3b	The setting ensures an individual's rights of dignity;	22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons. (2) To be accorded safe, healthful and comfortable accommodations, furnishings, and equipment to meet his/her needs. (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.	Compliant	N/A
3c	The setting ensures an individual's rights of respect;	22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons. (2) To be accorded safe, healthful and comfortable accommodations, furnishings, and equipment to meet his/her needs. (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature,	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		including but not limited to interference with daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.		
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>22 CCR § 87860 (a) All licensees of RCFCIs shall ensure the provision of basic services specified below: (1) Safe and healthful living accommodations and services.</p> <p>22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (2) To be accorded safe, healthful and comfortable accommodations, furnishings, and equipment to meet his/her needs. (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication or aids to physical functioning. (6) To leave or depart the facility at any time. (7) Not to be locked in any room, building, or facility premises by day or night. (8) Not to be placed in a restraining device.</p>	Compliant	N/A
4	The setting optimizes, but does not regiment, individual initiative,	22 CCR § 87860 (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below: (9)	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>autonomy, and independence in making life choices, including, but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>Common areas including recreation areas. (12) Social and emotional support services of the resident's own choice.</p> <p>22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (2) To be accorded safe, healthful and comfortable accommodations, furnishings, and equipment to meet his/her needs. (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. (A) Attendance at religious services, in or outside the facility, shall be on a completely voluntary basis. (6) To leave or depart the facility at any time. (7) Not to be locked in any room, building, or facility premises by day or night. (8) Not to be placed in any restraining device. (9) To receive or reject medical care, or health-related services. (10) To be informed of the facility's policy concerning family visits and other communication with residents. (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies. (12) To mail and receive unopened correspondence in a prompt manner. (13) To receive assistance in exercising the right to vote. (14) To move from the facility.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 87887 (a) The facility shall be clean, safe sanitary and in good repair at all times for the safety and well-being of residents, employees, volunteers and visitors. (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.</p> <p>H&S Code Section 1568.02: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident: (9) Access to community-based and county services system. (10) Access to a social and emotional support network of the resident’s own choosing.</p>		
5	The setting facilitates individual choice regarding services and supports, and who provides them.	<p>22 CCR § 87860 (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below: (12) Social and emotional support services of the resident's own choice.</p> <p>22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. (A) Attendance at religious services, in or outside</p>	Partial Compliance	RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>the facility, shall be on a completely voluntary basis.</p> <p>H&S Code Section 1568.02: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident: (9) Access to community-based and county services system. (10) Access to a social and emotional support network of the resident's own choosing.</p> <p>State standards do not ensure choice of provider of services and supports.</p>		<p>agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.</p>
For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:				
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity.</p>	<p>22 CCR § 87868 Admissions Agreements: (a) The licensee shall complete an individual written admission agreement with each resident and the resident's authorized representative, if any. (b) The licensee shall complete and maintain in the resident's file a Telecommunications Device Notification form (LIC 9158. 5/97) for each resident whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled. (c) Admission agreements shall specify the following: (1) Basic services (2) Available optional services (3) Payment provisions, including the following: (A) Basic rate (B) Optional services rates (C) Payor (D) Due date (E) Frequency of payment</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>(4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the resident or his/her authorized representative of any basic rate change. (A) It shall be acceptable for agreements involving residents whose care is funded at government-prescribed rates to specify that the effective date of government rate change shall be considered the effective date for basic service rate change and that no prior notice is necessary. (5) Refund conditions. (6) Right of the Department to perform the duties authorized in Section 87844. (7) Conditions under which the agreement may be terminated. (8) The facility's policy concerning family visits and other communication with residents. (9) That the resident is required to designate a person to have Durable Power of Attorney for health care for the resident. (d) Admission agreements shall be dated and signed, acknowledging the contents of the document, by the resident and the resident's authorized representative and the licensee or the licensee's designated representative no later than seven calendar days following admission. (e) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above. (f) The licensee shall retain in the resident's file the original of the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>initial admission agreement and all subsequent modifications. (1) The licensee shall provide a copy of the current admission agreement to the resident and the resident's authorized representative, if any. (g) The licensee shall comply with all terms and conditions set forth in the admission agreement. (h) The admission agreement shall be automatically terminated by the death of the resident. No liability or debt shall accrue after the date of death.</p> <p>22 CCR § 87868.1 Resident Eviction Procedures: a) The licensee shall be permitted to evict a resident with 30 days written notice for any of the following reasons: (1) Nonpayment of the basic rate for the provision of basic services within ten days of the due date. (2) Failure of the resident to comply with the provisions of the Admission Agreement. (b) The licensee shall evict the resident if he/she refuses to relocate within thirty (30) days of a written notice under the following circumstances: (1) Modifications to the resident's Individual Services Plan specified in Section 87896 indicate that the resident's needs can no longer be met by the facility. (A) Under these circumstances, the resident shall be given an opportunity to voluntarily relocate. (B) The facility shall assist the resident to relocate, if needed. (2) The resident's needs can no longer be met in the facility and his/her continued placement is inappropriate due</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>to a change in the facility license or facility program. (c) The licensee shall be permitted to evict a resident with three days prior written notice if the resident has engaged in behavior which poses a threat to himself/ herself, other residents, and/or the facility personnel. (1) Prior to an eviction, the following requirements shall be met: (A) The Individual Services Team has submitted written approval to the licensee which concurs with the decision to evict the resident. (B) The licensee has received prior written and/or documented telephone approval for the notice of eviction from the Department. (C) The Department shall approve or deny the request within two working days of receipt. (D) The licensee shall maintain a copy of the documentation in the resident file. (E) The licensee shall assist the resident to relocate, if needed.</p> <p>(F) The licensee shall document the action taken to assist the resident to relocate and where the resident was relocated. (d) The licensee shall set forth in the notice the reasons for the eviction, with specific facts including the date, place, witnesses, and circumstances. (e) The licensee shall, upon providing the resident with notification of eviction as specified in (a) or (b) above, mail a copy of the eviction notice to the resident's authorized representative, if any. (f) The licensee shall send to the Department a copy of the 30-day written notice</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>in accordance with (a) above within five days of giving the notice to the resident. (g) Alternatives to the eviction procedures specified in this section include voluntary relocation, hospitalization, arrest, and other actions not prohibited by applicable laws and regulations.</p>		
7a	<p>Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;</p>	<p>State standards are silent on each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors</p>	<p>Silent</p>	<p>RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4).</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				Completion first Quarter 2018.
7b	Individuals sharing units have a choice of roommates in that setting;	State standards are silent on Individuals sharing units have a choice of roommates in that setting.	Silent	RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	State standards are silent on ensuring, within the lease/admissions agreement, individual freedom to furnish and decorate their rooms.	Silent	RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.
8a	Individuals have the freedom and support to control their own schedules and activities;	22 CCR § 87860 (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below: (12) Social and emotional support services of the resident's own choice.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. (A) Attendance at religious services, in or outside the facility, shall be on a completely voluntary basis. (6) To leave or depart the facility at any time. (7) Not to be locked in any room, building, or facility premises by day or night. (8) Not to be placed in any restraining device. (11) To have access to telephones in order to make and receive confidential calls, provided that such calls do not infringe upon the rights of other residents and do not restrict availability of the telephone during emergencies. 12) To mail and receive unopened correspondence in a prompt manner. (13) To receive assistance in exercising the right to vote. (14) To move from the facility.</p> <p>H&S Code Section 1568.02: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident: (9) Access to community-based and county services system. (10) Access to a social and emotional support network of the resident's own choosing.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
8b	Individuals have access to food at any time.	<p>22 CCR § 87860 (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below: (2) Three nutritious, well-balanced meals and snacks, made available daily, including modified diets prescribed by the physician. (A) Kitchen space with adequate refrigerator space in the facility for residents who desire and are capable of preparing their own meals.</p> <p>(B) The licensee shall ensure that nutrition consultation is made available to the resident for dietary needs.</p> <p>H&S Code Section 1568.02: The licensee of every facility required to be licensed pursuant to this chapter shall provide the following basic services for each resident: (2) Access to common areas, including recreation areas and shared kitchen space with adequate refrigerator space for the storage of medications. (3) Consultation with a nutritionist, including consultation on cultural dietary needs.</p>	Compliant	N/A
9	Individuals are able to have visitors of their choosing at any time.	State standards are silent regarding visitors at any time.	Silent	RCF-CIs in the HIV/AIDS Waiver have signed the Medi-Cal Provider Agreement, which requires the

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				<p>setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.</p>
10	<p>The setting is physically accessible to the individual.</p>	<p>22 CCR § 87860 (a) All licensees of Residential Care Facilities for the Chronically Ill shall ensure the provision of the basic services specified below: (1) Safe and healthful living accommodations and services. (9) Common areas including recreation areas.</p> <p>22 CCR § 87872 (a) Each resident shall have personal rights which include, but are not limited to, the following: (2) To be accorded safe, healthful</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>and comfortable accommodations, furnishings, and equipment to meet his/her needs. (6) To leave or depart the facility at any time. (7) Not to be locked in any room, building, or facility premises by day or night.</p> <p>22 CCR § 87887 (a) The facility shall be clean, safe sanitary and in good repair at all times for the safety and well-being of residents, employees, volunteers and visitors. (b) All residents shall be protected against hazards within the facility through provision of the following: (1) Protective devises including but not limited to nonslip material on rugs.</p> <p>(c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.</p>		

Provider Setting Type – Residential Care Facility for the Elderly – Assisted Living Waiver

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	22 CCR § 87219 (a) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in planned activities. (c) the setting shall arrange for utilization of available community resources through contact with organizations and volunteers to promote resident participation in community-centered activities... (1-4) Attendance at the place of worship of the resident’s choice; service activities for the community; community events; community organized group activities.	Compliant	N/A
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	State standards do not address opportunities to seek employment.	Silent	RCFEs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.	<p>H&S Code Section 1569.269 (a) (29) ensures the residents have the right To manage their financial affairs. (30) To keep, have access to, and use their own personal possessions, including toilet articles, and to keep and be allowed to spend their own money</p> <p>22 CCR § 87468 (12) To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money.</p>	Compliant	N/A
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	22 CCR § 87219 (c) the setting shall arrange for utilization of available community resources through contact with organizations and volunteers to promote resident participation in community-centered activities... (1-4) Attendance at the place of worship of the resident's choice; service activities for the community; community events; community organized group activities.	Compliant	N/A
2	The setting is selected by the individual from among setting options including non-disability	22 CCR § 87462 The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	<p>specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.</p>	<p>living arrangements in the facility will be satisfactory.</p> <p>22 CCR § 87457 Prior to admission, the prospective resident...shall be interviewed by the licensee. (1) Sufficient information about the facility and its services shall be provided to enable all persons involved in the placement to make an informed decision regarding admission.</p> <p>22 CCR § 87464 (e) (2) An extra charge to the resident shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement.</p> <p>22 CCR § 87505 Each facility shall document in writing the findings of the pre-admission appraisal, which is included in the admissions agreement. (c) Admission agreements shall be signed and dated, acknowledging the contents of the document, by the resident or the resident's representative, if any, and the licensee or the licensee's designated representative.</p> <p>22 CCR § 87507 (d) The licensee shall retain in the resident's file the original signed and dated admission agreement and all subsequent signed and dated modifications.</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>Waiver Language: Appendix C-2 c. ii. Facilities participating as ALW HCBS settings are required to have the following qualities: The setting is selected by the individual from among all available alternatives and is identified in the person-centered service plan.</p>		
3a	The setting ensures an individual's rights of privacy;	<p>H&S Code Section 1569.269 (a) (2) ensures the residents have the right To be granted a reasonable level of personal privacy in accommodations, medical treatment, personal care and assistance, visits, communications, telephone conversations, use of the Internet, and meetings of resident and family groups.</p> <p>22 CCR § 87307 (a) The facility shall be large enough to provide comfortable living accommodations and privacy for the residents. (a) (2) Regarding resident bedrooms, (B) No room commonly used for other purposes shall be used as a sleeping room for any resident; (C) No bedroom of a resident shall be used as a passageway to another room, bath or toilet.</p> <p>22 CCR § 87307 (c) Individual privacy shall be provided in all toilet, bath and shower areas.</p>	Compliant	N/A
3b	The setting ensures an individual's rights of dignity;	<p>22 CCR § 87219 (a) (1) Residents' personal rights: To be accorded dignity in his/her personal relationships with staff, residents, and other persons.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
3c	The setting ensures an individual's rights of respect;	<p>22 CCR § 87219 (a) (1) Residents' personal rights: To be accorded dignity in his/her personal relationships with staff, residents, and other persons. (9) To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.</p> <p>H&S Code Section 1569.269 (a) (4) ensures the residents have the right To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from interference, coercion, discrimination, and retaliation in exercising their rights.</p> <p>The intent and result of these State standards ensure the resident is treated with respect.</p>	Compliant	N/A
3d	The setting ensures an individual's freedom from coercion and restraint.	<p>22 CCR § 87219 (a) (3) Residents' personal rights: To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination. (6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night</p> <p>H&S Code Section 1569.269 (a) (10) ensures the residents have the rights To be free from neglect,</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>financial exploitation, involuntary seclusion, punishment, humiliation, intimidation, and verbal, mental, physical, or sexual abuse. (11) To present grievances and recommend changes in policies, procedures, and services to the staff of the facility, the facility’s management and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall take prompt actions to respond to residents’ grievances.</p>		
4	<p>The setting 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.</p>	<p>H&S Code Section 1569.269 (a) (8) ensures the residents have the rights To make choices concerning their daily life in the facility. (16) To reasonable accommodation of individual needs and preferences in all aspects of life in the facility.</p> <p>22 CCR § 87219 (a) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in planned activities. The activities made available shall include (2) Daily living skills/activities which foster and maintain independent functioning. (6) Provision for free time so residents may engage in activities of their choosing. (b) Residents served shall be encouraged to contribute to the planning, preparation, conduct, clean-up and critique of the planned activities</p> <p>22 CCR § 87467 (a) Prior to, or within two weeks of the resident's admission, the licensee shall arrange</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.</p>		
5	<p>The setting facilitates individual choice regarding services and supports, and who provides them.</p>	<p>H&S Code Section 1569.269 (a) (9) ensures the residents have the rights To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding the care and services to be provided...and to involve persons of their choice in the planning process. The licensee shall provide necessary information and support to ensure that residents direct the process to the maximum extent possible, and are enabled to make informed decisions and choices. (20) To select their own physicians, pharmacies, privately paid personal assistants, hospice agency, and health care providers, in a manner that is consistent with the resident's contract of admission or other rules of the facility, and in accordance with this act.</p> <p>22 CCR § 87219 (b) Residents served shall be encouraged to contribute to the planning, preparation, conduct, clean-up and critique of the planned activities</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>22 CCR § 87462 Pre admission policy requires The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the living arrangements in the facility will be satisfactory, and to suggest the program of activities in which the individual may wish to participate.</p> <p>22 CCR § 87464 (d) ...the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal...and providing the other basic services specified below, either directly or through outside resources.</p> <p>22 CCR § 87464 (a) The services provided by the facility shall be conducted so as to continue and promote, to the extent possible, independence and self-direction for all persons accepted for care. Such persons shall be encouraged to participate as fully as their conditions permit in daily living activities both in the facility and in the community.</p> <p>22 CCR § 87467 (a) Prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>preferences regarding the services provided at the facility. Residents are given the opportunity to determine their preferences for the services provided at the facility, and who provides them.</p>		
For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:				
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the</p>	<p>22 CCR § 87224 defines the setting's Eviction Procedures.</p> <p>22 CCR § 87456 (a) (4) The setting must Execute the admissions agreement.</p> <p>22 CCR § 87457 (b) No person shall be admitted without his/her consent and agreement, or that of his/her responsible person, if any.</p> <p>22 CCR § 87507 (c) Admission agreements shall be signed and dated, acknowledging the contents of the document, by the resident or the resident's representative, if any.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	<p>22 CCR § 87307 (a) The facility shall be large enough to provide comfortable living accommodations and privacy for the residents, staff, and others who may reside in the facility. (a) (2) (B-D) No room commonly used for other purposes shall be used as a sleeping room for any resident; No bedroom of a resident shall be used as a passageway to another room, bath or toilet; Not more than two residents shall sleep in a bedroom.</p> <p>State standards ensure the residents' privacy throughout the facility; however, state standards do not address lockable doors with appropriate staff having keys.</p>	Partial Compliance	RCFEs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
7b	Individuals sharing units have a choice of roommates in that setting;	H&S Code Section 1569.269 (a) (17) ensures the residents have the right To reasonable accommodation of resident preferences concerning room and roommate choices.	Compliant	N/A
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	State standards are silent on ensuring, within the lease/admissions agreement, individual freedom to furnish and decorate their rooms.	Silent	RCFEs in the ALW have signed the Medi-Cal Provider Agreement, which requires the setting to adhere to all federal laws and regulations governing the Medicaid Program. The State will issue a supplemental agreement to be signed that will reinforce this requirement and clearly indicate the requirements of 42 CFR 441.301(c)(4). Completion first Quarter 2018.

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
8a	Individuals have the freedom and support to control their own schedules and activities;	<p>H&S Code Section 1569.269 (a) (26) ensures the residents have the right To be encouraged to maintain and develop their fullest potential for independent living through participation in activities that are designed and implemented for this purpose.</p> <p>22 CCR § 87219 (b) Residents served shall be encouraged to contribute to the planning, preparation, conduct, clean-up and critique of the planned activities (c) the setting shall arrange for utilization of available community resources through contact with organizations and volunteers to promote resident participation in community-centered activities... (1-4) Attendance at the place of worship of the resident’s choice; service activities for the community; community events; community organized group activities.</p> <p>22 CCR § 87462 Pre admission policy requires The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the living arrangements in the facility will be satisfactory, and to suggest the program of activities in which the individual may wish to participate.</p> <p>22 CCR § 87464 (a) The services provided by the facility shall be conducted so as to continue and promote, to the extent possible, independence and</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>self-direction for all persons accepted for care. Such persons shall be encouraged to participate as fully as their conditions permit in daily living activities both in the facility and in the community.</p>		
8b	<p>Individuals have access to food at any time.</p>	<p>H&S Code Section 1569.269 (a) To be served food of the quality and in the quantity necessary to meet their nutritional needs.</p> <p>22 CCR § 87464 (f) (3) Three nutritionally well-balanced meals and snacks made available daily.</p> <p>22 CCR § 87555 (b) (3) Between-meal nourishment or snacks shall be made available for all residents unless limited by dietary restrictions prescribed by a physician.</p>	Compliant	N/A
9	<p>Individuals are able to have visitors of their choosing at any time.</p>	<p>H&S Code Section 1569.269 (a) (24) ensures the residents have the right To consent to have relatives and other individuals of the resident’s choosing visit during reasonable hours, privately and without prior notice.</p> <p>22 CCR § 87468 (11) To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice.</p>	Compliant	N/A
10	<p>The setting is physically accessible to the individual.</p>	<p>22 CCR § 87219 (h) Facilities shall provide sufficient space to accommodate both indoor and outdoor activities. (2) Outdoor activity areas which are</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>easily accessible to residents and protected from traffic.</p> <p>22 CCR § 87307 (d) (4) Stairways, inclines, ramps and open porches and areas of potential hazard to residents with poor balance or eyesight shall be made inaccessible to residents unless equipped with sturdy hand railings and unless well-lighted.</p> <p>(6) All outdoor and indoor passageways and stairways shall be kept free of obstruction.</p>		

Provider Setting Type – Work Activity Program

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
1a	The setting is integrated in, and supports full access to the greater community, to the same degree of access as individuals not receiving Medicaid HCBS;	Conflicting: WIC § 4851(e) (e) “Work activity program” includes, but is not limited to, sheltered workshops or work activity centers, or community-based work activity programs certified pursuant to subdivision (f) or accredited by CARF, the Rehabilitation Accreditation Commission.	Conflicting	The State will seek to modify statute and/or regulations as appropriate to align with the federal requirement related to integration and support of full access to the community. Completion first quarter 2021.
1b	The setting includes opportunities to seek employment and work in competitive integrated settings to the same degree of access as individuals not receiving Medicaid HCBS;	The State believes it is compliant with this requirement. Language in WIC provides opportunities for individuals to seek and obtain employment. Language in Title 17 requires the assessment of individuals for competitive integrated employment. Additionally, California’s Employment First Policy identifies strategies to increase employment for individuals with developmental disabilities.	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community... Services and supports should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to people without disabilities of the same age...</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>17 CCR § 58840(a) Referrals to the Department of Rehabilitation (a) Work Activity Programs shall at least once annually assess the service needs of each consumer served by the program to identify any consumers for</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>whom vocational rehabilitation program services provided by the Department of Rehabilitation would be appropriate, provided the program shall inform the regional center at any time when a consumer expresses an interest in securing employment outside the Work Activity Program, or presents as an appropriate candidate for referral to the Department of Rehabilitation.</p> <p>WIC § 4646.5(a)(4) (a) The planning process for the individual program plan described in Section 4646 shall include all of the following: (4) When developing an individual program plan for a transition age youth or working age adult, the planning team shall consider the Employment First Policy described in Chapter 14 (commencing with Section 4868).</p> <p>With the Employment First Policy, the State is committed to providing opportunities for individuals with developmental disabilities to seek employment and engage in work in integrated settings.</p> <p>WIC § 4851(o) “Integrated work” means the engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.		
1c	The setting includes opportunities to control personal resources to the same degree of access as individuals not receiving Medicaid HCBS.		Silent	The State will seek to modify statute and/or regulations as appropriate to align with the federal requirement related to integration and support of full access to the community. Completion first quarter 2021.
1d	The setting includes opportunities to engage in community life, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Conflicting: WIC § 4851(e) (e) “Work activity program” includes, but is not limited to, sheltered workshops or work activity centers, or community-based work activity programs certified pursuant to subdivision (f) or accredited by CARF, the Rehabilitation Accreditation Commission.	Conflicting	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to an individual’s opportunity to control his/her

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
				personal resources to the same degree of access as individuals not receiving Medicaid HCBS. Completion first quarter 2021.
2	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. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and for residential settings, resources available for room and board.	<p>The State believes it is partially compliant with this requirement. Language in WIC indicates that a range of service options should be provided to individuals during the individual program plan process and that the selection of services and supports will be completed according to the preferences of the individual.</p> <p>Silent: Documentation of setting options, including non-disability specific settings, not selected by the individual.</p> <p>WIC § 4501 ...An array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community...</p>	Partial Compliance	The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to the documentation of setting options not selected by the individual. Completion first quarter 2021.

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>In providing these services, consumers and their families, when appropriate, should participate in decisions affecting their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way in which they spend their time, including education, employment, and leisure, the pursuit of their own personal future, and program planning and implementation...</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers or, where appropriate, their parents, legal guardian, or conservator. Those public or private agencies shall provide consumers with opportunities to exercise decision making skills in any aspect of day-to-day living and shall provide consumers with relevant information in an understandable form to aid the consumer in making his or her choice.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p> <p>WIC § 4646(a) ...It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p>		
3a	The setting ensures an individual's rights of privacy;	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to privacy.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p>	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
3b	The setting ensures an individual's rights of dignity;	<p>The State believes it is compliant with this requirement. Language in WIC addresses an individual's right to dignity.</p> <p>WIC § 4502(b)(2) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (2) A right to dignity, privacy, and humane care. To the maximum extent possible, treatment, services, and supports shall be provided in natural community settings.</p>	Compliant	N/A
3c	The setting ensures an individual's rights of respect;	<p>The State believes it is compliant with this requirement. Language in WIC emphasizes that choices made by the individual shall be respected.</p> <p>WIC § 4502.1 The right of individuals with developmental disabilities to make choices in their own lives requires that all public or private agencies receiving state funds for the purpose of serving persons with developmental disabilities, including, but not limited to, regional centers, shall respect the choices made by consumers...</p>	Compliant	N/A
3d	The setting ensures an individual's freedom	<p>The State believes it is partially compliant with this requirement. Language in WIC addresses an individual's right to be free from restraint.</p>	Partial Compliance	The State will seek to modify statute and/or

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	from coercion and restraint.	<p>Silent: Freedom from coercion.</p> <p>WIC § 4502(b)(8) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (8) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.</p>		<p>regulations as appropriate to align with federal requirement related to an individual's right to be free from coercion. Completion first quarter 2021.</p>
4	The setting 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.	<p>Conflicting: WIC § 4862(a) (a) The length of a work activity program day shall not be less than five hours, excluding the lunch period.</p>	Conflicting	<p>The State will seek to modify statute and/or regulations as appropriate to align with federal requirement related to the optimization of a setting without regimentation in regards to an individual's life choices. Completion first quarter 2021.</p>
5	The setting facilitates individual choice	The State believes that it is compliant with this requirement. Language in WIC identifies an individual's	Compliant	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	regarding services and supports, and who provides them.	<p>right to make choices pertaining to his/her own life, including program planning and implementation.</p> <p>WIC § 4502(b)(10) (b) It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following: (10) A right to make choices in their own lives, including, but not limited to, where and with whom they live, their relationships with people in their community, the way they spend their time, including education, employment, and leisure, the pursuit of their personal future, and program planning and implementation.</p> <p>WIC § 4512(b) ...The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer's family, and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option...</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>WIC § 4646(a)(b)(d)</p> <p>(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.</p> <p>(b) The individual program plan is developed through a process of individualized needs determination. The individual with developmental disabilities and, where appropriate, his or her parents, legal guardian or conservator, or authorized representative, shall have the opportunity to actively participate in the development of the plan.</p> <p>(d) Individual program plans shall be prepared jointly by the planning team. Decisions concerning the consumer’s goals, objectives, and services and supports that will be included in the consumer’s individual program plan and purchased by the</p>		

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
		<p>regional center or obtained from generic agencies shall be made by agreement between the regional center representative and the consumer or, where appropriate, the parents, legal guardian, conservator, or authorized representative at the program plan meeting.</p>		
<p>For Medi-Cal Provider-owned or controlled HCB residential settings, the provider must offer:</p>				
6	<p>The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants under the landlord/tenant law of the State, county, city, or other designated entity. For setting in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other</p>	<p>N/A – The Work Activity Program is not in a residential setting.</p>	<p>N/A</p>	<p>N/A</p>

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.			
7a	Each individual has privacy in their sleeping or living unit including lockable doors by the individual, with only appropriate staff having keys to doors;	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A
7b	Individuals sharing units have a choice of roommates in that setting;	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A
7c	Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A
8a	Individuals have the freedom and support to	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A

#	HCBS Settings Requirements	Evidence	Compliance Level	Remediation Strategies and Timeline
	control their own schedules and activities;			
8b	Individuals have access to food at any time.	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A
9	Individuals are able to have visitors of their choosing at any time.	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A
10	The setting is physically accessible to the individual.	N/A – The Work Activity Program is not in a residential setting.	N/A	N/A